



City of Colleyville City Council Agenda

City Hall
100 Main Street
Colleyville, Texas 76034
817.503.1000
www.colleyville.com

Tuesday, May 3, 2016

City Council Chambers

**PRE COUNCIL MEETING
EXECUTIVE SESSION
5:30 P.M.
EXECUTIVE CONFERENCE ROOM
THIRD FLOOR**

CALL TO ORDER

PC-1 Colleyville Parks Overview

PC-2 Discussion of the May 3, 2016, City Council regular agenda items

1. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.071 - Legal - Consultation with attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with attorney on contemplated litigation (Camden Lock LLC)

Section 551.071 - Legal - Consultation with attorney regarding litigation - Lincoln et al v. City of Colleyville

Section 551.071 - Legal - Consultation with attorney regarding litigation - Jane Doe v. City of Colleyville

Section 551.071 - Legal - Consultation with attorney regarding litigation - Billy McCullough v. City of Colleyville

Section 551.072 - Real Estate - Deliberate the purchase, exchange, lease, or value of real property for City facilities

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the city manager

Section 551.087 – Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

RESUME REGULAR MEETING

7:30 P.M.

CITY COUNCIL CHAMBERS

INVOCATION: Pastor Ricky Texada, Colleyville Covenant Church

PLEDGE OF ALLEGIANCE: City Attorney Matthew Boyle

- 2. EXECUTIVE SESSION READING AND PUBLIC HEARING: CONSIDER AND TAKE ANY ACTION(S) NECESSARY RELATIVE TO ITEMS DISCUSSED IN EXECUTIVE SESSION - RESOLUTION R-16-3984**

3. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

Announcements of civic and charitable events

Presentation of calendar events and updates

Announcements of awards and recognition

Proclamation in recognition of Public Service Recognition Week, May 1-7, 2016 - Mayor David Kelly and City Manager Jennifer Fadden

Proclamation in recognition of Economic Development Week, May 8-14, 2016 - Mayor David Kelly and Economic Development Director Marty Wieder

Proclamation in recognition of National Public Works Week, May 15-21, 2016 - Mayor David Kelly and Public Works Director Jeremy Hutt

Proclamation in recognition of National Police Week, May 15-21, 2016 - Mayor David Kelly and Assistant City Manager/Director of Public Safety Police Chief Mike Holder and Assistant Police Chief Robert Hinton

4. CONSENT: READING AND PUBLIC HEARING- Resolution R-16-3985

- 4a** Approval of the minutes of the regular City Council meeting of April 19, 2016

- 4b** Approval of agreements with Emergicon, LLC, and oPen Inc. d/b/a SafetyPAD for ambulance billing and patient care reports, and authorizing the city manager to execute the agreements

5. RESOLUTION(S): READING AND PUBLIC HEARING

5a Resolution R-16-3986

Approval of a Local Project Advance Funding Agreement (LPAFA) with the Texas Department of Transportation (TxDOT) for the reconstruction of SH26 (Colleyville Boulevard) from John McCain Road to Hall-Johnson Road, and authorize the city manager to execute the agreement

5b Resolution R-16-3987

Approval of an amendment to an existing Advance Funding Agreement with the Texas Department of Transportation (TxDOT) for the reconstruction of SH26 (Colleyville Boulevard) from Hall-Johnson Road to Brown Trail, and authorize the city manager to execute the amendment

5c Resolution R-16-3988

Approval of a professional services agreement with Teague Nall and Perkins, Inc., (TNP) for the negotiation and closing services for the property acquisition associated with the Glade Road Phase 1 Project, in an amount not to exceed \$253,055 and authorize the city manager to execute the agreement

6. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA

7. REPORTS

Colleyville Library Board Meeting Minutes - January 18, 2016
Colleyville Library Board Meeting Minutes - March 22, 2016

8. ACTION/RESOLUTION: DISCUSSION AND CONSIDERATION OF A RESOLUTION RATIFYING COUNCIL AGENDA ACTION FOR MAY 3, 2016 - READING AND PUBLIC HEARING - RESOLUTION R-16-3989

9. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards Friday, April 29, 2016 by 5:00 p.m.

Christine Loven
Assistant City Secretary

A quorum of any Colleyville board, commission, or committee may be present at this meeting.

Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number PC-1

Agenda Date 05/03/2016

Type Pre Council

Department Parks and Recreation

Title

Colleyville Parks Overview

Strategy Map Connection

Explanation

The purpose of this agenda item is to provide an update on projects and priorities the Parks Department will address in the short and long term future.

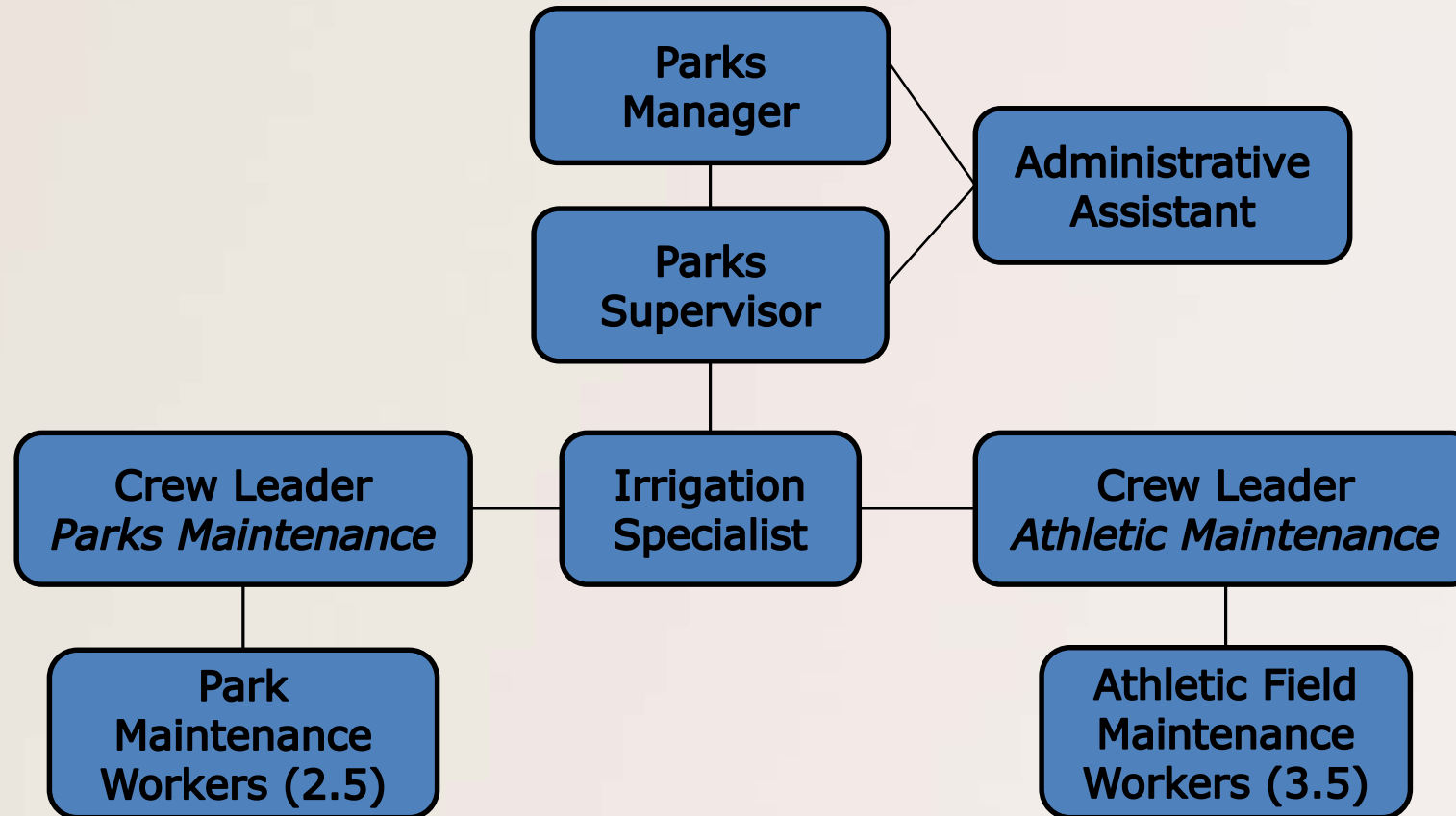
Attachments

1. Colleyville Parks Overview Presentation

Colleyville Parks Overview

**Pre Council Meeting
May 3, 2016**

The Team



11 Full-time employees
2 Part-time employees

Community Parks

City Park - 40.13 acres

- Baseball and softball fields, tennis courts, basketball courts, sand volleyball courts, Kidsville playground, picnic area, concession stand, restrooms, covered pavilion, pond, amphitheater, and one-mile multi- use trail

Pleasant Run Park - 33.47 acres

- Soccer competition and practice fields, playground, restrooms, concession stand, and one-mile multi-use trail

McPherson Park -27.5 acres

- Playground, splash pad, picnic area, pavilion, restrooms, wildflower areas, rock house, and historical barns



Neighborhood Parks

Kimzey Park – 28.49 acres

- Pond, playground, basketball court, sand volleyball court, pavilion, practice backstop, open play area, and multi-use trail

L.D. Lockett Park – 4.46 acres (Coming soon)

- Cotton Belt trailhead, restrooms, pavilion, and bike repair station

Sparger Park – 8.47 acres

- Pavilion, playground, restroom, open play area, half mile multi-use trail, and POW Memorial

Wood Briar Park – 1.94 acres

- Playground, pavilion, and trail



Special Purpose Parks

Pleasant Glade Tract – 8 acres

- Practice backstop and multi-use trail

Regan Park – 5 acres

- Softball and baseball practice fields and batting cages

Bransford Park – 1.77 acres

- Historic Webb House, Bransford historical marker, train caboose, wind sculptures and wildflower area

McCain Park - .1 acre

- Cotton Belt Trail

Cotton Belt Trail Connection - .87 acres

- Gateway into Colleyville, Cotton Belt Trail, rest area, and multi-use water fountain



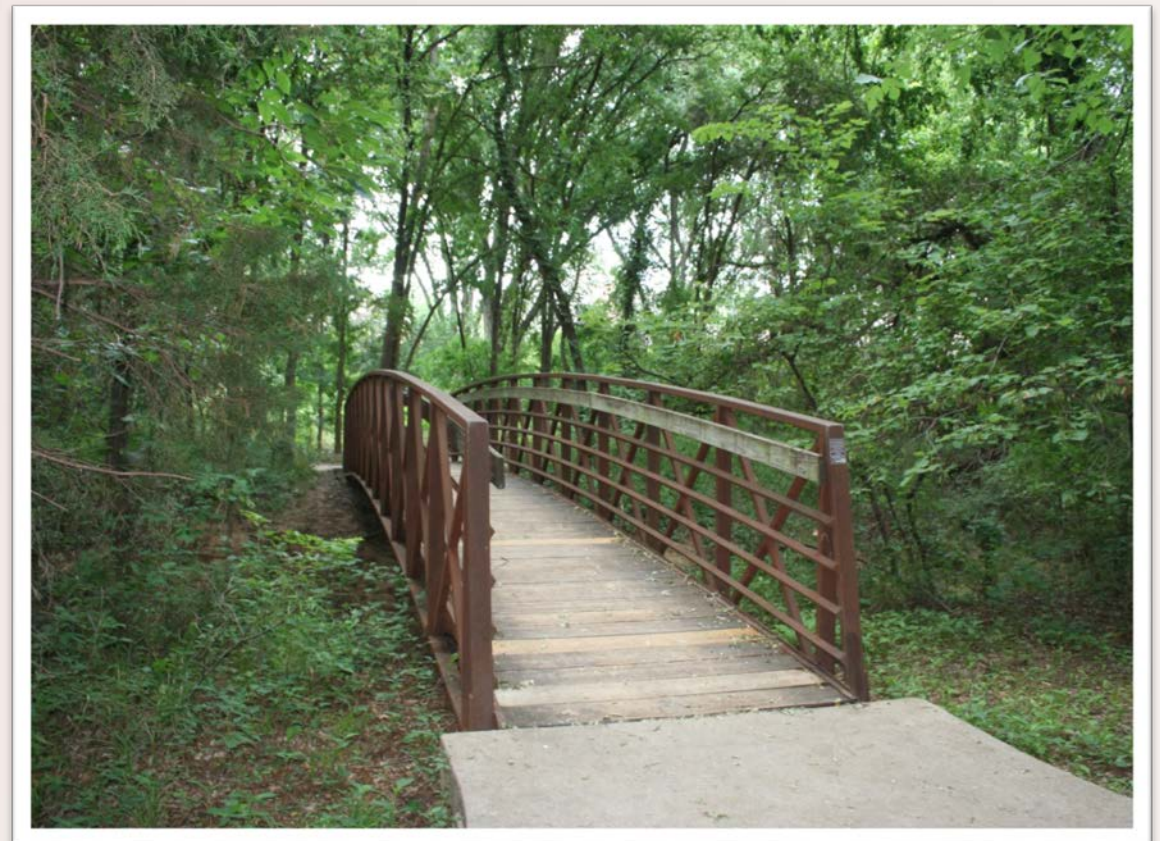
Open Space / Natural Areas

Colleyville Nature Center - 46 acres

- Fishing pier, 9 ponds, playground, pavilion with grill, amphitheater, and 3.5 miles of multi-use trails

Little Bear Creek Floodplain – 21.2 acres

- Wooded floodplain that runs along Little Bear Creek from Bransford Road to SH26



Core Services

1. Parks and Facility Maintenance
2. Athletic Field Maintenance
3. Youth Sports Association Management
4. Urban Forestry
5. Trail System Management
6. Public Property Management



Pleasant Run Playground



McPherson Park Splash Pad

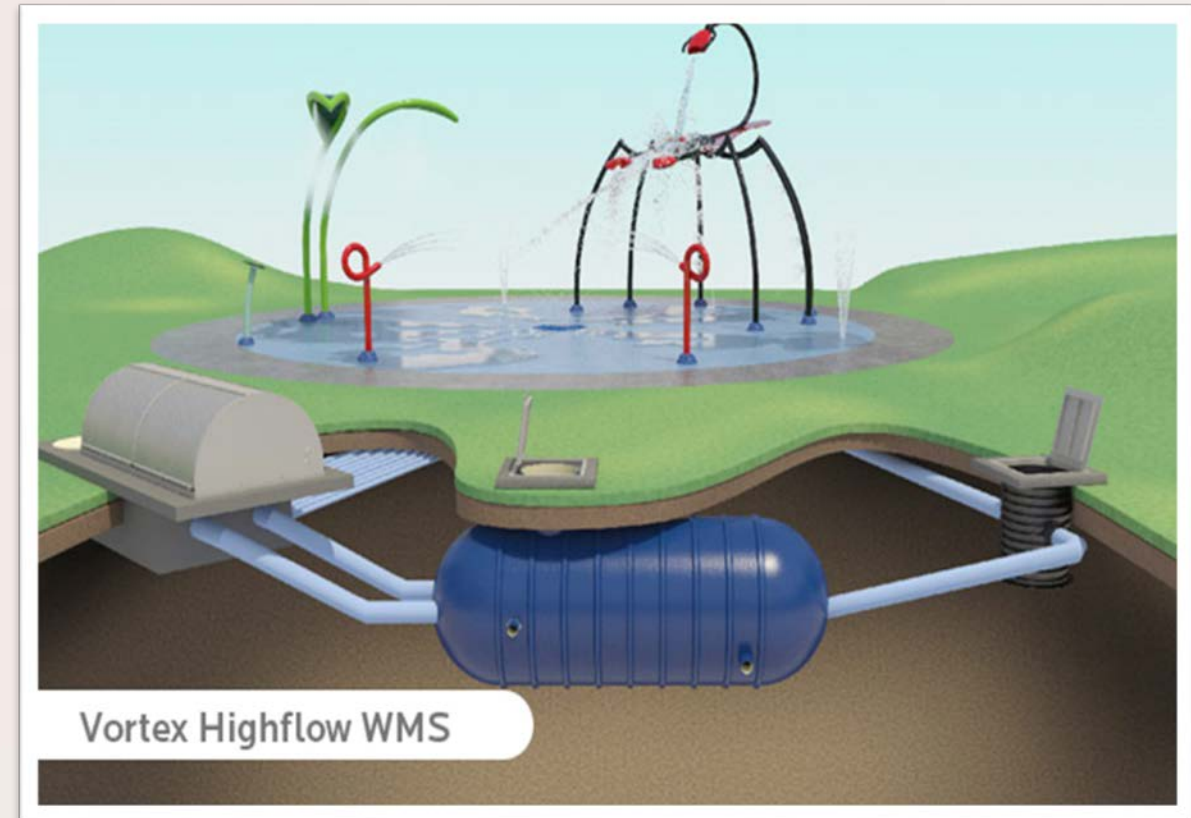
Environmentally Friendly Fun!

- Reduced water consumption
- Installed new recirculating system
- Installed low flow nozzles
- Completed Spring 2016 and ready for the season



McPherson Park Splash Pad

- Recirculating Tank System
- Water flows through the splash pad and drains back into the tank; it is then purified through a chlorine and ozone treatment process to ensure clean, safe, water which is pumped back out via the nozzles
- This conserves up to 1,000,000 gallons of water per season



Flashing Crosswalk Signage

- Flashing crosswalk signage was recently installed along the Cotton Belt Trail at the intersections of Pleasant Run Road and Bransford Road
- This signage is now present at all intersections of the Cotton Belt Trail with roadways in Colleyville
- Per State law, the operator of a vehicle shall yield the right-of-way to a pedestrian crossing a roadway in a crosswalk



Cotton Belt Trail Gateway to Colleyville

- Connects Grapevine to Colleyville on SH26
- Colleyville's final piece of the system
- Completes over 13 miles of trail tying Colleyville, Grapevine, Hurst, and North Richland Hills together
- Connecting communities to nature



The poster features a scenic illustration of a paved trail winding through a park with trees and people walking and cycling. The City of Colleyville logo is in the top right corner. The main text reads: "Join us for the opening of the Cotton Belt Trail Connection!". Below this, the event details are listed: "Date: Friday, April 15, 2016", "Time: 11:00 a.m. Ribbon cutting at 11:15", "Location: New Cotton Belt Pocket Park (Northeast corner of John McCain Road & SH 26)", and "Parking: Available across the street at 7101 Colleyville Blvd.". A map in the bottom right shows the trail route from North Richland Hills (4.1 miles) to Grapevine (2.7 miles), passing through Hurst (0.9 miles) and Colleyville (2.8 miles). The map also shows the "Current Trail 2.8 miles" and "Planned Trail 10.5 miles". A small text box at the bottom of the map states: "There is 10.5 miles of trail that runs from North Richland Hills, Hurst, Colleyville into Grapevine. Among the more than 30 proposed and planned trails within Colleyville, the completion of Cotton Belt Trail ranked as the top priority for residents surveyed for the 2011 Parks, Recreation and Open Spaces Master Plan. Courtesy: Community Impact Newspaper Source: City of Colleyville". The poster also includes the "COTTON BELT TRAIL SYSTEM" logo.

Join us for the opening of the Cotton Belt Trail Connection!

Date: Friday, April 15, 2016
Time: 11:00 a.m.
Ribbon cutting at 11:15

Location: New Cotton Belt Pocket Park
(Northeast corner of John McCain Road & SH 26)

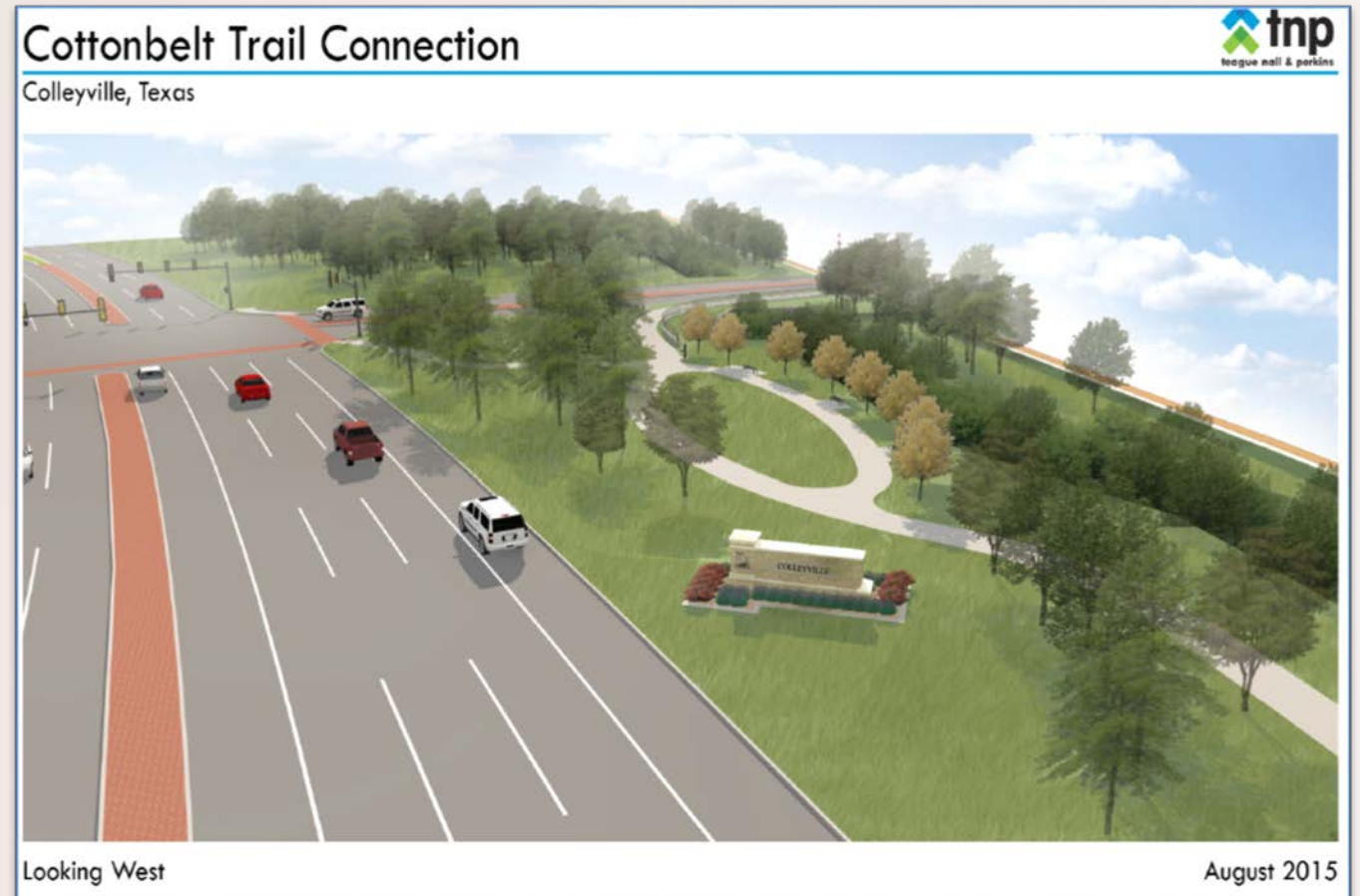
Parking: Available across the street at 7101 Colleyville Blvd.

R.S.V.P. to Joyce Williams at 817.503.1111

COTTON BELT TRAIL SYSTEM

Cotton Belt Connection Amenities

- Water Fountain
- Benches
- Rest Area
- Landscaping
- Dog Waste Station



Cotton Belt Connection

Official Opening



Projects & Priorities

Projects

- Park & City Property Landscape Improvements
- L.D. Lockett Park / Cotton Belt Trailhead Enhancement Project
- Pleasant Run Practice Soccer Fields
- Master Plan 2016

Priorities

- Continued reinvestment/improvements in existing parks
- Strengthen urban forestry program
- Projects aimed at water conservation
- Provide a safe and well connected trail system
- Sustainable practices



L.D. Lockett Park Improvements



EXISTING PARK ANALYSIS

EXISTING HOUSE

- 1,908 Square Feet
- Built in 1972
- Does not meet current ADA standards
- Requires Asbestos Abatement



EXISTING TREES

- Existing trees are mature and provide shade



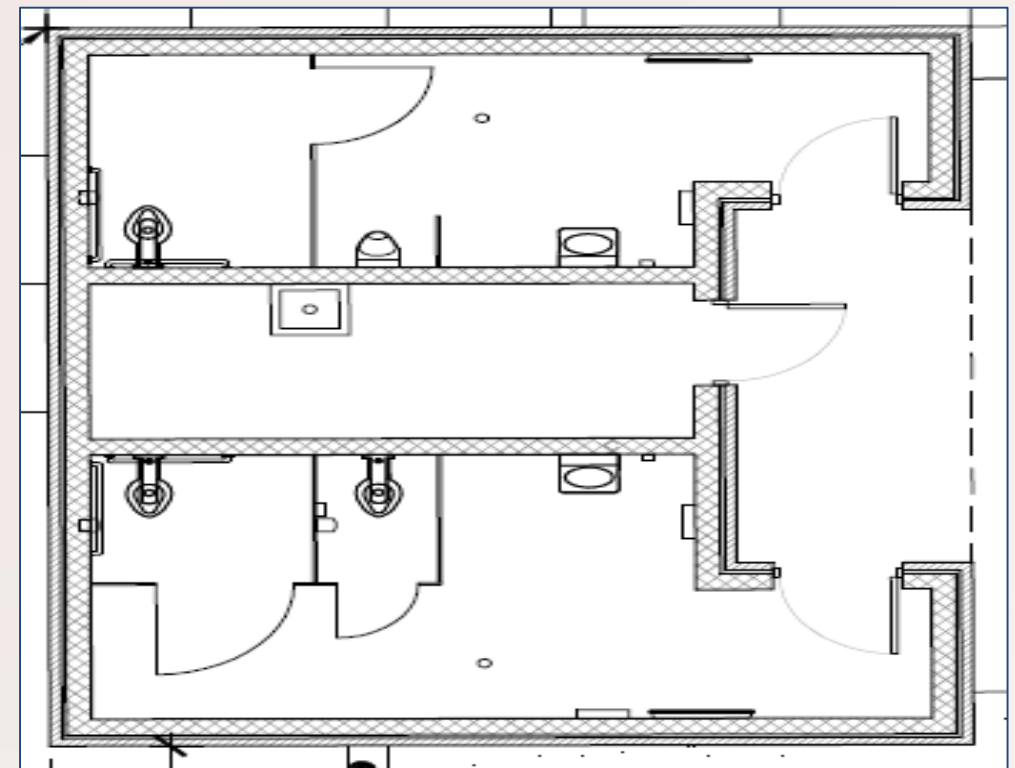
EXISTING TRAILHEAD

- Connects to Cotton Belt Trail



CITY OF COLLEYVILLE

Prepared by Hidell and Associates Architects, Inc.
May 6, 2014



Restroom Layout

L.D. Lockett Amenities Summer 2016

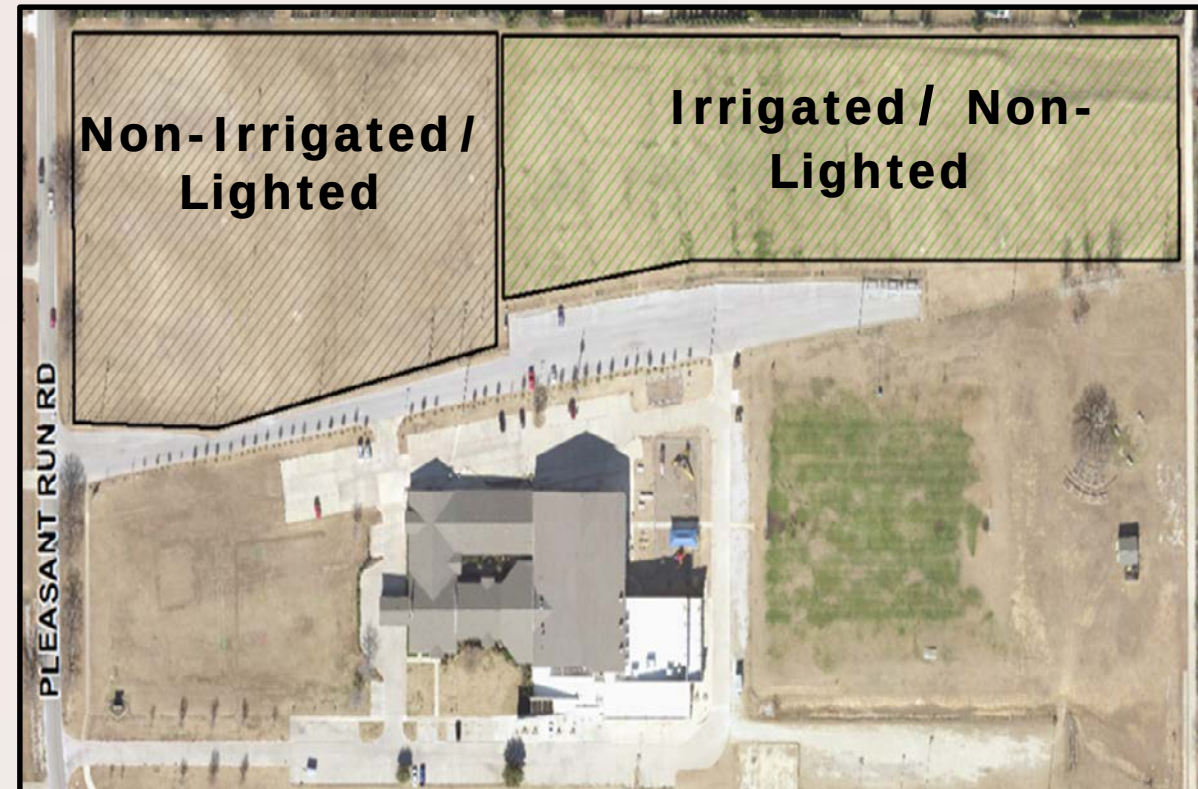
- Trailhead for the Cotton Belt Trail
- Restrooms
- Pavilion
- New Parking Lot
- Benches
- Additional Sidewalk/Trail
- Bike Repair Station
- Water Fountain
- Landscaping



Pleasant Run Park

Practice Field Improvement Project

- 8.5 acres at Pleasant Run Park dedicated to soccer practice fields
- Western portion of the property is non-irrigated and slopes toward Pleasant Run Road
- Colleyville Soccer Association (CSA) has priority use of the fields and is working as a partner with the City to improve the fields
- Fields will be graded for better drainage, soil amendments, irrigation system, and seeded
- Project timeline – May – September 2016



Forestry Program

- Colleyville is celebrating our 18th year as a Tree City USA
- Identify what assets we have
- Protect the trees we have and work to improve health
- Re-forest our parks and City property
- Celebrate our trees



Sparger Park Planting

- Total of 14 Trees
- Native Tree Species:
 - Burr Oak
 - Cedar Elm
 - Chitalpa
 - Mexican White Oak
- All 14 trees donated by Colleyville Garden Club
- Planted on April 8, 2016



Sparger

Before



After



Kimzey Park Planting

- 26 Trees Total
- Planted on April 8, 2016
- Native Tree Species:
 - Bald Cypress
 - Cedar Elm
 - Chitalpa
 - Desert Willow
 - Mexican White Oak
 - Red Oak
 - Texas Ash
 - Vitex
 - Wax Myrtle



Kimzey

Before



After



Kimzey

Before

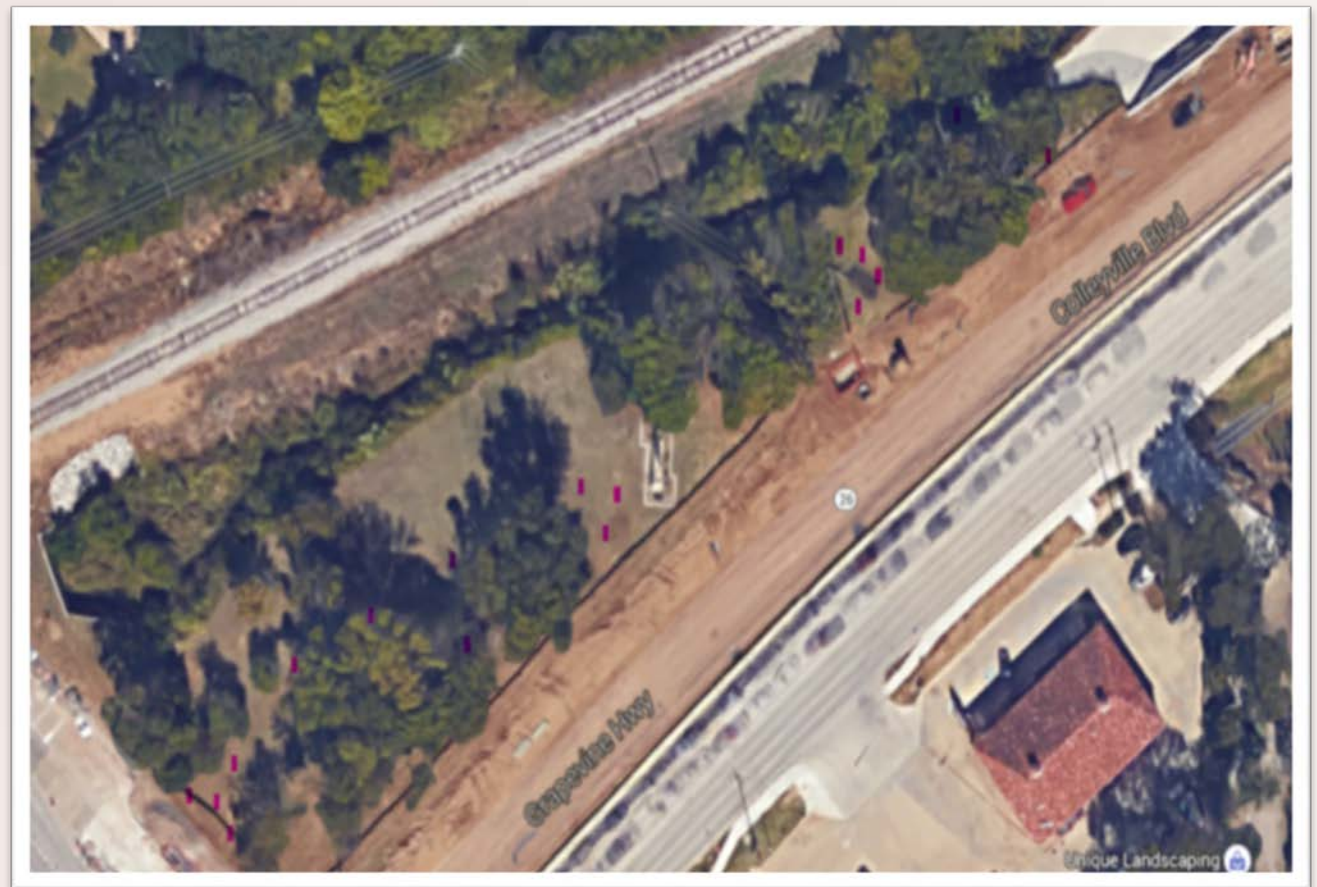


After



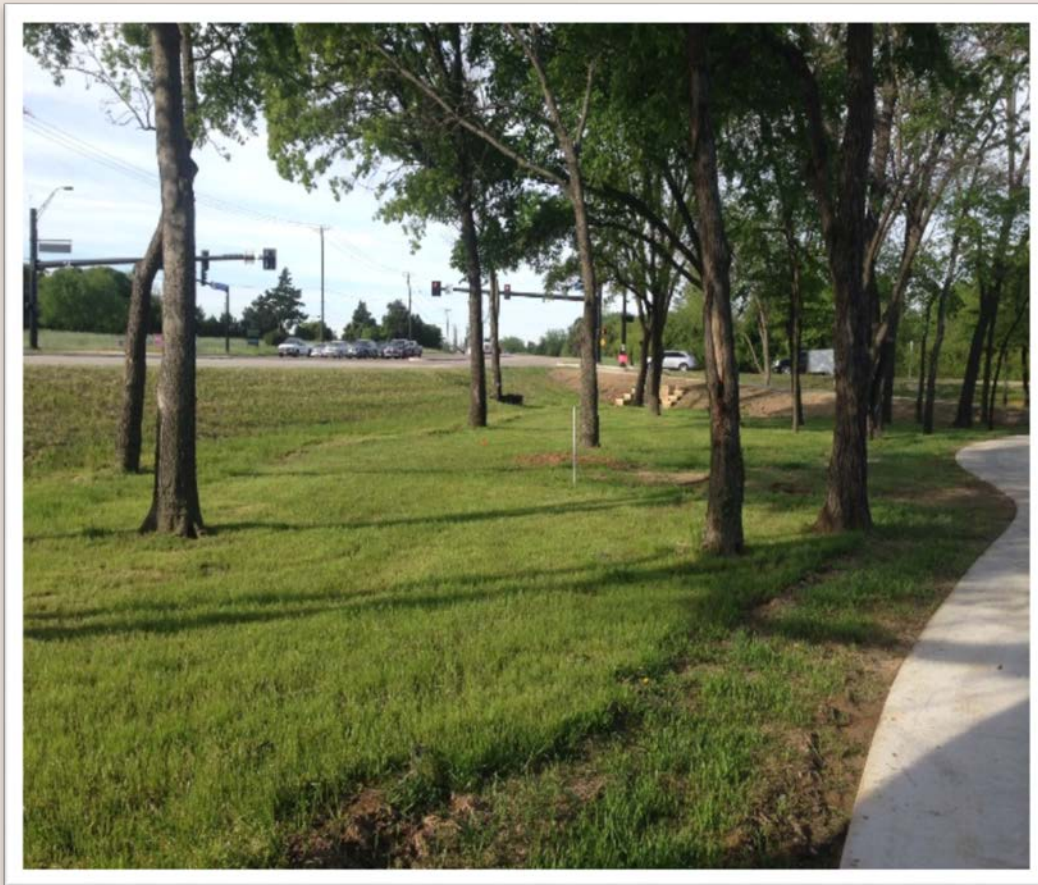
Cotton Belt Connection Planting

- 21 Trees Total
- Planted on April 8, 2016
- Native Tree Species:
 - Cedar Elm
 - Forest Pansy Redbud
 - Mexican Plum
 - Pecan
 - Redbud
 - Texas Ash
 - Wax Myrtle



Cotton Belt Connection

Before



After



Water Conservation

- Audit Parks and Facilities Irrigation Systems
- Audit Athletic Field Irrigation Systems
- Retro-fit all landscape beds to drip irrigation
- Increase our Tree Canopy to reduce heat islands



Landscaping

- Properly amend soils before planting
- Utilize Native and Adaptive Plants
- Right Plant Right Place
- Utilize Drip Irrigation
- Utilize boulders and rock to create more interest that does not require additional maintenance
- Draw attention to and provide aesthetically pleasing environment



Organic Practices

- Reduce chemicals on our properties
- Increase biological activity to improve plant/turf health
- Improve water conservation
- Currently utilizing organic products on
 - City Park Baseball Fields
 - Pleasant Run Practice Soccer Fields
 - Colleyville Center – Front grass area
- Plan to expand to parks and other City properties



Parks Recycling Program

- Baseball and Softball currently have receptacles
- Increase this effort to all athletic fields, parks, and trails

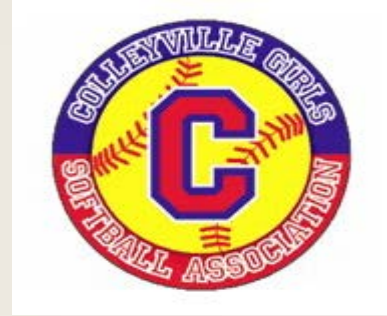


Master Plan Update

- Time to update the Master Plan
- We will call on the community to express their needs so we may create a guiding tool and plan for Colleyville's Park System
- The intent of the plan is to assess needs, provide goals, set standards and procedures to reach our goals
- Start this process mid year 2016
- Driving Colleyville's park system to GREATNESS!



Building Partnerships



- It is important for us to have partners
- Helps us with volunteer programs
- Supports our programs and park projects
- Partnerships create synergy



Keep
Colleyville
BEAUTIFUL



See you in the Parks!

Discussion and Questions?



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
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Agenda Number PC-2

Agenda Date 05/03/2016

Type Pre Council

Department City Secretary

Title

Discussion of the May 3, 2016, City Council regular agenda items



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
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Agenda Number 1

Agenda Date 05/03/2016

Type Executive Session

Department City Secretary

Title

Section 551.071 - Legal - Consultation with attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with attorney on contemplated litigation (Camden Lock LLC)

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Section 551.087 - Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

Attachments

RESOLUTION R-16-3984

**A RESOLUTION APPROVING COUNCIL ACTION REGARDING
EXECUTIVE SESSION ITEMS AT THE
REGULAR CITY COUNCIL MEETING OF
MAY 3, 2016**

WHEREAS, following discussion in Executive Session, and in full accordance with the requirements of the Open Meetings Act, the City Council determines that the following action is in the best interests of the health, safety, and welfare of the public.

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

Sec. 1. THAT

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON THIS THE 3RD DAY OF MAY 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

David Kelly
Mayor



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
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Agenda Number 3

Agenda Date 05/03/2016

Type Announcements, Proclamations, and Presentations

Department City Secretary

Title

Proclamation in recognition of Public Service Recognition Week, May 1-7, 2016 - Mayor David Kelly and City Manager Jennifer Fadden

Proclamation in recognition of Economic Development Week, May 8-14, 2016 - Mayor David Kelly and Economic Development Director Marty Wieder

Proclamation in recognition of National Public Works Week, May 15-21, 2016 - Mayor David Kelly and Public Works Director Jeremy Hutt

Proclamation in recognition of National Police Week, May 15-21, 2016 - Mayor David Kelly and Assistant City Manager/Director of Public Safety Police Chief Mike Holder and Assistant Police Chief Robert Hinton

Attachments

1. Proclamation in recognition of Public Service Recognition Week
2. Proclamation in recognition of Economic Development Week
3. Proclamation in recognition of National Public Works Week
4. Proclamation in recognition of National Police Week

Proclamation

CITY OF

Colleyville,
Texas

WHEREAS: Americans are served every day by public servants at the federal, state, county, and city levels; and

WHEREAS, Colleyville public servants work with integrity and efficiency every day; providing our citizens with a diverse range of services; and

WHEREAS, many public servants, including military personnel, police officers, fire fighters, health care professionals, and others, risk their lives each day in service to the people of the United States; and

WHEREAS, public servants include our skilled and knowledgeable maintenance, utility, street, administrative, financial, customer service, parks, courts, permits, inspections, and library professionals, as well as police officers, fire fighters, management, and elected officials; and

WHEREAS, our quality of life is enhanced by the dedication of public servants; and

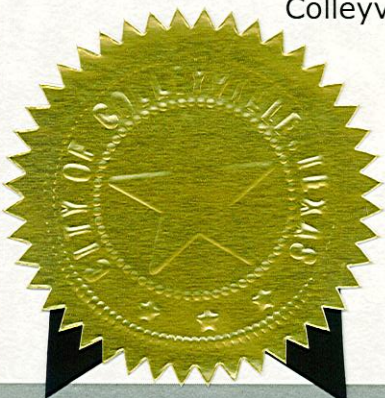
WHEREAS, without our public servants at every level, our continuity would be impossible in a democracy that regularly changes leaders and elected officials.

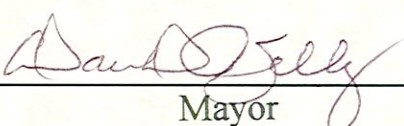
NOW, THEREFORE, I DAVID KELLY, MAYOR OF THE CITY OF COLLEYVILLE, TEXAS, do hereby proclaim the week of May 1-7, 2016, as:

PUBLIC SERVICE RECOGNITION WEEK

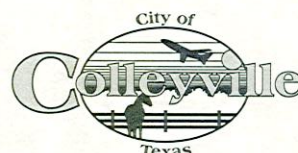
in the City of Colleyville, and call upon all citizens to recognize the contributions and accomplishments of our public servants, who every day enhance our health, safety, comfort, and quality of life.

IN WITNESS WHEREOF, I do hereby set my hand and seal of the City of Colleyville, affixed this 3rd day of May 2016.





Mayor



Proclamation

CITY OF

Colleyville,
Texas

WHEREAS, the International Economic Development Council is celebrating its 90th anniversary in 2016; and

WHEREAS, the International Economic Development Council is the largest professional economic development organization dedicated to serving economic developers; and

WHEREAS, the International Economic Development Council provides leadership and excellence in economic development for communities, members, and partners through conferences, training courses, advisory services and research, in-depth publications, public policy advocacy, and initiatives such as the Accredited Economic Development Organization program and the Certified Economic Developer designation; and

WHEREAS, economic developers stimulate and incubate entrepreneurship in order to help establish the next generation of new businesses, which is the hallmark of the American economy; and

WHEREAS, economic developers are engaged in a wide variety of settings including rural and urban, local, state, provincial, and federal governments, public-private partnerships, chambers of commerce, universities, and a variety of other institutions; and

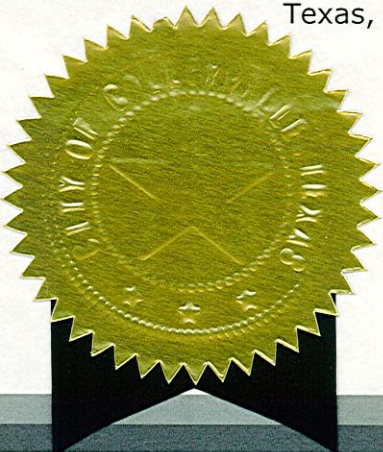
WHEREAS, economic developers promote economic well-being and quality of life for their communities by attracting, creating, retaining, and expanding jobs that facilitate growth, enhance wealth, and provide a stable tax base.

NOW, THEREFORE, I, DAVID KELLY, MAYOR OF THE CITY OF COLLEYVILLE, TEXAS, on behalf of the Colleyville City Council and citizens of Colleyville, do hereby recognize May 8-14, 2016 as:

ECONOMIC DEVELOPMENT WEEK

and encourage our citizens to recognize the important role of economic developers in our community.

IN WITNESS WHEREOF, I do hereby set my hand and seal of the City of Colleyville, Texas, affixed this 3rd day of May 2016.





Mayor



Proclamation

CITY OF

Colleyville,
Texas

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, public works employees work side by side with police and fire as first responders; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, wastewater, streets, public buildings, fleet maintenance, and stormwater management; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, the work performed by public works employees, directly impacts the quality of life for the residents and businesses of Colleyville; and

WHEREAS, the American Public Works Association annually sponsors National Public Works Week, and has chosen the theme "Public Works Always There", to promote the 56th Annual National Public Works Week.

NOW, THEREFORE, I DAVID KELLY, MAYOR OF THE CITY OF COLLEYVILLE, TEXAS, do hereby proclaim the week of May 15 - 21, 2016 as:

NATIONAL PUBLIC WORKS WEEK

in the City of Colleyville, and call upon all citizens to recognize the contributions our public works employees make every day to our health, safety, comfort, and quality of life.

IN WITNESS WHEREOF, I do hereby set my hand and seal of the City of Colleyville, affixed this 3rd day of May 2016.





Mayor



Proclamation

CITY OF

Colleyville,
Texas

WHEREAS: the Congress of the United States of America has designated May 15-21, as National Police Week 2016, to recognize and honor the service and sacrifice of law enforcement officers who protect our communities and safeguard our democracy; and

WHEREAS, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Colleyville Police Department; and

WHEREAS, nearly 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and

WHEREAS, the men and women of the Colleyville Police Department unceasingly provide a vital public service; and

WHEREAS, in recognition of National Police Officer Memorial Day, May 15, 2016, the City of Colleyville will remember Colleyville Reserve Officer Dennis Harrell, who died in the line of duty on September 12, 1980, and will honor all Police Officers, who sacrificed their lives in the line of duty, by flying all flags at half staff at all City facilities.

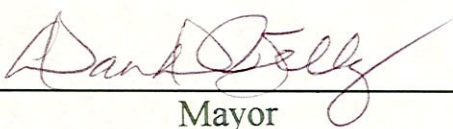
NOW, THEREFORE, I, DAVID KELLY, MAYOR OF THE CITY OF COLLEYVILLE, TEXAS, on behalf of the Colleyville City Council, do hereby proclaim the week of May 15-21, 2016 as:

NATIONAL POLICE WEEK

in the City of Colleyville and call upon our citizens to honor, recognize, and show our sincere appreciation for the police officers of this City, by deed, remark and attitude.

IN WITNESS WHEREOF, I do hereby set my hand and seal of the City of Colleyville, Texas, affixed this 3rd day of May 2016.





Mayor



RESOLUTION R-16-3985

**A RESOLUTION APPROVING CITY COUNCIL ACTION UNDER
CONSENT ITEMS AT THE REGULAR CITY COUNCIL MEETING OF
MAY 3, 2016**

WHEREAS, City Council has taken action on certain items on the agenda under Consent Items.

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

- Sec. 1. THAT the agenda decisions approved by City Council action under Consent Items as follows are hereby adopted:
- a. Approval of the minutes of the regular City Council meeting of April 19, 2016
 - b. Approval of agreements with Emergicon, LLC, and oPen Inc. d/b/a SafetyPAD for ambulance billing and patient care reports, and authorizing the city manager to execute the agreements

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS
ON THIS THE 3RD DAY OF MAY 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

David Kelly
Mayor



City of Colleyville City Council Minutes - Draft

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
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Tuesday, April 19, 2016

City Council Chambers

Mayor David Kelly called the Pre Council meeting of the Colleyville City Council to order on April 19, 2016, at 5:30 p.m.

ROLL CALL: Mayor David Kelly, Mayor Pro Tem Mike Taylor, and Councilmembers Carol Wollin, Chuck Mogged, Jody Short, and Nancy Coplen

Absent: Councilmember Chris Putnam

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Fire Chief Brian Riley, Assistant Police Chief Robert Hinton, Communications and Marketing Director Mona Gandy, Accounting Manager Karen Hines, Human Resources Director Rachel Huitt, Public Works Director Jeremy Hutt, City Engineer Cheryl Taylor, Community Development Director Abra Nusser, Principal Planner Shane Pace, Recreation and Library Director Mary Rodne, Economic Development Director Marty Wieder, Parks Manager Heather Dowell, SH26 Coordinator James Hubbard, Strategic Services Manager Adrienne Lothery, Information Systems Manager Chris Pena, City Attorney Matthew Boyle, and City Secretary Amy Shelley

PC-1 Discussion and update on the Glade Road Phase 1 Project

Public Works Director Jeremy Hutt presented this item and answered questions of the City Council. Chad Gartner, TranSystems was also present to answer questions of the City Council. Parks Manager Heather Dowell presented this item relative to trees along the roadway.

Councilmember Mogged asked staff about the existing or proposed sidewalks located in the Bransford/Glade Road area. Director Hutt replied there are sections of existing sidewalks where the width may be increased.

Councilmember Mogged asked staff if the sidewalk on the west side of Bransford Road currently exists. Director Hutt replied this section is a remainder of the original development, and staff will seek a pedestrian access easement for that particular section.

Councilmember Coplen asked staff if that area is owned by the City. Director Hutt replied the actual corner clip is a remainder of a larger development, and with a preliminary title search, it is a remainder of a tract, or unclaimed piece of property. He added staff will seek to clarify the parcel documents.

Councilmember Coplen asked Mr. Gartner about the size of the sidewalk on the north side. Mr. Gartner replied eight foot.

Councilmember Mogged asked staff if we are counting all caliper inches of trees, six inches and above, and heritage trees. Director Hutt replied these numbers reflect the trees in direct conflict of the proposed improvements, such as a curb line, storm drain, or sidewalk placement.

Councilmember Mogged asked staff if all trees are included regardless of size. Director Hutt replied all trees have been included, but the preservation of trees will be discussed later.

Councilmember Coplen asked staff if these are the trees that are possibly or perhaps going to be removed, but not necessarily. Director Hutt replied these trees have been identified as being in direct conflict with the proposed improvements.

Councilmember Mogged stated not being sure the question about heritage trees had been addressed. Mayor Kelly stated heritage trees are to be considered for preservation, as outlined in the original proposal.

Councilmember Wollin asked staff what the circled numbers mean. Director Hutt replied those are identifiers. City Manager Jennifer Fadden stated those are parcel identifiers.

Councilmember Short asked staff if the sidewalk, on both sides of Bransford Road, will be extended. Director Hutt replied there is an existing sidewalk which will be extended to the limits of the project.

Councilmember Short asked Mr. Gartner how the sidewalk will get across the creek. Mr. Gartner replied the box culverts will be extended to the north enough to accommodate the sidewalk and the roadway taper.

Councilmember Mogged asked staff about the roadway taper to the west, much like the one that narrows at Heritage Avenue and Glade Road. Director Hutt explained the difference between the movements of cars between the two areas, given one has the queuing from a red light, and one has the queuing from a stop sign.

Councilmember Mogged asked Mr. Gartner if this design of this intersection (Bransford/Glade Road) was included in the rating of the intersection. Mr. Gartner replied it was added as part of the previous discussion.

Councilmember Mogged asked about the two parcels affected by the right-of-way on the north side of Glade Road across from Glade Creek Drive. Director Hutt replied the additional right-of-way is needed for drainage to function properly.

Councilmember Short asked staff if the right-of-way or easement was acquired at Bedford Road. Director Hutt replied staff coordinated with the adjacent development to advise them of this project moving forward; therefore, the building is placed back to accommodate this configuration. He stated at that time, the developer was not required to dedicate the right-of-way.

Councilmember Mogged asked staff if the left-turn lane at Glade Road and Stafford is the driving factor for right-of-way. Director Hutt replied that is part of it, the pedestrian improvements and parkway are also factors.

Councilmember Mogged asked Mr. Gartner if additional right-of-way would be needed if the left-turn lane was eliminated. Mr. Gartner replied the left-turn lane was added for Stafford, but there is a three lane section as you approach Riverwalk from Bluebonnet; therefore, this accommodates the widening of the road for that approach.

Councilmember Mogged asked Mr. Gartner if it is necessary to start the third lane so far to the east if there was no turn lane. Mr. Gartner replied if there were no turn lane, it could be started further to the west.

Councilmember Coplen asked Mr. Gartner about the size of the sidewalk on the north side. Mr. Gartner replied it is 10 feet where it can be, but on the north side it varies between six and eight feet to minimize the impact.

Councilmember Coplen asked Mr. Gartner if the sidewalk is next to the curb. Mr. Gartner replied it is close.

Councilmember Coplen asked Mr. Gartner if the median will be flat for the Stafford traffic turning left onto Glade Road. Mr. Gartner replied the median will not be raised.

Councilmember Coplen asked staff about the relationship with the resident at the corner of Stafford and Glade Road. Director Hutt replied staff had some earlier conversations with them.

Mayor Pro Tem Taylor stated he would like the tree information included in the comparison statistics chart so that tree totals are tracked as well.

Mayor Pro Tem Taylor asked staff if full depth reclamation only addresses the existing width of pavement. Director Hutt replied correct.

Mayor Pro Tem Taylor asked staff if full depth reclamation changes geometry, stormwater drainage improvements, or sidewalks. Director Hutt replied no.

Councilmember Short asked Mr. Gartner if construction costs have changed since the original design. Mr. Gartner replied over two years there has been an average increase of 18 percent, with some items being up 25 percent.

Mayor Kelly asked staff about the approximate time for the contract bid. Director Hutt replied there are some outstanding items, such as right-of-way acquisition and utility relocates. He added once the roundabout at Bransford/Glade Road was removed, the utility companies were not working with the summer timeline, they then stated they would get to us when they could.

Mayor Pro Tem Taylor asked staff if we have identified the utility providers along the roadway. Director Hutt replied staff has monthly meetings with the utility franchises to discuss the updates on all projects in Colleyville. Mr. Gartner added that all utility companies have been provided subservice utility information to ensure all are on the same page.

Councilmember Wollin asked staff if the vertical mulching requires more water. Parks Manager Dowell replied it does not require more water to do this, just air alone, but it does great for the water later, as this allows the water to better penetrate the root system to carry nutrients.

Councilmember Wollin asked staff if the contractor will actually sign off on the Pre-Construction efforts relative to tree conservation. Parks Manager Dowell replied when they sign the contract. Director Hutt added staff will incorporate some language into the contract to indicate the tree conservation requirements and expectations.

Councilmember Coplen asked staff if they would be providing the protective fencing on private properties. Director Hutt replied there will be a combination of fencing, but on the priority area of trees, the chain link fencing would be installed.

Councilmember Coplen asked staff if they will be working with the property owners in the placement of the fencing. Director Hutt replied yes, the contractor will be responsible for the orange protective fencing; however, staff will be providing the chain link fencing as we do not want to rely on the contractor to be the tree expert.

Mayor Kelly stated no one has the right to park on private property without a temporary construction easement.

Mayor Pro Tem Taylor said he thought tree protection methods had been allocated in the project. Mayor Kelly stated City Council wanted to look at the measures so those costs could be allocated in the budget.

Mayor Pro Tem Taylor stated this may be a way to use the tree voucher program, as a permanent program, for Arbor Day. Mayor Kelly stated we used to do this, and would match up to a certain amount.

Mayor Kelly asked City Council if they are good with looking at these additional tree protective measures. All agreed.

Parks Manager Dowell stated approximately \$200,000 of additional funding would be needed for these tree preservation measures, worst case scenario.

Mayor Kelly asked City Council, again, if they are good with looking at the additional tree protective measures. All agreed with \$200,000 being the maximum.

Councilmember Coplen asked if this includes all trees within all phases of the project. City Council replied this only includes Phase 1.

Mayor Pro Tem Taylor encouraged using common sense in using the measures for each tree. He stated we also need to replant.

Councilmember Short asked Mr. Gartner if we are expecting utility relocations, and if so, will trees be part of that consideration. Mr. Gartner replied yes, there will be utility relocations along the corridor, but not all have been identified. Director Hutt added underground power lines have not been considered; therefore, there may be times in which trees interfere with power lines. He added staff will coordinate with Oncor to ensure all options or opportunities have been addressed relative to impacts.

PC-2 Presentation and update on the SH26 Phase II Reconstruction Project

SH26 Coordinator James Hubbard and Public Works Director Jeremy Hutt presented this item and briefed the City Council.

Mayor Pro Tem Taylor asked staff if the 944 residences are throughout the City, or just along the corridor. SH26 Coordinator Hubbard replied those are within 500 feet of the corridor.

Mayor Pro Tem Taylor asked staff if 81 homeowner associations were notified. SH26 Coordinator Hubbard replied yes.

Mayor Pro Tem Taylor asked if the Google video is available for everyone. SH26 Coordinator Hubbard replied it is not available online, but he stated he could work with the Information Systems department to coordinate the upload. He stated it is currently a layer built into our mapping system, overlaid on the Google Earth platform.

Mayor Kelly asked staff about the text message option. SH26 Coordinator Hubbard replied they are locked in for future messages, but can also opt out for receiving messages at any time.

Councilmember Short asked staff if they have received any requests for economic development incentives for cross access. SH26 Coordinator Hubbard replied staff has not received any, and they are still working through those items and mechanisms.

Mayor Pro Tem Taylor asked staff what would happen if City Council does not approve the additional necessary funding. Director Hutt replied TxDOT would not release the funds they currently have established.

Councilmember Mogged asked staff, if we had approached this the same way the northern end was done, we would be looking at a \$4 million dollar bill. Director Hutt replied correct. Councilmember Mogged stated in reality that is a 90 percent reduction in what it could have been. Director Hutt agreed.

Mayor Kelly asked staff if the advanced funding agreement would be the final documents about the funding mechanisms, such as federal, state, and local agreements, outside of the Turnback agreement, that have to be signed off on from everybody. Director Hutt replied the memorandum of understanding was done through local parties, the AFA does not address the Turnback parameters. He stated the AFA does establish the funding requirements. He stated Tarrant County has processed their funding agreement, and this is the actual contractual document to use.

Mayor Kelly asked staff if we process the payment to them based on when TxDOT signs off on it. Director Hutt replied correct, but they are asking for the executed version and the check, at this time. Mayor Kelly stated it could be eight or nine months before TxDOT signs off on the agreement.

Councilmember Short asked staff if TxDOT will be paying their contractor all up front. Director Hutt replied no.

Mayor Pro Tem Taylor asked staff if the funding for this project is coming from TIF funds. Director Hutt replied correct.

Mayor Pro Tem Taylor asked staff if there is enough TIF revenue to allow us to stay in the positive, even with the overages. Director Hutt replied currently there are sufficient TIF funds available to cover Phase 1 of the Glade Road project and this project. City Manager Jennifer Fadden added we are anticipating funding our obligations for the SH26 project out of the capital project fund. She stated at the end of the previous two fiscal years, the additional revenue over expenditures was moved to this fund in anticipation of funding the enhancements along SH26. She

stated we still need to fund the enhancements such as street lights. She stated there is adequate funding for this purpose, and it will continue to accrue.

Mayor Pro Tem Taylor asked staff if there will be no debt. City Manager Jennifer Fadden replied correct.

PC-3 Discussion of the April 19, 2016, City Council regular agenda items

Mayor Kelly asked staff about item 5a being changed from the original request of R-20 to now a PUD-R with the proposed site plan; however, there are out-parcels which may need to be brought into the site plan, does it require any additional notice. City Attorney Matthew Boyle replied no matter which route is taken, either the straight zoning to R-20 or PUD-R, the only properties that are subject to the rezoning are the original 13 acres, which were subject to the case of the Planning and Zoning Commission. He stated for reference purposes and addressing the development in its totality, the draft PUD-R ordinance includes an exhibit which includes all 18 acres. He stated even if the PUD-R ordinance is adopted, and uses the current exhibit, only the 13 acres is being rezoned. He stated there is a condition of the ordinance that states the totality of the development should be generally consistent with that exhibit, as shown before the Planning and Zoning Commission. He stated this case has been noticed in full compliance with Chapter 211 of the Local Government Code.

Mayor Kelly asked staff if the same thing can be done for the platting process, because it is going to be a gated community, or will it need to be brought back to City Council, in terms of any changes, and attached to the plat, such as the cul-de-sac or landscaping requirement, or the narrower lot on the corner. City Attorney Matthew Boyle replied the current standard in the draft ordinance is that the development should be generally consistent with Exhibit C.

Mayor Kelly asked staff if the plat application has been submitted. Community Development Director Abra Nusser replied the developer has submitted revisions to their plat application that are generally consistent with the exhibit, and it requires review by staff. City Attorney Matthew Boyle added even if they have formally submitted the plat application, in the context of a straight zoning ordinance, they would have the legal ability to amend that plat with a straight R20 zoning. He also added the standard review on plat applications is ministerial; however, the review on zoning cases is legislative with full discretion.

Mayor Kelly asked staff if plats with gated subdivisions is legislative. City Attorney Matthew Boyle replied City Council has the discretion of gated communities.

Mayor Kelly adjourned the Pre Council meeting at 7:05 p.m.

The regular meeting of the Colleyville City Council was called to order by Mayor Kelly at 7:50 p.m.

ROLL CALL: Mayor David Kelly, Mayor Pro Tem Mike Taylor, and Councilmembers Carol Wollin, Chuck Mogged, Jody Short, and Nancy Coplen

Absent: Councilmember Chris Putnam

City Manager Jennifer Fadden, Deputy City Manager Chris Fuller, Assistant City Manager/Director of Public Safety Mike Holder, Fire Chief Brian Riley, Assistant Police Chief Robert Hinton, Communications and Marketing Director Mona Gandy, Public Works Director Jeremy Hutt, City Engineer Cheryl Taylor, Community Development Director Abra Nusser, Principal Planner Shane Pace, Recreation and Library Director Mary Rodne, Economic Development Director Marty Wieder, Accounting Manager Karen Hines, Parks Manager Heather Dowell, SH26 Coordinator James Hubbard, Information Systems Manager Chris Pena, City Attorney Matthew Boyle, and City Secretary Amy Shelley

1. EXECUTIVE SESSION - In accordance with Texas Government Code, Chapter 551, Subchapter D

Section 551.071 - Legal - Consultation with attorney on legal issues raised by public hearing or action items on the agenda

Section 551.071 - Legal - Consultation with and legal advice from the attorney regarding the City's regulation of alcoholic beverages ordinance and ratio

Section 551.071 - Legal - Consultation with attorney on contemplated litigation (Camden Lock LLC)

Section 551.071 - Legal - Consultation with attorney regarding litigation - Lincoln et al v. City of Colleyville

Section 551.071 - Legal - Consultation with attorney regarding litigation - Jane Doe v. City of Colleyville

Section 551.071 - Legal - Consultation with attorney regarding litigation - Billy McCullough v. City of Colleyville

Section 551.072 - Real Estate - Deliberate the purchase, exchange, lease, or value of real property for City facilities

Section 551.074 - Personnel - Deliberate the appointment, employment, evaluation, and duties of the city manager

Section 551.087 - Economic Development - Discuss or deliberate regarding commercial or financial information that the City has received from business

prospects that the City seeks to have locate, stay, or expand in the City and with which the City is conducting economic development negotiations; deliberate the offer of a financial or other incentive to a business prospect

Mayor Kelly explained the Executive Session had been called in accordance with the Texas Government Code, Chapter 551, Subchapter D, Section 551.071, Legal, Section 551.072, Real Estate, Section 551.074, Personnel, and Section 551.087, Economic Development. He further explained there would be no decisions made or action taken during this time. The meeting was recessed at 7:06 p.m. and reconvened at 9:06 p.m.

INVOCATION: Pastor Dale Molden, First Baptist Church Colleyville

PLEDGE OF ALLEGIANCE: City Attorney Matthew Boyle

2. EXECUTIVE SESSION READING AND PUBLIC HEARING: CONSIDER AND TAKE ANY ACTION(S) NECESSARY RELATIVE TO ITEMS DISCUSSED IN EXECUTIVE SESSION - RESOLUTION R-16-3980

This resolution was not needed.

3. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

Announcements of civic and charitable events

Presentation of calendar events and updates

Announcements of awards and recognition

Mayor Kelly announced the annual Old Tyme BBQ will be held on Friday, April 29 from 5:00 p.m. to 11:00 p.m., and Saturday, April 30 from 11:00 a.m. to 6:00 p.m., at Colleyville Center, 5301 Riverwalk Drive. He encouraged all to come out and enjoy the event.

Proclamation in recognition of the Colleyville Garden Club Promenade Garden Tour, May 3, 2016 - Colleyville Garden Club President Diane Connor

Mayor Kelly presented a proclamation to Colleyville Garden Club President Diane Connor, and Garden Club members: Promenade Chair MaryAnn Nicholson, Anita Barnwell, Nancy Coplen, Kathy Hadley, Noelle Harnden, and Carol Wollin, in recognition of the Colleyville Garden Club Promenade Garden Tour, Sunday, May 3, 2016. President Connor thanked the Mayor and City Council.

In recognition of Colleyville's featured business - Which Wich, Justin Bess, Store Manager, 5509 Colleyville Boulevard, Suite 270 - Mayor David Kelly and Economic Development Director Marty Wieder

Mayor Kelly and Economic Development Director Marty Wieder recognized Justin Bess, Store Manager, Which Wich, as the featured business of the month. Mr. Bess expressed his appreciation to the City of Colleyville for their recognition.

4. CONSENT: READING AND PUBLIC HEARING- Resolution R-16-3981

4a Approval of the minutes of the regular City Council meeting of April 5, 2016

4b Approval of the Colleyville Public Library Long-Range Plan 2016 - 2021

Mayor Kelly read Resolution R-16-3981 in its entirety.

Recreation and Library Director Mary Rodne presented and briefed City Council on item 4b.

Mayor Kelly opened the public hearing at 8:05 p.m.

There was no one present wishing to speak and Mayor Kelly closed the public hearing at 8:05 p.m.

Councilmember Wollin made a motion to approve Resolution R-16-3981. Councilmember Mogged seconded the motion.

Mayor Pro Tem Taylor encouraged citizens to review the Library Long-Range Plan 2016-2021 on colleyville.com.

The motion to approve carried by the following vote:

Aye: 6 – Mayor Kelly, Mayor Pro Tem Taylor, Councilmembers Carol Wollin, Chuck Mogged, Jody Short, and Nancy Coplen

Absent: Councilmember Chris Putnam

5. ORDINANCE(S): SECOND READING AND PUBLIC HEARING

5a Ordinance O-16-1978

Consideration of a zoning change from the AG-Agricultural zoning district to the R20-Single Family Residential zoning district in Abstract 1176 of the J.J. Newton Survey, and being a portion of Lot 1R-A, Block 1, Kay's Circle B Bar K Ranch Addition, located at 5700 Winnie Drive, Case ZC15-022

Mayor Kelly read the caption of Ordinance O-16-1978.

Community Development Director Abra Nusser presented this item and briefed the City Council.

Mayor Kelly opened the public hearing at 8:10 p.m.

Curtis Young and Chas Fitzgerald, applicants, presented this item and briefed the City Council.

Kathy Hadley, 204 N. Timberline Drive, spoke in opposition of this request with concerns of higher density; increased traffic; and the loss of the rural country feel.

Frederick Tate, 5605 Winnie Drive, spoke in support of this request, and liked the emergency access gate only option.

Douglas Boston, 5606 Winnie Drive, spoke in support of this request, and stated a hammer-head turnaround would work.

Carolyn Hellment-Green, 5604 Winnie Drive, spoke in support of this request, and liked the emergency access gate only option.

Revvie Green, 5604 Winnie Drive, spoke in support of this request.

The following persons did not wish to speak, but wished to register their support: Ellen Boston, 5606 Winnie Drive; Robert and Claudia Cash, 5601 Winnie Drive; Thai Tran, 5603 Winnie Drive

Mayor Kelly closed the public hearing at 8:25 p.m.

Mayor Pro Tem Taylor asked Mr. Young what advantage there is to go from a cul-de-sac to a hammer-head. Mr. Young replied the setback would be greater with a cul-de-sac street; a hammer-head would be considered an easement and work as a driveway, with a normal setback.

Mayor Pro Tem Taylor asked Mr. Young what the purpose of the most northeastern parcel, which is not included in the zoning request, is. Mr. Young stated the parcel will front on Bransford Road, remain an estate lot, and will not be a part of the HOA.

Councilmember Mogged asked Mr. Young if the 15,000 square foot lot is outside of the perimeter fencing. Mr. Young replied that lot will get its access from Bransford Road, and will not be going through the gate to get to the lot, and will not have access through the rear.

Councilmember Mogged asked Mr. Young if the three lots, inside the peninsula, will be inside the fencing. Mr. Young replied yes.

Councilmember Mogged asked Mr. Young about the actual gate from Bransford Road. Mr. Young replied the gate will be a third of the way down from Bransford Road, along the driveway entrance, and per the code requirements.

Mayor Kelly asked staff if City Council has the discretion to go from an R-20 request to a PUD-R arrangement. City Attorney Matthew Boyle replied City Council is under two general limits. The first being Chapter 211 of the Local Government Code requires, as a prerequisite to City Council considering a zoning case, the public has to be given advanced written notice of the scope and intent of the zoning change. He stated the proposed scope and intent of this zoning change was noticed as to the 13.3 acres and a change from AG zoning to R20 zoning. Any zoning category or zoning designation that is at R20 or anything less intensive than R20 falls within the notice provisions as required by Chapter 211 of the Local Government Code. Secondly, you have a provision in the Land Development Code that requires two things before a case can be considered, one being the public notice, and two, the recommendation and report from the Planning and Zoning Commission, of which you have. So here, if you were to consider a PUDR, instead of a straight R20 zoning, is there a legal obligation to go back to the Planning and Zoning Commission, and Section 1.18B7 of the Land Development Code provides, *"The City Council may refer any amended rezoning request back to the Planning and Zoning Commission for further study and recommendation."* He stated the key word in this is "may", which means it is not mandatory. The City Council is not required or obligated to send this back to the Planning and Zoning Commission under any state law or the Land Development Code.

Mayor Kelly asked staff if the proposed density (1.8 dwelling units per gross acre) complies with the comprehensive plan, and if R-20 is generally consistent of what Colleyville is about. Director Nusser replied correct.

Mayor Kelly asked staff if the proposed development density is at 1.3 dwelling units per gross acre. Director Nusser replied yes.

Mayor Kelly asked staff if the proposed density is less than the comprehensive plan, the guiding document. Director Nusser replied it is less than the maximum.

Mayor Kelly asked staff if the proposed lots are greater than R20, in terms of 20,000 square feet. Director Nusser replied correct.

Mayor Kelly asked staff if the surrounding developments are zoned similar to R20. Director Nusser replied the subject property is completely surrounded by R20.

Mayor Kelly asked staff if the cul-de-sac design is used because vehicles do not have to back up like with a hammer-head design. Fire Chief Brian Riley agreed, and stated the hammer-head design can potentially turn into a parking space.

Mayor Pro Tem Taylor asked Mr. Young if the hammer-head will also serve as a driveway. Mr. Young replied sometimes the hammer-head is a natural place to place the driveway.

Mayor Pro Tem Taylor asked Mr. Young what happens when the hammer-head is occupied. Mr. Young replied the driveway itself would be longer, and parking can also take place in a cul-de-sac, but emergency vehicles could open the gate.

Mayor Pro Tem Taylor asked Mr. Young if they could do either the cul-de-sac or hammer-head option. Mr. Young replied they would like to work it out, but they could build either one.

Mayor Kelly asked staff about the northern green space area in terms of the concern or purpose with staff's direction. Director Nusser replied the reserve strips are prohibited by the Land Development Code. She stated there are times when private streets are converted back to public streets, and staff would like to prohibit any future access concerns to the subdivision in the event the streets are converted back to public streets. She added staff was trying to have the developer provide an exhibit as close to code compliance as possible.

Mayor Kelly asked staff if the developer could landscape that strip. Director Nusser replied sure.

Mayor Kelly asked staff if there is no dedication of a driveway on their strip of property, in terms of future development. Director Nusser replied if the development is approved as a private development, future connections would not be able to connect.

Councilmember Mogged asked staff if there are any other requirements moving from R-20 zoning to PUD-R zoning that would need to be addressed. Director Nusser replied the applicant has revised the statement of planning objectives to graze the PUD-R requirements. She stated staff does not have elevation drawings that are typically received with a PUD-R; however, they have provided some architectural standards they are willing to lock in to satisfy the intent. She stated the minimum open space percentage is not in compliance, but, other than that it is generally compliant. She stated signage for the development has not been submitted, but in this case, the subdivision signage is not within the limits of this PUD-R. She added the applicant has indicated signage will be submitted. Councilmember Mogged stated this is essentially a hybrid development because it is partially a PUD-R and R-20.

Mayor Kelly asked staff if the landscaping requirements with the neighbor have been incorporated in the general language. Director Nusser replied yes and added there are some items in the statement of planning objectives that were not included in the draft ordinance due to enforceability concerns.

Mayor Kelly asked staff if the open space percentage is currently at 14.4 percent. Director Nusser replied yes.

Mayor Kelly asked staff if general language exists to incorporate the other items not included in the draft ordinance. Director Nusser replied yes, all items staff has deemed enforceable have been included in the draft ordinance.

Mayor Kelly made a motion to approve Ordinance O-16-1978 as a PUDR. Councilmember Mogged seconded the motion.

Councilmember Wollin stated she appreciates the language in the draft ordinance under Section 4.15 which states, "Home sites shall not be mass graded to reserve as many existing trees as possible."

Mayor Kelly asked staff if the site plan is incorporated as one of the exhibits. Director Nusser replied it is Exhibit C.

The motion to approve carried by the following vote:

Aye: 6 – Mayor Kelly, Mayor Pro Tem Taylor, Councilmembers Carol Wollin, Chuck Mogged, Jody Short, and Nancy Coplen

Absent: 1 – Councilmember Chris Putnam

6. RESOLUTION(S): READING AND PUBLIC HEARING

6a Resolution R-16-3982

Authorizing the abandonment of a portion of the public alley located in the Village at Colleyville development, and authorizing the city manager to execute the abandonment documents

Mayor Kelly read Resolution R-16-3982 in its entirety.

Public Works Director Jeremy Hutt presented this item and briefed the City Council.

Mayor Kelly asked staff why this was not a part of the development. Director Hutt replied there was a large electric transformer in this location that was removed about two years ago.

Mayor Kelly opened the public hearing at 8:45 p.m.

There was no one present wishing to speak and Mayor Kelly closed the public hearing at 8:45 p.m.

Mayor Pro Tem Taylor asked staff if this is only the shaded area on the exhibit. Director Hutt replied yes, it is approximately 300 square feet, and a four foot utility easement that will be retained along the alleyway.

Councilmember Short asked staff if this will leave a square corner, or right-of-way with a radius of some sort. Director Hutt replied there will be a square corner, but there is sidewalk, as the actual radius is further down the alleyway. He stated Lot 16 separates Lot 17 in the alleyway.

Councilmember Short asked staff if this is pedestrian access through there. Director Hutt replied yes.

Mayor Kelly made a motion to approve Resolution R-16-3982. Mayor Pro Tem Taylor seconded the motion.

The motion to approve carried by the following vote:

Aye: 6 – Mayor Kelly, Mayor Pro Tem Taylor, Councilmembers Carol Wollin, Chuck Mogged, Jody Short, and Nancy Coplen

Absent: 1 – Councilmember Chris Putnam

7. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA

Claudia Bevill, 119 Cheek-Sparger Road, spoke regarding the Welcome brochure referenced at the meetings, and asked City Council to remove certain language from the brochure.

Kathy Hadley, 204 N. Timberline Drive, spoke about an old tree in Colleyville to be preserved, and stated the Garden Club planted bluebonnets on Bluebonnet Drive, but no bluebonnets have been blooming.

8. REPORTS

Planning and Zoning Commission Meeting Minutes - March 14, 2016
Parks and Recreation Advisory Board Meeting Minutes - January 11, 2016
Monthly Financial Report - March 2016

There was no discussion of this item.

9. ACTION/RESOLUTION: DISCUSSION AND CONSIDERATION OF A RESOLUTION RATIFYING COUNCIL AGENDA ACTION FOR APRIL 19, 2016 - READING AND PUBLIC HEARING - RESOLUTION R-16-3983

This resolution was not needed.

10. ADJOURNMENT

There being no further business before the City Council, Councilmember Coplen motioned to adjourn and Mayor Kelly seconded.

Mayor Kelly adjourned the meeting at 8:54 p.m.

Mayor Kelly reconvened the executive session at 9:06 p.m. Mayor Kelly adjourned the executive session at 9:33 p.m.

APPROVED BY A VOTE OF _ AYES, _ NAYS, AND _ ABSTENTIONS ON THIS THE _____ DAY OF _____.

Minutes taken and prepared by:

Amy Shelley, TRMC
City Secretary



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 4b

Agenda Date 05/03/2016

Number

Type Resolution

Department Fire

Title

Approval of agreements with Emergicon, LLC, and oPen Inc. d/b/a SafetyPAD for ambulance billing and patient care reports, and authorizing the city manager to execute the agreements

Strategy Map Connection

C2- Deliver high quality and unique customer service

B1- Seek innovative technology solutions where appropriate

B2- Proactively seek process improvements and sustainable solutions

B3- Utilize partnerships to implement cost-effective service solutions

Explanation

Reading and Public Hearing

This item seeks approval to enter into agreements with Emergicon, LLC, a third party billing and accounts receivable management service for ambulance and emergency medical services organizations and oPEN, Inc., d/b/a as SafetyPAD, an electronic patient care reporting system.

At the December 1, 2015 Pre Council Meeting, staff provided City Council with an update on ambulance billing. Staff presented information regarding balance billing, billing practices of Northeast Fire Department Association (NFDA) member departments, and clarified the definitions of citizen and non-citizen. The December 1, 2015 presentation to City Council is attached for reference.

The December 1, 2015 presentation was in response to the September 15, 2015 Pre Council Meeting discussion of the current ambulance billing policy and ambulance billing vendor. At the September 15, 2015 meeting, City Council directed staff to pursue contracting with Emergicon Ambulance Billing and SafetyPAD Patient Care Reporting and provide an update to City Council regarding the current ambulance billing policy, area cities billing practices, and the definition of citizen and non-citizen for the purpose of ambulance billing. The September 15, 2015 presentation to City Council is also attached for reference.

Following the direction given by City Council at the December 1, 2015 Pre Council Meeting, staff brought forward attached Resolution R-15-3941, establishing updated ambulance billing guidelines and replacing Resolution R-11-3391. Reference to a specific contracted ambulance billing vendor was removed in an effort to keep the

resolution from requiring a change if the vendor changed. For billing guidelines "citizen" and "non-citizen" were defined, and collection efforts for each were outlined.

Staff continued to work with Emergicon and SafetyPAD to secure an agreement which meets the billing and collection efforts stated in Resolution R-15-3941. The agreement is for an initial term of one year. The agreement will automatically renew for successive like terms unless terminated upon the expiration of its then-current term, with written notice to the other party, given no later than thirty (30) days prior to the expiration of the then-current term.

It is anticipated Emergicon will assist the City in increasing ambulance billing revenues and staff recommends approval and authorizing the city manager to enter into the agreements.

Financial Impact

Staff anticipates an increase in collections, and therefore, ambulance revenue in the General Fund.

HB1295 Acknowledged

Recommendation

Approve

Attachments

1. September 15, 2015 Ambulance Billing Presentation
2. December 1, 2015 Ambulance Billing Presentation
3. Resolution R-15-3941
4. Emergicon Service Agreement
5. Emergicon, LLC Business Associate Agreement
6. Emergicon Service Agreement - Addendum A
7. SafetyPAD Agreement



Discussion of Ambulance Billing

Pre Council Meeting
September 15, 2015

Emergency Medical Services System



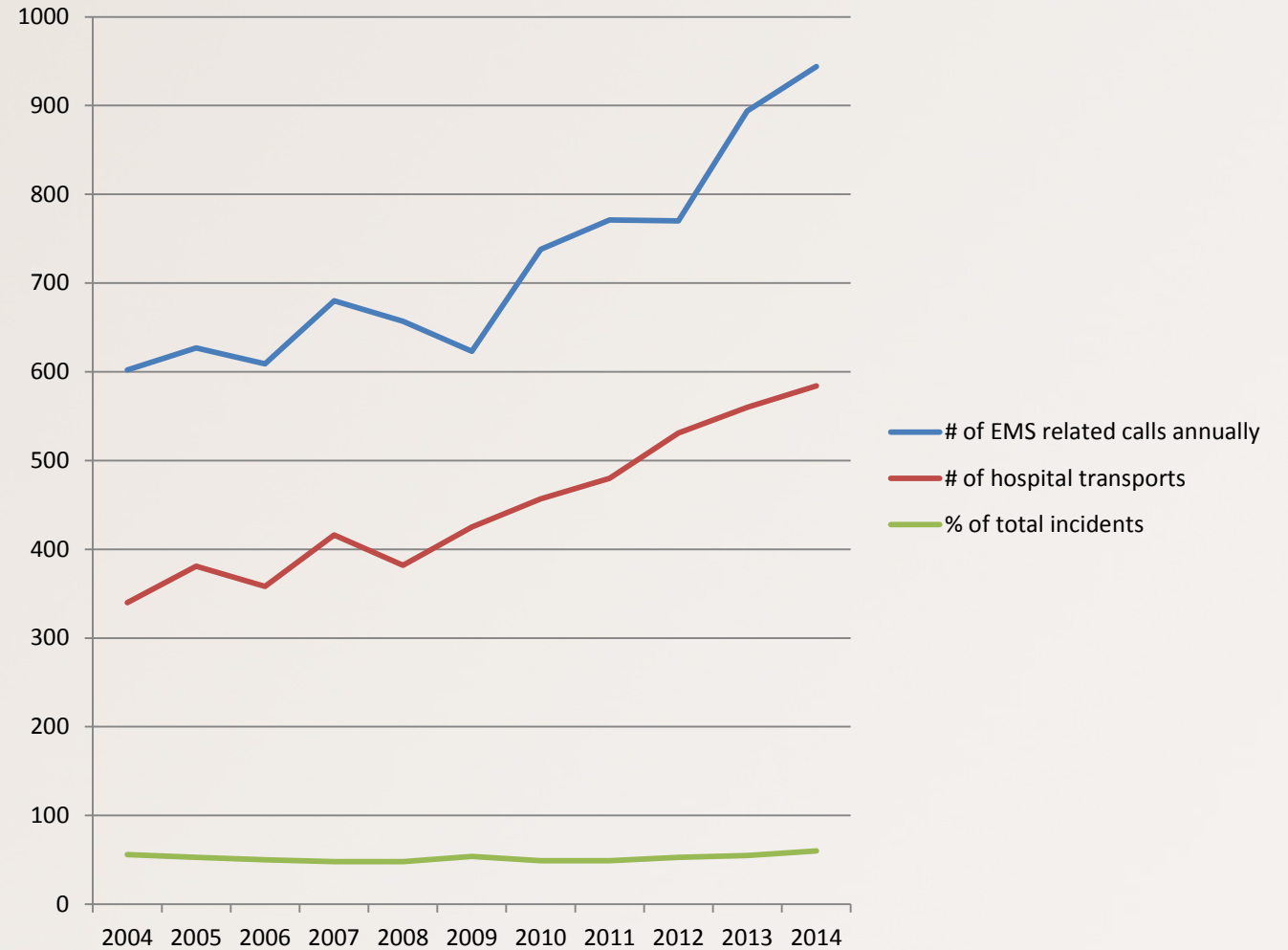
- Fire Department provides the transport Emergency Medical Services for the City
- All members of the Fire Department are certified firefighters
- All members of the Fire Department are Emergency Medical Technicians / Paramedics
- The department currently operates with one ambulance



Work Load Statistics



Year	# of EMS related calls annually	# of hospital transports	% of total incidents
2004	602	340	56
2005	627	381	53
2006	609	358	50
2007	680	416	48
2008	657	382	48
2009	623	425	54
2010	738	457	49
2011	771	480	49
2012	770	531	53
2013	894	560	55
2014	944	584	60
2015	632	431	59



Fiscal Year 2015 Ambulance Budget



Personnel Services:	\$461,835
(6 FTE's)	
Contractual Services:	\$ 53,339
Supplies:	\$ 51,461
Ambulance Payment:	\$ 38,177
Total Program Cost:	\$604,812
Anticipated Revenue:	\$400,000
General Fund Impact:	\$204,812

Ambulance Billing History



- Prior to 1989, MedStar provided contract ambulance service
- January 1989, Fire Department established ambulance transport service
- Ambulance billing conducted in-house until October 2005
- Administrative Assistant was responsible for ambulance billing
- Billing numbers and net revenue lower

Ambulance Billing History (Cont.)



- Decision made to transition to an ambulance billing service to improve revenues
- October 2005, ADPI-Intermedix contracted to provide billing and patient care reporting
- Contract parameters and length
- By 2011, all neighboring communities except Hurst and Roanoke contracted with ADPI-Intermedix
- Duties and responsibilities of Intermedix

Nine Year Revenue Analysis



<i>Fiscal Year</i>	Total Billing	Net Revenue	Collection Percentage
2006	\$594,891	\$221,461	37.2%
2007	\$647,710	\$267,106	41.2%
2008	\$761,192	\$253,018	33.0%
2009	\$872,122	\$236,389	27.1%
2010	\$931,391	\$236,067	25.3%
2011	\$907,383	\$340,384	37.6%
2012	\$1,032,777	\$358,403	34.7%
2013	\$1,112,358	\$323,297	29.1%
2014	\$1,247,295	\$399,311	32.1%

Vendor Provider Review



- In March 2015 the Fire Department began looking into various ambulance billing and electronic Patient Care Reporting (ePCR) systems
- A committee of the Fire Department's EMS team evaluated several ambulance billing and ePCR reporting systems:
 - Emergicon: Ambulance billing
 - SafetyPAD: Electronic Patient Care Reports
 - ESO: Ambulance billing and Patient Care Reports
 - ImageTrend: Ambulance billing
- Interviews and demonstrations were conducted and thoroughly evaluated by the EMS Team
- Emergicon was selected for the ambulance billing service, and SafetyPAD was selected for the ePCR system

Emergicon Ambulance Billing Services



- Having a specialized billing service and a specialized ePCR service makes for a more efficient and effective process
- A nine year revenue analysis depicts that although total billings are increasing each year, the current collection percentage is stagnating in the 27 to 37 percent range
- Anticipate increased revenue through improved collection efforts
- Ability to customize the billing and patient care reports
- Seventy-five percent of Emergicon clients are former ADPI-Intermedix clients, and most have reported a 20-35 percent increase in revenues after switching to Emergicon

Emergicon Ambulance Billing Services (Cont.)



- Emergicon's client base includes the following cities:

Justin
Krum
Lake Cities
Lewisville
Little Elm

Lucas
Mansfield
Mineral Wells
Murphy
Pilot Point

Prosper
Roanoke
Rowlett
Sanger
Southlake

The Colony
University Park
Victoria
Westlake
Whitney

Emergicon/SafetyPAD Fees



- Emergicon's specialized billing services coupled with SafetyPAD's specialized electronic patient care reports provide a synergy for a more robust system focused on a more efficient and effective process for both
- Emergicon will charge a fee of 8% of the total amount collected on the account
- Emergicon will also charge an additional fee of one 1.5% for credit card payments
- SafetyPAD annual fees include:
 - \$ 1.27 per record, estimated at 1700 records per year, to equal \$2,159
 - \$ 84 per year for 4 pen-based tablets (1 each apparatus), to equal \$336
 - \$1,500 per year (\$125 month) for CAD Interface
 - \$ 420 per year for faxing
 - \$4,247 annual total for patient care reporting services
- SafetyPAD fees will be paid through Emergicon

ADPI-Intermedix Fees



- ADPI-Intermedix provides both the billing and ePCR services, not specializing in one or the other
- ADPI-Intermedix currently charges 11.1% of all monies collected for EMS billing provided by client, less refunds
- ADPI-Intermedix also charges 1.25% of all monies collected for use of an Intermedix-provided pen-based Panasonic Toughbook tablet, less refunds
- ADPI-Intermedix's contract with the City of Colleyville was due for renewal in October 2014, but took over five months to agree on the contract language, which provided an opportunity to explore other vendors
- The new ADPI-Intermedix three year agreement lowered the contract fees to six percent (6%) of all monies collected, less refunds as a "preferred client", but maintained the 1.25% fee for the use of a pen-based Panasonic Toughbook tablet

Ambulance Billing History (Cont.)



- Previous City Council Agenda, July 19, 2011, ambulance billing discussion
- Staff received City Council approved guidelines for ambulance billing practices, resulting in Resolution R-11-3391, which clarified:
 - Definition of a “citizen” for the purpose of ambulance billing guidelines
 - Definition of a “non-citizen” for the purpose of ambulance billing guidelines
 - Definition of balance billing
 - Reporting unpaid accounts to the credit bureaus
 - In district write offs

Definition of a “Citizen” (In District)



- A citizen for ambulance billing purposes is a Colleyville resident, or a citizen of the neighboring communities of Keller, Euless, and Grapevine
- A citizen's insurance is billed
- Citizens without insurance are not billed
- No payment beyond insurance is pursued from citizens
- Any balance remaining on a citizen account is written off

Definition of a “Non-Citizen” (Out of District)



- A non-citizen for ambulance billing purposes is a non-resident of Colleyville, or is a resident of a neighboring community that does not reciprocate billing services
- A non-citizen's insurance is billed, followed by balance billing to the patient if not paid or if no insurance is available
- Balance billing is the practice of charging the patient directly for any ambulance charges not covered by insurance
- Non-citizen accounts unpaid after 90 days are sent to an outside agency for subsequent collection efforts for a period of 120 days
- Outstanding accounts of non-citizens are reported to the credit bureaus until such time as the account is paid in full

Ambulance Service Trends



- Ambulance billing services have changed since the City of Colleyville contracted with ADPI-Intermedix in 2005
- New ambulance billing service companies have joined the market and bring competitive services and pricing
- Many fire departments have left ADPI-Intermedix for better contracts and increased revenue generation through improved billing collection procedures
- Many fire departments now balance bill their “citizens” and a few are offering annual subscriptions that cover any and all balance billings for the year

Ambulance Service Trends (Cont.)



- Bedford, Hurst, North Richland Hills, Richland Hills, and Southlake balance bill citizens and non-citizens
- Bedford and Hurst have an annual subscription option for their citizens to cover the balance billing costs
- Trends for ambulance service show Colleyville requests assistance from neighboring communities on average three times for every one time we respond to a neighboring community to assist them
- As a result, our citizens are three times more likely to be balanced billed as a result of our neighbors changing their policy towards us

Staff Recommendation



Staff is recommending approval to move forward with changing the ambulance billing and patient reporting services from ADPI-Intermedix to Emergicon for the ambulance billing services and SafetyPAD for the patient care reporting services.

Staff seeks City Council direction to change the “citizen” and “non-citizen” categories for ambulance billing to balance billing of all patient transports. This will move Colleyville in the direction to which many fire departments have already progressed, including Bedford, Hurst, Richland Hills, North Richland Hills, Roanoke and Southlake, who all balance bill citizens for ambulance transport costs.



Questions and Discussion



Discussion of Ambulance Billing

Pre Council Meeting
December 1, 2015

Overview of Discussion



- Provide an update to information and questions resulting from the September 15, 2015, Pre Council presentation
- Overview of current Colleyville balance billing policy
- Provide updated work load statistics
- Breakdown of NEFDA cities and their balance billing policies
- Direction regarding Colleyville balance billing policy

Ambulance Billing History



- Previous City Council action, July 19, 2011, ambulance billing discussion
- City Council approved guidelines for ambulance billing practices, resulting in Resolution R-11-3391, which clarified:
 - Definition of a “citizen” for the purpose of ambulance billing
 - Definition of a “non-citizen” for the purpose of ambulance billing
 - Definition of balance billing
 - Reporting unpaid accounts to the credit bureaus
 - In district write offs

Current Definition of a “Citizen” (In District)



- A citizen for ambulance billing purposes is a Colleyville resident, or a citizen of the neighboring communities of Southlake, Grapevine, Keller, North Richland Hills, Bedford, or Euless
- A citizen's insurance is billed
- Citizens without insurance are not billed
- No payment beyond insurance is pursued from citizens
- Any balance remaining on a citizen account is written off

Definition of a “Non-Citizen” (Out of District)



- A non-citizen for ambulance billing purposes is a non-resident of Colleyville, or is a resident of a neighboring community that does not reciprocate billing services
- A non-citizen's insurance is billed, followed by balance billing to the patient if not paid or if no insurance is available
- Balance billing is the practice of charging the patient directly for any ambulance charges not covered by insurance
- Non-citizen accounts unpaid after 90 days are sent to an outside agency for subsequent collection efforts for a period of 120 days
- Outstanding accounts of non-citizens are reported to the credit bureaus until such time as the account is paid in full

NEFDA Cities Balance Billing Status



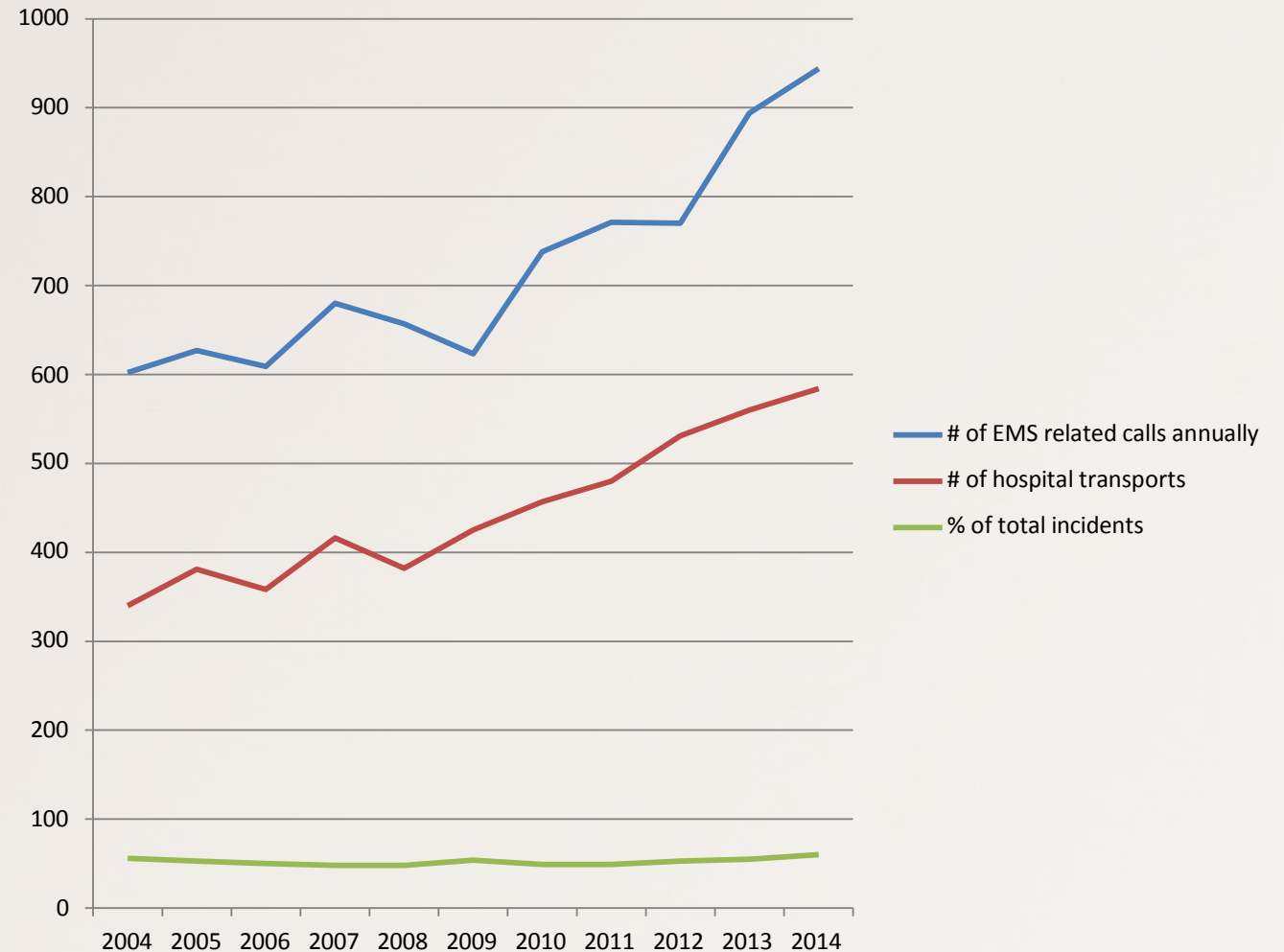
City	Balance Bill Citizens	Non-citizens	Notes
Bedford*	Yes	Yes	Subscription Option
Euless	No	Yes	
Grapevine	No	Yes	
Hurst*	Yes	Yes	Subscription Option
Haltom City*	MedStar	MedStar	
Westlake	No	No	
Keller	No	Yes	
NRH*	Yes	Yes	
Richland Hills*	Yes	Yes	
Roanoke*	Yes	Yes	
Southlake*	Yes	Yes	
Trophy Club	No	Yes	Does not BB Medicare

* Balance Bills both Citizens and Non-citizens

Work Load Statistics



Year	# of EMS related calls annually	# of hospital transports	% of total incidents
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2012	770	531	53
2013	894	560	55
2014	944	584	60
2015	891	558	58



Mutual Aid Ambulance/Transports



Mutual Aid into Colleyville by City	2014	2015 (Thru Oct)	Balance Billed
Bedford	20	18	Yes
Hurst	18	15	Yes
Southlake	13	9	Yes
Keller	8	11	Yes
Grapevine	4	3	Yes
Eules	2	2	Yes
NRH	1	0	Yes
	66	58	

Mutual Aid by Colleyville 2014	Mutual Aid by Colleyville 2015 (Thru Oct)	Balance Billed
24	17	No

Fiscal Year 2015 Ambulance Budget



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Contractual Services:	\$ 53,339
Supplies:	\$ 51,461
<u>Ambulance Payment:</u>	<u>\$ 38,177</u>
Total Program Cost:	\$604,812
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General Fund Impact:	\$204,812

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2013	\$1,112,358	\$323,297	29.1%
2014	\$1,247,295	\$399,311	32.1%

City Council Direction



Staff seeks City Council direction regarding changing the “citizen” and “non-citizen” categories for ambulance billing to balance billing of all patient transports. This will move Colleyville in the direction to which many fire departments have already progressed, including Bedford, Hurst, Haltom City, North Richland Hills, Richland Hills, Roanoke and Southlake, who all balance bill citizens for ambulance transport costs.



Questions and Discussion

RESOLUTION R-15-3941

A RESOLUTION REPLACING RESOLUTION R-11-3391 AND ESTABLISHING AMBULANCE BILLING GUIDELINES

- WHEREAS,** the Colleyville City Council approved Resolution R-11-3391, establishing ambulance billing guidelines to be utilized by a contracted ambulance billing service; and
- WHEREAS,** the Colleyville City Council finds it to be in the best interests of the citizens of Colleyville to replace Resolution R-11-3391; and
- WHEREAS,** the Colleyville City Council seeks to establish billing practices related to balance billing, use of collections, and reporting unpaid accounts to credit bureaus for "non-citizens"; and
- WHEREAS,** the Colleyville City Council hereby determines the passage of this resolution is in the best interests of the health, safety, and welfare of the Colleyville citizens; and
- WHEREAS,** all legal prerequisites for the approval of this resolution have been met, including but not limited to the Open Meetings Act.

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

- Sec. 1. THAT all matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the City of Colleyville defines "citizen" for the purpose of ambulance billing guidelines, as a resident of Colleyville, or a resident of the mutual aid cities surrounding Colleyville, which reciprocate ambulance services and billings.
- Sec. 3. THAT the City of Colleyville defines "non-citizen", for the purpose of ambulance billing guidelines, as any person residing outside the City of Colleyville, or a resident of a mutual aid city which does not reciprocate ambulance services and billings.
- Sec. 4. THAT the City of Colleyville will, through a contracted ambulance billing service, bill a "citizen's" insurance provider for ambulance service and no collection efforts beyond insurance payments are authorized.

- Sec. 5. THAT the City of Colleyville will, through a contracted ambulance billing service, bill a "non-citizen's" insurance provider for ambulance service and subsequent direct billing of the patient for any outstanding balance not covered by insurance providers.
- Sec. 6. THAT the City of Colleyville authorizes a contracted ambulance billing service to submit accounts of "non-citizens" with an outstanding balance beyond a period of 90 days, to an outside agency for subsequent collection efforts for a period of 120 days.
- Sec. 7. THAT the City of Colleyville authorizes a contracted ambulance billing service to report the outstanding accounts of "non-citizens" to all credit bureaus until such time as the account is paid in full.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 15TH DAY OF DECEMBER 2015.

ATTEST


Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE


David Kelly
Mayor

AGREEMENT FOR AMBULANCE BILLING SERVICES

This Agreement is entered into this _____ day of _____, 2016, by and between Emergicon, LLC, a Texas business corporation, and The City of Colleyville, a Texas corporation ("Client").

RECITALS

WHEREAS, Client provides emergency and/or non-emergency ambulance services for which it is eligible for payment or reimbursement by patients, insurance carriers, governmental agencies, employers and others;

WHEREAS, Emergicon is engaged in the business of providing third-party billing and accounts receivable management services for ambulance and emergency medical service organizations;

WHEREAS, Client desires to utilize Emergicon for billing and claims management services for its organization; and

WHEREAS, Emergicon is willing to provide such services upon the terms and conditions provided in this Agreement;

THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. Client hereby engages Emergicon to exclusively perform the Services set described in Paragraph 2 of this Agreement and Emergicon accepts such exclusive appointment and agrees to provide Services in accordance with the terms of this Agreement. Client agrees that it will not enter into any contract, agreement, arrangement or understanding with any other person or entity, the purpose of which is to provide for the same or substantially similar services during the term of the Agreement, unless the parties agree otherwise as set forth in writing in an Addendum to this Agreement. For purposes of the appointment, the recitals set forth above are incorporated by reference and made a part of this Agreement as if set forth in their entirety.

2. Services. Emergicon agrees to perform the following duties (collectively referred to as the "Services") on behalf of Client:

a. Provide Client with instructions for the submission of Required Documentation to Emergicon. For purposes of this Agreement, "Required Documentation" shall consist of prehospital patient care reports (PCRs) (also referred to as "trip sheets" or "run reports"), physician certification statements (PCSs) (required for non-emergency transports), patient authorization signatures (sometimes referred to as "assignment of benefits form" or "signature form"), Advance Beneficiary Notices of Non-coverage (ABNs) and other documentation necessary for Emergicon to perform the Services under this Agreement. All Required Documentation must be signed in accordance with applicable laws, regulations and payer

guidelines.

b. Review the Required Documentation, based on the information supplied by Client, for completeness and eligibility for submission to request reimbursement and to verify compliance under applicable laws, regulations or payer rules, based upon Emergicon's understanding of said laws, regulations or payer rules applicable to the date the ambulance services were rendered. If any Required Documentation is missing, Emergicon will request necessary documentation from Client.

c. Promptly prepare and submit claims deemed complete and eligible for reimbursement by Emergicon in conformance with this Agreement for electronic or paper submission to the appropriate party or payer based on the information supplied by Client. In the event that Emergicon deems the Required Documentation to be incomplete or inconsistent, Emergicon will notify Client that additional information may be required to process the claim, and Emergicon will return any or all of the Required Documentation to Client that Emergicon determines may be incomplete or inaccurate and will not be responsible to submit any claims with insufficient documentation. Emergicon will make a decision regarding the appropriate coding and payer for submission of the claim based on the information supplied by Client. Client understands and acknowledges that not all accounts will satisfy the eligibility requirements of all payers, and that it might not be possible to obtain reimbursement in all cases. Emergicon makes no representation or warranty that all claims are payable or will be paid, and Client agrees to abide by Emergicon's decisions with regard to proper coding and payer based on the information provided to Emergicon by Client.

d. Promptly post payments made on Client's behalf by patients, insurers and others.

e. Unless otherwise directed by Client, make reasonable efforts for the collection of co-payments, deductibles or other patient balances, to include the preparation of invoices and a maximum of three contact attempts to patients, supplemental insurers or other financially responsible parties at industry-appropriate intervals.

f. Perform follow-up for a commercially reasonable period of time following the initial billing date on all open accounts. After this follow-up period, Emergicon will either return the accounts to Client or forward the accounts to a collection agency of Client's choosing. Client and/or its designated collection agency shall bear all costs and liabilities of collections activities and collection agency charges.

g. Provide monthly reports to Client, which include, at a minimum, cash received, accounts receivable and balance summary. Emergicon shall furnish those reports to Client.

h. Notify Client of any overpayments and/or credit balances of which Emergicon becomes aware that must be refunded by Client. Client bears sole responsibility for the refund of any overpayments or credit balances to Medicare, Medicaid, patients, or other payers or insurers, and agrees to make such refunds when and within the time frames required by law. Emergicon may, at its option, assist Client in processing such refunds, but all refunds are to be

made solely with Client's funds, and Emergicon has no responsibility to make such refunds unless and until Client transfers such funds to Emergicon for this purpose. Emergicon shall not advance funds on behalf of Client for this purpose. Client acknowledges that federal law requires that any overpayments made by Medicare or any other federal health care program be refunded within 60 days of the identification of any such overpayments.

i. If Client desires that its patients be able to pay their accounts utilizing credit cards, establish a credit card merchant account and related capabilities to permit Client's patients to pay via any major credit card. Emergicon shall in its sole discretion determine which credit cards it will accept.

3. Specifically Excluded Duties of Emergicon. Notwithstanding any provisions of this Agreement to the contrary, Emergicon shall *not* be responsible to:

a. Initiate or pursue litigation for the collection of past due accounts.

b. Invoice for Client's non-ambulance medical transportation services, including but not limited to mobile integrated health programs, paratransit services, wheelchair van, invalid coach services, litter vans and stretcher cars, unless specific arrangements are made otherwise.

c. Negotiate any checks made payable to Client, though Emergicon may receive funds as an agent of Client for transmittal to Client where permitted by Client;

d. Accept reassignment of any benefits payable to Client;

e. Provide legal advice or legal services to Client, any of Client's patients or payers, or anyone acting on Client's behalf;

f. Obtain any prior authorizations on behalf of Client, or obtain a Physician Certification Statement or other Certificate of Medical Necessity on behalf of Client.

g. Assist Client in preparing, filing and updating the information on its Medicare, Medicaid or other insurer provider enrollment forms, as well as responding to required revalidations of Client's provider enrollment status. Client bears the sole responsibility to ensure that its Medicare, Medicaid or other insurer provider enrollment forms are submitted and updated in accordance with federal and state law, regulations and policies. Client bears the exclusive responsibility for the submission of such form and any fees that may be associated with the submission of such forms. Upon specific written request from Client, Emergicon may agree to assist with such form submission and/or revalidation of Medicare, Medicaid or other insurer provider enrollment forms, provided that the responsibility for actual submission and all fees associated with the forms shall be borne exclusively by Client and paid prior to submission of these forms by Emergicon.

4. Responsibilities of Client. Client agrees to do the following, at its sole cost and expense:

a. Provide Emergicon with all Required Documentation, as set forth in Paragraph 2(a), above, as well as the following data: Patient Name and Address, Date of Birth, Date of Service, Patient Medical Condition, Reason for Transport, Services Rendered (including assessments, interventions and other care), Origin and Destination with accompanying Zip Code, Transport Destination with accompanying Zip Code, Odometer Reading/Loaded Mileage (to the nearest tenth of a mile), and all relevant insurer or payer information, including identity of payer, group or plan numbers, patient's Insurance/Medicare/Medicaid Number, and all other relevant information and ensure that this data and the information contained on the Required Documentation is complete and accurate. Emergicon reserves the right to modify any Required Documentation or data at any time in accordance with new or revised payer requirements, and will provide a copy of any such revisions to Client in writing. Client acknowledges that Emergicon must rely upon the accuracy and completeness of the forms, signatures and other documentation provided to it by Client to allow Emergicon to perform the Services specified in this Agreement. Emergicon is not in a position to verify the accuracy or completeness of the Required Documentation provided by Client. By forwarding any such documentation to Emergicon, Client expressly represents and warrants that any such documentation is complete and accurate, and that Emergicon may rely upon the completeness and accuracy of any such documentation in performing its Services under this Agreement. Client bears sole responsibility for the claim submissions made by Emergicon on its behalf based upon the aforementioned documentation submitted to Emergicon by Client, and, notwithstanding any other term or provision of this Agreement, Client will defend, indemnify and hold harmless Emergicon for any billing or claim submission decisions made by Emergicon based on documentation submitted to Emergicon by Client if such documentation is later determined to be incomplete or inaccurate.

b. Maintain its qualifications to provide ambulance services, including any required local, state and/or federal licenses, permits, certificates or enrollments (collectively, "Licenses"), and to remain in good standing with Medicare, Medicaid and all other state and federal health care programs. Client shall provide copies of all current Licenses, including renewals, to Emergicon. Client shall be responsible to maintain a National Provider Identifier (NPI) number and to update the information associated with its NPI. Client expressly represents and warrants that it will not forward accounts for processing by Emergicon if the account is ineligible for payment or reimbursement, or if Client is ineligible for payment by any payers or insurers as a result of its licensure status, exclusion or other sanction with such payer or insurer, or other legal impediment, and that it will promptly notify Emergicon of any suspension or revocation of any required license, permit, certification or enrollment, or exclusion from any state or federal health care program or any change in ownership or management of Client.

c. Provide Emergicon with a copy of all required Licenses, permits, certificates and enrollments as referenced in Paragraph 4(b), and forward updates of these documents to Emergicon as they are renewed.

d. Provide Emergicon with odometer readings or other documentation of mileage accepted by the payer on all calls reflecting loaded mileage (from the point of patient

pickup to the destination) recorded in tenths of a mile as required by Medicare guidelines.

g. In accordance with appropriate payer guidelines, obtain the signature of the patient or other authorized representative of the patient or otherwise meet the ambulance signature requirements set forth at 42 C.F.R. § 424.36 on each call and forward to Emergicon as part of the Required Documentation.

f. In the event that Client operates a subscription or membership program, client represents and warrants that its program is actuarially sound in accordance with the guidance of the Office of Inspector General (OIG) and operated in accordance with any applicable state laws, regulations or guidelines. Emergicon will bill in accordance with the terms of such program, provided that Client furnishes those terms to Emergicon in writing. Client is responsible to inform Emergicon of its patients who are members or subscribers of Client's membership or subscription program. Notwithstanding any other provision of this Agreement, Client agrees to defend, indemnify and hold harmless Emergicon in the event that Client's subscription or membership program is not actuarially sound as set forth in applicable OIG guidance or is not permissible under State law, regulation or policy.

g. If Client is a party to any ALS-BLS "joint billing" or "bundle billing" agreement, Client shall be responsible to provide Emergicon with a copy of such agreement. Client also agrees to submit a PCR from the other party to the joint billing agreement along with the Required Documentation.

h. Obtain a completed and valid PCS form on all trips where required by law and provide copies of all PCS forms to Emergicon as part of the Required Documentation.

i. Provide Emergicon with a copy of all Client rate schedules, contracts or agreements which pertain to Client's billing or charges for services.

j. Notify Emergicon of any or all changes in billing charges for service or changes in any of Client's billing policies or contracts not later than thirty (30) days prior to the effective date of said changes.

k. Report all payments made directly to Client within twenty-four (24) hours of Client's receipt of same.

l. Cooperate reasonably with Emergicon so as to enable Emergicon to meet its obligations under this Agreement. In the event that Client's approval is required in order for Emergicon to fulfill any obligations it may have under this Agreement, Client shall not unreasonably withhold, condition or delay its approval.

m. In writing, notify Emergicon of any customized needs (reporting, scheduling, etc.). Client understands that the processing of customized needs may entail additional charges to Client by Emergicon.

n. Designate a contact person, authorized to transact business on behalf of

Client, who can promptly respond to any questions raised by Emergicon, or who can execute required forms and other documents necessary to the provision of Services by Emergicon under this Agreement.

o. Agree to permit Emergicon to provide training to Client personnel in the event that Emergicon deems such training to be necessary and/or desirable at a cost to be mutually agreed upon by the parties and paid by Client.

p. Provide electronic transfer of PCR data in an acceptable NEMSIS format to Emergicon, Client agrees to bear all cost of the development and implementation of the electronic software “bridge” as agreed upon by and in conjunction with Emergicon information technology personnel, representatives or contractors.

5. Record Ownership and Access.

a. Client understands that all documentation provided to Emergicon by Client, whether in paper and/or electronic form, is for the sole and express purpose of permitting Emergicon to provide Services under this Agreement. It is Client’s responsibility to maintain all of its documents and business records, including copies of any documents or records provided to Emergicon (“Client-Provided Records”). Emergicon does not act as Client’s records custodian.

b. As a convenience to Client, Emergicon will, during the term of this Agreement, produce patient care reports in response to routine attorney requests (with appropriate patient authorization) for such documentation, if those records are in Emergicon’s possession at the time it receives such attorney request. For subpoenas, as well as any requests beyond those deemed by Emergicon to be routine attorney requests, Emergicon shall forward such requests to Client for disposition.

c. During the term of this Agreement, Emergicon shall, upon Client’s written request, provide to Client, in electronic format and within 14 days of receipt of such written request, copies of any Client-Provided Records furnished to Emergicon by Client, and to any Claim Adjudication Documents generated by and received from insurers or payers in response to claims submitted by Emergicon on Client’s behalf. “Claim Adjudication Documents” shall consist of the documents generated secondary to claim submission in the normal course of claim processing by payers and insurers, including Explanation of Benefits (EOB) documents, Remittance Advice (RA) documents, Medicare Summary Notice (MSN) documents, denials and other documents of a similar type or nature.

d. Any documents, data, records or information compiled in the course of Emergicon’s provision of Services under this Agreement, other than those Client-Provided Records and Claim Adjudication Records defined in Paragraphs 5(a) and (c) above, shall be the sole and exclusive property of Emergicon and shall be considered the business and/or proprietary records of Emergicon. Emergicon shall have no obligation to furnish any such business or proprietary records of Emergicon to Client, and Client shall have a right of access only to the Client-Provided Records and Claim Adjudication Documents as defined in Paragraphs 5(a) and (c), above.

e. If Client or a third party requests any documents or records to which Client or the third party has a right of access under Paragraphs 5(a) and (c) of this Agreement, and such documents cannot be provided to Client in electronic form, Emergicon may charge Client the per-copy amount for medical records permitted under applicable law at the time of Client's request.

f. Should this Agreement be terminated for any reason, all documents and records to which Client has a right of access under Paragraphs 5(a) and (c) of this Agreement shall be maintained in electronic format at a site convenient to Emergicon for a reasonable amount of time for follow-up of all open claims, but in any event not to exceed ninety (90) days following the effective date of termination of this Agreement. Electronic or paper copies of the records to which Client has a right of access under Paragraphs 5(a) and (c) will be made available to Client, at Client's sole cost and expense, in a format acceptable to Emergicon at the Client's written request provided that Client makes such request within thirty (30) days following termination of the Agreement, and provided that Client has no outstanding invoices due to Emergicon at the time of the request. Emergicon shall have absolutely no responsibility whatsoever after termination of this Agreement to provide any monthly reports or other such Emergicon-generated reports to Client.

g. Upon termination of this Agreement, Client is responsible to notify all payers, patients, and other correspondents of its new address, phone and/or fax numbers for billing or payment purposes. Notwithstanding any other provisions of this Agreement to the contrary, Emergicon will not be responsible for mail, deliveries, faxes, messages or other communications sent in Client's name to Emergicon after the effective termination date of this Agreement, and Emergicon shall have no duty to accept, maintain, copy, deliver or forward any such communications to Client following termination of this Agreement.

h. Costs for copies of documents required and/or requested by Client beyond the requirement of the normal daily claim handling requirements will be invoiced to Client by Emergicon at a per copy price to be established by Emergicon from time to time.

6. Client Accounting and Auditing Requirements. If Client requires Emergicon's assistance in Client's accounting or other internal audits, Emergicon will charge client for said audit support services at its customary rates, to be established by Emergicon from time to time. Upon written request of Client for same, Emergicon shall furnish said rates to Client in writing prior to undertaking any work pursuant to this Paragraph.

7. Term and Termination.

a. This Agreement is for an initial term of one year, and will automatically renew for successive like terms unless terminated hereunder.

b. This Agreement may be terminated upon the expiration of its then-current term, with or without cause, by either party, upon written notice to the other party, given no later than thirty (30) days prior to the expiration of the then-current term.

c. This Agreement may be terminated by Emergicon immediately upon written notice to Client for any of the following reasons:

i. If Client makes an assignment for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver of any trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains undismissed, unstayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, unstayed, or unvacated for a period of thirty (30) days.

ii. If Client loses its license, permit or certification necessary to do business, or is excluded from any state or federal health care program.

iii. If Client fails to perform any of its responsibilities as set forth in this Agreement, fails to pay Emergicon for its services within thirty (30) days of the date such payment becomes due, takes any actions which Emergicon, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate with Emergicon in any way that prevents, impedes, obstructs or delays Emergicon in the performance of the Services set forth in this Agreement.

d. Upon termination for any reason, Emergicon shall perform follow-up on any open accounts submitted by Emergicon on Client's behalf for a period not to exceed ninety (90) days from the date of termination. Emergicon shall have no responsibility to perform such follow-up in the event Client takes any actions which prevent Emergicon from engaging in such follow-up, or in the event that Client has any unpaid balances due to Emergicon on the date of termination of this Agreement.

e. Upon termination for any reason, Client shall be responsible to pay the fees set forth in Paragraph 10 below, for all revenues collected by Emergicon on Client's behalf during the 90-day follow-up period set forth in Paragraph 7(d) above. After notice of termination is given, all Emergicon invoices are due and payable by Client within five (5) days of same. In the event that Client does not remit payment on any such invoice within five (5) days of the invoice, Emergicon shall have no responsibility to perform any further follow-up on open accounts, notwithstanding the provisions of Paragraph 7(d) above.

8. External and Internal Audits.

a. Client shall immediately notify Emergicon if there has been any prepayment audit or review, post payment audit or review, or any investigation or other formal inquiry into the billing practices of Client and/or Emergicon, or claims submitted by Emergicon on behalf of Client, where such audit or investigation is or appears to have been initiated by any governmental agency, insurer, payer, carrier, Medicare Administrative Contractor, Recovery Audit Contract,

Zone Program Integrity Contractor, Medicaid Fraud Control Unit, other Medicare or Medicaid contractor or other agency or entity authorized to carry out any such audit or investigation. This obligation shall survive termination of this Agreement for any reason.

b. The Client bears sole responsibility for obtaining and paying for any legal or consulting assistance necessary in defending itself in any such audit or investigation. Emergicon shall assist Client in producing any records, reports or documents in its possession which pertain to the audit or investigation and may charge Client a reasonable fee for copying, preparation, assembly or retrieval of such documents or reports. Emergicon shall have no obligation to perform any duties under this Paragraph 8(b) following termination of this Agreement for any reason.

c. Client is solely responsible for repaying any overpayments or recoupments sought or imposed by any insurer, carrier, payer or governmental agency or contractor, including interest, civil monetary penalties, fines or other such assessments.

d. Client understands and acknowledges that Emergicon, as part of its compliance program, may on occasion, and at its sole discretion, perform or contract for the performance of periodic, random, internal audits of its coding, billing and other business practices. These voluntary, internal compliance audits may reveal the existence of Client overpayments, and Client agrees that any such overpayments identified by Emergicon in its internal auditing process will be refunded by Client as described in more detail in Paragraph 2(h) of this Agreement.

9. Disposition of Funds.

a. All funds Emergicon receives from third party payers, patients or other sources for ambulance services provided by Client shall be made in the name of Client and forwarded monthly to Client or deposited into a Client account as directed by Client.

b. If Client desires that its patients be able to pay their accounts utilizing credit cards, then Emergicon shall accept credit card payments on behalf of Client's patients in a manner that is secure and agreed upon by the parties, and only to the extent possible and feasible, without making Emergicon a collection agency and responsible for compliance with the federal Fair Debt Collection Practices Act and other state or federal debt collection laws

c. Emergicon shall not accept a reassignment of any benefits where prohibited by law.

10. Compensation.

a. In exchange for the Services described in this Agreement, Client shall pay Emergicon a fee equivalent to eight percent (8%) of all revenues collected by Emergicon on behalf of Client. Credit card payments accepted by Emergicon will be charged an additional one and one-half percent (1.5%).

b. If Client instructs Emergicon to collect on an account(s) initially billed by another Contractor, Emergicon shall be compensated and paid for the collection efforts

on said account in accordance with the following schedule: Twenty-two Percent (22%) of the total amount collected on the account.

c. If Client instructs Emergicon to continue to pursue Private Pay accounts with balances beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Eighteen Percent (18%) of the total amount collected on the account.

d. The fees payable by Client to Emergicon shall be calculated and invoiced to Client on a periodic basis established by Emergicon in accordance with the receipts report generated by Emergicon.

e. Emergicon shall submit invoices to Client on a periodic basis established by Emergicon. Invoices are to be paid by Client within thirty (30) days of the invoice date. Emergicon reserves the right to add simple interest at an annual rate of 18%, compounded daily, on all where Emergicon has not received payment within thirty (30) days of the date of its invoice.

f. In the event that Client is obligated to refund any overpayment or credit balance as set forth in Paragraph 2(h), fees paid to Emergicon by Client for such refunded overpayment or credit balance shall not be credited or refunded to Client.

g. The rates set forth by Emergicon to be charged to Client for Services rendered are subject to change by Emergicon upon thirty (30) days written notice to Client.

h. Client agrees to reimburse Emergicon for any and all sales tax liabilities that may arise as a result of this Agreement.

11. Indemnification and Insurance.

a. In addition to any specific indemnification provisions set forth in this Agreement, Client shall hold harmless, indemnify and defend Emergicon and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines, and causes of action to the extent caused by any act or omission on the part of Client or its agents, servants, volunteers, contractors or employees. This provision shall include all costs and disbursements, including without limitation court costs and reasonable attorneys' fees.

b. In addition to any specific indemnification provisions set forth in this Agreement, Emergicon shall hold harmless, indemnify and defend Client and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action to the extent caused by any willful or grossly negligent misconduct of any Emergicon agent, servant, contractor or employee and which relate to the Services performed by Emergicon under this Agreement.

c. Emergicon shall maintain errors and omissions insurance coverage in an amount not less than \$1,000,000. Emergicon shall provide proof of such coverage to Client upon reasonable written request for same.

d. Notwithstanding any other provision of this Agreement, Emergicon shall not be liable for any damages, including but not limited to loss in profits, or for any special, incidental, indirect, consequential or other similar damages suffered in whole, or in part, in connection with this Agreement. Any liability of Emergicon shall not exceed any amounts paid to Emergicon by Client under this Agreement for any disputed billing performed by Emergicon on behalf of Client.

e. Where any provision of this Agreement obligates Client to defend, indemnify and/or hold harmless Emergicon, such agreement shall include any claims, losses, assessments or damages of any kind, and shall apply equally to Emergicon and to its employees, owners, agents, contractors, attorneys, consultants, accountants and servants.

12. Confidentiality. Neither Emergicon nor Client shall, during the term of this Agreement or for any extension hereof, for any reason, disclose to any third parties any proprietary information regarding the other party unless required to do so by law, regulation or subpoena. For purposes of this Agreement, "proprietary information" shall include, but not be limited to, pricing or rate information, information pertaining to contracts with payers, insurers, facilities, ambulance providers, health care systems, or other such parties, audit requests, audit results, billing processes, client lists or other such information.

13. HIPAA Business Associate Assurances. Emergicon agrees to appropriately safeguard protected health information ("PHI") that is created, received, maintained, or transmitted on behalf of Client in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the "HITECH Act").

a. General Provisions

i. Meaning of Terms. The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.

ii. Regulatory References. Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.

iii. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

b. Obligations of Emergicon

Emergicon agrees that it will:

- i. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
- ii. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e-PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
- iii. Report to Client any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Client without unreasonable delay but in no case later than 60 days after discovery of the breach;
- iv. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Emergicon agree to the same restrictions, conditions, and requirements that apply to Emergicon with respect to such information;
- v. Make PHI in a designated record set available to Client and to an individual who has a right of access in a manner that satisfies Client’s obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
- vi. Make any amendment(s) to PHI in a designated record set as directed by Client, or take other measures necessary to satisfy Client’s obligations under 45 CFR §164.526;
- vii. Maintain and make available information required to provide an accounting of disclosures to Client or an individual who has a right to an accounting within 60 days and as necessary to satisfy Client’s obligations under 45 CFR §164.528;
- viii. To the extent that Emergicon is to carry out any of Client’s obligations under the HIPAA Privacy Rule, Emergicon shall comply with the requirements of the Privacy Rule that apply to Client when it carries out that obligation;
- ix. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon on behalf of Client, available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon and Client’s compliance with HIPAA and the HITECH Act;
- x. Restrict the use or disclosure of PHI if Client notifies Emergicon of any restriction on the use or disclosure of PHI that Client has agreed to or is required to abide by under 45 CFR §164.522; and
- xi. If Client is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon agrees to assist Client in complying with its Red Flags Rule obligations by:

(a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Client's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Client agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Client of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Client of any threat of identity theft as a result of the incident.

c. Permitted Uses and Disclosures by Emergicon

The specific uses and disclosures of PHI that Emergicon may make on behalf of Client include:

i. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the Services provided by Client to its patients, as set forth in this Agreement;

ii. Preparation of reminder notices and documents pertaining to collections of overdue accounts;

iii. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Client to its patients or to appeal denials of payment for the same; and

iv. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the Services that Emergicon has been agreed to perform on behalf of Client, as set forth in this Agreement.

d. Termination

i. Notwithstanding the termination provisions set forth in Paragraph 7 of this Agreement, Client may terminate this Agreement if Client determines that Emergicon has violated a material term of the HIPAA Business Associate Assurances set forth in this Paragraph 13.

ii. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate this Agreement, according to the provisions set forth in Paragraph 7 of this Agreement, if feasible.

iii. Upon termination of this Agreement for any reason and upon the written request of Client and pursuant to the other terms and conditions set forth in this Agreement, Emergicon shall return to Client or destroy all PHI received from Client, or created, maintained,

or received by Emergicon on behalf of Client that Emergicon still maintains in any form. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

14. Compliance.

a. Emergicon will conduct its activities and operations in compliance with all state and federal statutes, rules and regulations applicable to billing activities.

b. Client shall conduct its activities, operations and documentation in compliance with all applicable state and federal statutes, rules and regulations. Client expressly represents and warrants that it is under no legal impediment to billing or receiving reimbursement for its services, and that all of Client's personnel are appropriately licensed and/or certified to furnish the services provided by Client. Client agrees to defend, indemnify and hold harmless Emergicon from any and all claims, damages and losses in the event that Client sends accounts to Emergicon which are ineligible for billing and/or reimbursement for any reason.

c. Each party is responsible for monitoring and ensuring its own compliance with all applicable state and federal laws and regulations pertaining to billing and reimbursement for its services. However, either party which becomes aware of a violation of any such state or federal laws or regulations or of a questionable claim or claim practice agrees to notify the other party within fifteen (15) days so the other party may appropriately address the matter.

d. The parties represent that they are not the subject of any actions or investigations pertaining to its participation in or standing with any state or federal health care program, are not subject to exclusion from any state and/or federal health care program, and that no persons providing services for which reimbursement is sought were at the time such services were rendered excluded from any state or Federal health care program.

e. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

f. Non-Engagement of Individuals on the OIG Exclusion List. The parties further warrant that each will take all reasonable steps as set forth by the Office of Inspector

General, United States Department of Health and Human Service, to ensure that it does not employ or otherwise engage individuals who have been excluded from participation in federal health care programs. The parties agree to periodically check the OIG exclusion website to ensure that employees, volunteers and all others providing services for each respective organization are not excluded. The website is: <http://exclusions.oig.hhs.gov>.

15. Independent Contractor Relationship. Emergicon and Client stand in an independent contractor relationship to one another and shall not be considered as joint venturers or partners, and nothing herein shall be construed to authorize either party to act as general agent for the other. There is no liability on the part of Emergicon to any entity for any debts, liabilities or obligations incurred by or on behalf of the Client.

16. Prevention of Performance. If a party's obligation to perform any duty hereunder is rendered impossible of performance due to any cause beyond such party's control, including, without limitation, an act of God, war, civil disturbance, fire or casualty, labor dispute, hardware or software failures beyond the party's control, or governmental rule, such party, for so long as such condition exists, shall be excused from such performance, provided it promptly provides the other party with written notice of its inability to perform stating the reasons for such inability and provided that the party takes all appropriate steps as soon as reasonably practicable upon the termination of such condition to recommence performance.

17. Assignment. This Agreement may be assigned by Emergicon to any successors or assigns of Emergicon. This Agreement may not be assigned by Client without the express written consent of Emergicon. This Agreement shall be binding upon all successors and assigns.

18. Notices. Notices required to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).

Emergicon:

Emergicon, LLC.
PO Box 180446
Dallas, TX 75218
Fax: (903) 887-1863

Client:

The City of Colleyville
5209 Colleyville Boulevard
Colleyville, TX 76034

19. Non-Competition and Non-Solicitation Clause. Without prior, written authorization from Emergicon, Client shall not:

a. During the term of this Agreement, or for two (2) years following its expiration or termination for any reason, employ, retain as an independent contractor, or otherwise in any way hire any personnel currently employed or employed at any time during the term of this Agreement by Emergicon. Client expressly agrees that in the event of a breach of this provision,

b. During the term of this Agreement, or for a period of two (2) years following its expiration or termination for any reason, engage in the provision of billing services for any other ambulance service, medical transportation organization, fire department, or emergency medical services organization. Nothing in this Paragraph shall be interpreted to prohibit Client from performing its own in-house billing and/or accounts receivable management following the expiration or proper termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to commence on the date first above written. Client represents that the individual who has executed this Agreement on behalf of the Client is authorized by Client and by law to do so.

CLIENT

By:

Signature
Date

Print Name

Title

**Business Associate Agreement
Between
The City of Colleyville and
Emergicon, LLC**

This Business Associate Agreement ("Agreement") between The City of Colleyville and Emergicon, LLC is executed to ensure that Emergicon, LLC will appropriately safeguard protected health information ("PHI") that is created, received, maintained, or transmitted on behalf of The City of Colleyville in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("HIPAA"), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the "HITECH Act").

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Emergicon, LLC, agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information ("e- PHI") and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to The City of Colleyville any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to The City of Colleyville without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Emergicon, LLC agree to the same restrictions, conditions, and requirements that apply to Emergicon, LLC with respect to such information;

5. Make PHI in a designated record set available to The City of Colleyville and to an individual who has a right of access in a manner that satisfies The City of Colleyville's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by City of Colleyville, or take other measures necessary to satisfy The City of Colleyville's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to The City of Colleyville's or an individual who has a right to an accounting within 60 days and as necessary to satisfy The City of Colleyville's obligations under 45 CFR §164.528;
8. To the extent that Emergicon, LLC is to carry out any of The City of Colleyville's obligations under the HIPAA Privacy Rule, Emergicon, LLC shall comply with the requirements of the Privacy Rule that apply to The City of Colleyville when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Emergicon, LLC on behalf of City of Colleyville, available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon, LLC and The City of Colleyville's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if The City of Colleyville notifies Emergicon, LLC of any restriction on the use or disclosure of PHI that The City of Colleyville has agreed to or is required to abide by under 45 CFR §164.522; and
11. If The City of Colleyville is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Emergicon, LLC agrees to assist The City of Colleyville in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of The City of Colleyville's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of The City of Colleyville agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting The City of Colleyville of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to The City of Colleyville of any threat of identity theft as a result of the incident.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Emergicon, LLC on behalf of The City of Colleyville include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by The City of Colleyville to its patients;

2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by The City of Colleyville to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Emergicon, LLC has been engaged to perform on behalf of City of Colleyville.

D. Termination

1. The City of Colleyville may terminate this Agreement if The City of Colleyville determines that Emergicon, LLC has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Emergicon, LLC shall return to The City of Colleyville or destroy all PHI received from City of Colleyville, or created, maintained, or received by Emergicon, LLC on behalf of The City of Colleyville that Emergicon, LLC still maintains in any form. Emergicon, LLC shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this _____ day of _____, 2016

City of Colleyville

Emergicon, LLC

Signature: _____

Signature: _____

ADDENDUM A

This document is an addendum to the Service Agreement between Emergicon, L.L.C. and City of Colleyville, Texas. It is understood that the following software is being purchased from SafetyPad EMS Information Systems by City of Colleyville, Texas, through a Service Agreement with Emergicon, L.L.C.

Colleyville Estimate:

Annual fees

1700 calls x \$1.27 per record (15% hometown discount)= \$2159.00

4 devices x \$84.00 yr = \$336.00

CAD Interface x \$125 month (guess) = \$1500

-this could drop, need to see your current process

Auto-fax/Yr= \$420

Annual costs (based on 1700 calls) = **\$4247.00**

Grand Total: **\$4,247.00**

Emergicon agrees to pay the above mentioned software fees to SafetyPad EMS Information Systems.

The contract between SafetyPad EMS Information Systems and City of Colleyville, Texas will automatically renew annually according to the SafetyPad EMS Information Systems Software License Agreement. Emergicon will pay SafetyPad EMS Information Systems on the contract renewal date for the full annual subscription fee.

Cancellation fees

Should City of Colleyville terminate Emergicon's Service Agreement within twelve (12) months of the date of this Addendum, City of Colleyville will be responsible for full payment to Emergicon of a cancellation fee equal to the total cost (\$4,247.00). Emergicon will invoice City of Colleyville upon written notice of cancellation and payment will be due 30 days from cancellation date.

EMERGICON, L.L.C.

By: _____

Name: Christopher Turner

Title: President & CEO

Date: _____

City of Colleyville

By: _____

Name: Jennifer Fadden

Title: City Manager

Date: _____

**MASTER SERVICES AND LICENSE AGREEMENT BETWEEN
SAFETYPAD and COLLEYVILLE FIRE DEPARTMENT**

THIS MASTER SERVICES AND LICENSE AGREEMENT ("**Agreement**") is entered into _____ ("**Effective Date**") by and between oPEN inc. d/b/a SafetyPAD, a Minnesota corporation with its principal place of business located at 7760 France Avenue South, 11th Floor, Minneapolis Minnesota 55435 ("**SafetyPAD**") and Colleyville Fire Department, a Municipal Fire Department with its principal place of business located at 5209 Colleyville Blvd, Colleyville, TX 76034 ("**Licensee**"). SafetyPAD and Licensee may be individually referred to as a "**Party**" or collectively as "**Parties.**"

RECITALS

- A. SafetyPAD is the owner and licensor of an electronic patient care reporting system that allows first responders to accurately generate pre-hospital care documentation.
- B. Licensee provides first responder services.
- C. Licensee wishes to license from SafetyPAD, and SafetyPAD wishes to license to Licensee, a perpetual, non-exclusive license for that certain electronic patient care reporting system and other software products and related maintenance and services associated with such software products, as hereinafter provided.

NOW THEREFORE, the Parties agree as follows:

1.0 GRANT OF LICENSE

1.1 License. SafetyPAD grants a license to Licensee to use SafetyPAD's electronic patient care reporting software (the "**Software**") in conjunction with the Licensee's performance of its first responder activities during the term of this Agreement, subject to the use provisions contained herein. Except as otherwise provided herein, Licensee may not assign, convey, license, re-license, sell, grant, distribute, pledge or otherwise transfer (in whole or in part, whether for profit or not), this license to any other person, corporation, firm, partnership or other entity.

1.2 Sole Right. Licensee acknowledges that SafetyPAD is the sole owner of the Software and all rights and goodwill associated therewith. Nothing in this Agreement shall give Licensee any right, title or interest in or to the Software other than those expressly provided herein.

1.3 Adverse Claims. Licensee acknowledges SafetyPAD's ownership of the Software and shall not claim adversely to SafetyPAD, or assist any third party in attempting to claim adversely to SafetyPAD, with regard to such ownership.

1.4 Infringement. During the term of this Agreement, Licensee shall notify SafetyPAD promptly of all infringing or unauthorized uses of the Software of which Licensee becomes aware.

2.0 TERMS OF USE

2.1 Title. Licensee and SafetyPAD agree that SafetyPAD owns all proprietary rights, including patent, copyright, trade secret, trademark and other proprietary rights, in and to the Software, and any corrections, bug fixes, enhancements, updates or other modifications, including custom modifications, to the Software, whether made by SafetyPAD, Licensee, or any third party.

2.2 Transfers. Licensee shall not sell, license, sub-license, publish, display, distribute, or otherwise transfer to a third party the Software or any copy thereof, in whole or in part, without SafetyPAD's prior written consent.

2.3 Marketing. Licensee shall not use the Software or any other SafetyPAD product for its own marketing, sales, or other ancillary use without express written permission from SafetyPAD. SafetyPAD may reference Licensee in its marketing materials or website with no further notice to Licensee.

2.4 Database and Patient Care Report Ownership. SafetyPAD alone owns its proprietary database. All patient care reports belong to the Licensee, and SafetyPAD by virtue of this Agreement acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use the Licensee's data for its own purposes.

3.0 TERM

3.1 Duration. This Agreement and the license granted hereunder and pursuant to the End User License Agreement attached hereto as Exhibit A shall take effect on the Effective Date and remain in effect until terminated as provided for in Section 5.0 below.

3.2 Maintenance Agreement Term. The Maintenance Agreement set forth on the attached Exhibit B shall remain in effect under the monthly application solutions provider pricing model ("**ASP Pricing Model**") noted until otherwise terminated as provided for in Section 5.0 below.

4.0 COMPENSATION AND FEES

4.1 Compensation. Licensee shall pay SafetyPAD for the Software license and all other additional services under the Monthly Pricing and Maintenance schedule, attached hereto as Exhibit C. Charges will accrue from the specified "go-live" date or when 100 or more billable runs have been submitted through the SafetyPAD system for billing. Any additional requested on-site visits outside of those set forth in this Agreement may be subject to per diem costs for all expenses, including, but not limited to, lodging, transportation, meals, and incidentals.

4.2 Invoice. SafetyPAD shall submit to Licensee an invoice for amounts due to:
Emergicon

**1717 McKinney Ave, Suite 700
Dallas, TX 75201**

4.3 Due Date. Licensee shall pay SafetyPAD within thirty (30) days of the invoice date. Failure of Licensee to pay SafetyPAD within thirty (30) days of invoice date constitutes an Event of Default and subjects such overdue amounts to a 2.5% late fee.

4.4 Archival Charge. Licensee agrees to pay SafetyPAD a charge of \$0.20 per gigabyte per month, beginning five (5) years after the Effective Date, for any archival storage of Licensee data (“**Archival Charge**”). Upon written request to SafetyPAD, Licensee may export and save all records older than five (5) years in a Licensee-designated storage location to avoid the Archival Charge. In the alternative, SafetyPAD will continue to store the records and add the Archival Charge to Licensee’s monthly invoice.

5.0 TERMINATION

5.1 Events of Default. Either Party may terminate this Agreement and the licenses granted herein upon the occurrence of one or more of the following “Events of Default” by the other Party:

- a. violation of any material provision of this Agreement;
- b. termination, suspension, winding up, or liquidation of a Party’s business operations, voluntarily or otherwise;
- c. a Party becoming subject to any bankruptcy or insolvency proceeding under federal or state law; or
- d. a Party becoming insolvent or subject to direct control by a trustee, receiver or similar authority.

5.2 Notice of Breach and Time to Cure. In case of an Event of Default, the non-breaching Party shall provide written notice to the breaching Party of the Event of Default and allow the breaching Party fourteen (14) days from receipt of notice to cure said breach prior to the non-breaching party having the right to terminate this Agreement.

5.3 Licensee Termination. Notwithstanding Sections 5.1 and 5.2, Licensee may terminate this Agreement, in its sole discretion, at any time, by giving written notice to SafetyPAD at least sixty (60) days prior to the effective date of such termination. In the event of such termination, Licensee shall pay to SafetyPAD compensation for all services rendered and approved, and all expenses incurred up to the effective date of termination, including set-up and training expenses. Licensee shall not be liable to SafetyPAD for additional compensation or expenses incurred after the effective date of termination, other than as provided herein. In no event shall Licensee be liable for any consequential or incidental damages.

5.4 SafetyPAD Termination. Notwithstanding Sections 5.1 and 5.2, Licensee’s failure to timely make any payments hereunder shall be an Event of Default that constitutes good cause for SafetyPAD to terminate this Agreement with ten (10) days written notice to Licensee.

5.5 Return of Software. Within ten (10) days after termination of this Agreement, Licensee shall (i) return to SafetyPAD, at Licensee's expense, the Software and all copies thereof, (ii) delete or destroy all other copies of the Software, and (iii) deliver to SafetyPAD a certification, in writing signed by an officer of Licensee, that the Software has been returned, all copies deleted or destroyed, and use of the Software has been discontinued (the "**Termination Procedure**"). The Termination Procedure shall include and extend to SafetyPAD mobile, SafetyPAD Enterprise and any other SafetyPAD-related application. Continued use of any SafetyPAD-related product after termination will result in Licensee remaining subject to continued maintenance fees. In the event the Termination Procedure is not followed, SafetyPAD shall be entitled to receive from Licensee additional compensation equal to the pricing described in Exhibit C.

5.6 Export of Patient Care Reports. Upon termination of this Agreement, Licensee shall utilize imbedded features within SafetyPAD 'Enterprise' to export its own data in .pdf form, along with a corresponding data file (.xml). Proper planning must occur to ensure all data transfer occurs prior to the ten (10) day period set forth above. Upon Licensee confirming receipt and reconciliation of all patient care reports, SafetyPAD shall return, erase, destroy, or render unreadable all Licensee data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and upon request from Licensee, certify in writing that these actions have been completed.

6.0 CONFIDENTIAL INFORMATION

6.1 Confidential Information. The Parties are each the individual owners of trade secrets, copyrights, patent rights and other intellectual confidential rights in and to certain products, software, and technology (the "**Confidential Information**"). The Parties have or will disclose to one another the Confidential Information for the purposes contemplated by this Agreement. Each Party has or will receive the Confidential Information under the terms and conditions of this Agreement.

6.2 Protection of Confidential Information. The Parties shall each take all necessary action to protect the confidentiality of the Confidential Information of the other Party, shall hold it in strict confidence, and shall not disclose or publish or permit the disclosure or publication of it to any person or entity except as provided for in this Agreement. Without limiting the generality of the foregoing, each Party agrees to use at least the same degree of care to avoid unauthorized disclosure, use or publication of the Confidential Information as it employs with respect to its own confidential information.

6.3 Disclosure. The Parties may disclose the Confidential Information to their own employees and agents, and to others for whom it is reasonably necessary to disclose for the purposes of this Agreement; provided, however, said persons shall be advised of the provisions of this Agreement and shall agree in writing to be bound by these provisions.

6.4 Ownership and Use of Confidential Information. The Confidential Information of each Party will remain the property of that Party. No licenses or transfers of ownership or other rights are expressed or implied by this Agreement, except that the Parties may use the Confidential Information for the purposes contemplated by this Agreement. The Confidential Information shall

not be used by the Parties, directly or indirectly, for any purpose other than the purposes set forth in this Agreement. In addition, at no time shall the Confidential Information provided by the disclosing Party be utilized directly or indirectly by the receiving Party contrary to the business interests of the disclosing Party or contrary to the intellectual property rights of the disclosing Party. The disclosing Party specifically prohibits and does not grant any right to the receiving Party to disassemble or reverse engineer or decompile or otherwise fragmentize and recompile the Confidential Information.

6.5 Return of Confidential Information. Upon termination of this Agreement, or upon the request of the disclosing Party to whom the Confidential Information belongs, the Confidential Information shall be returned to the disclosing Party, including all equipment, software, technical materials, copies, notes, memoranda or other material related thereto. No copies of the Confidential Information shall be retained by the other Party or any person or entity under its direction and control.

6.6 Non- Confidential Information. Confidential Information does not include information that: (i) was known by the receiving Party prior to receipt of the information from the disclosing Party prior to the confidentiality obligation; (ii) becomes known through a third party without a confidentiality obligation; (iii) becomes public knowledge through no wrongful act of the receiving Party; or (iv) is disclosed pursuant to a requirement of a governmental agency or law; provided, however that notification of such request is made to the disclosing Party by the receiving Party.

6.7 Compliance with Law. SafetyPAD shall comply with Minnesota Statute, Chapter 325C, "Uniform Trade Secrets Act." Licensee shall comply with any applicable local, state and federal laws pertaining to the protection of trade secrets then in effect and applicable to businesses and/or government agencies operating within the state where the Licensee regularly conducts its business operations.

7.0 CHANGE ORDER REQUEST. Licensee may request changes in the services provided within the scope of this Agreement by completing a change order request. If such changes are feasible, SafetyPAD, in its sole discretion, will provide Licensee with a Change Order, which shall include the costs and time necessary to complete the Change Order. No claim for additional compensation or services shall be recognized unless contained in a duly executed Change Order. Any services added to the scope of this Agreement by a Change Order shall be executed subject to all other terms of this Agreement.

8.0 HIPAA

8.1 The Parties shall carry out their obligations under this Agreement in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended ("**HIPAA**"), to protect the privacy of any personally identifiable protected health information ("**PHI**") that is collected, processed or learned as a result of the billing services provided hereunder. In conformity therewith, the Parties agree that they will:

- a. Not use or further disclose PHI except as permitted under this Agreement or required by law;
- b. Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Agreement;
- c. To mitigate, to the extent practicable, any harmful effect that is known to the parties of a use or disclosure of PHI by the Parties in violation of this Agreement;
- d. Report to the other Party any use or disclosure of PHI not provided for by this Agreement of which either Party becomes aware;
- e. Ensure that any agents or subcontractors to whom the parties provide PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to the Parties with respect to such PHI;
- f. Make PHI available to either Party and to the individual who has a right of access as required under HIPAA within thirty (30) days of the request by either Party regarding the individual;
- g. Incorporate any amendments to PHI when notified to do so by either Party;
- h. Provide an accounting of all uses or disclosures of PHI made by the Parties as required under the HIPAA privacy rule within sixty (60) days;
- i. Make their internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the parties compliance with HIPAA; and
- j. At the termination of the Agreement, return or destroy all PHI received from, or created or received by either Party on behalf of the other Party, and if return is infeasible, the protections of this Agreement will extend to such PHI.

8.2. The specific uses and disclosures of PHI that may be made by either Party on behalf of the other Party include:

- a. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by the Parties to its patients;
- b. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
- c. The submission of supporting documentation to carriers, insurers and other payers to substantiate the health care services provided by the Parties to its patients or to appeal denials of payment for same;

- d. Uses required for the proper management of the parties as business associates; and
- e. Other uses or disclosures of PHI as permitted by the HIPAA privacy rule.

9.0 INDEMNIFICATION

9.1 Mutual Indemnification. Each Party shall indemnify and hold the other harmless from any and all losses, damages, liabilities, claims, demands, suits, or causes of action, including attorneys' fees and expenses of defending against such claims, demands, suits, or causes of action, which may arise out of the performance of this Agreement as a result of an act of negligence or intentional acts, omissions, or wrongdoings of the Party, its employees, agents, representatives, consultants, or subcontractors.

9.2 Software Indemnification. To the extent permitted by law, SafetyPAD agrees to indemnify and hold the Licensee and its officers, directors, employees, consultants, agents and subcontractors harmless against any and all losses, damages, liabilities, claims, demands, suits, or causes of action, including attorneys' fees and expenses of defending against such claims demands, suits, or causes of action, resulting from (i) third-party claims for violations of patent rights or other intellectual property rights against the Licensee or its customers, arising out of the Software licensed pursuant to this Agreement, or (ii) third-party claims based on defects or non-performance of the Software, or breach of warranty, or representations made by SafetyPAD.

9.3 Indemnification Procedures. Promptly after receipt by either Party of notice of any demand, action, proceeding, claim or potential claim (collectively, a **"Claim"**), which would give rise to a right to indemnification, such Party shall give the Party who may become obligated to provide indemnification (the **"Indemnifying Party"**) written notice describing the Claim in reasonable detail. Such Indemnifying Party shall have the right, at its option, to compromise or defend, at its own expense and by its own counsel, any such matter involving the Claim. If the Indemnifying Party shall undertake to compromise or defend any such Claim, it shall promptly notify the Party seeking indemnification of its intention to do so, and the Party seeking indemnification shall cooperate fully with the Indemnifying Party and its counsel in the compromise of, or defense against, any such Claim. All costs and expenses incurred in connection with such cooperation (other than the cost of internal personnel, and the fees and expenses of any attorneys, of the Party seeking indemnification) shall be borne by the Indemnifying Party. In any event, the Party seeking indemnification shall have the right, at its own expense to participate in the defense of such Claim. In no event shall the Party seeking indemnification compromise such Claim without the written consent of the Indemnifying Party.

9.4 Survival. The above provisions shall survive the termination of this Agreement and shall pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination hereof. No arbitration or other action under this Agreement may be brought by either Party against the other more than one (1) year after the cause of action arises.

10.0 NO AGENCY OR AUTHORITY. Nothing in this Agreement shall be construed to create an agency, joint venture, partnership or other form of business association between the Parties.

Neither Party has the right or authority to make any contract, representation, or binding promise of any nature on behalf of the other Party, whether oral or written, without the express written consent of the other Party.

11.0 UNCONTROLLABLE FORCES. Except for Licensee's obligation to make payment hereunder, neither Party shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to any event which results in the prevention or delay of performance by a Party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing Party, including, but not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism, governmental actions, manufacturer's shortages or constraints on parts or products, or any other cause beyond the reasonable control of such Party ("**Uncontrollable Force**"). In the event of such Uncontrollable Forces, the time for performance will be extended for a period of time equal to the length of the delay or inability to perform, plus an additional reasonable period to recommence performance.

12.0 ASSIGNMENT. Licensee shall not assign or otherwise transfer the Software or this Agreement to anyone, including any parent, subsidiary, affiliated entity or third party, or as part of the sale of any portion of its business, or pursuant to any merger, consolidation or reorganization, without SafetyPAD's prior written consent. Nothing in this Agreement shall prevent SafetyPAD from assigning or otherwise transferring any of its rights or obligations herein so long as the assignee of this Agreement assumes all obligations and liabilities hereunder.

13.0 NOTICES. All notices pertaining to this Agreement shall be delivered or mailed to such Party at their respective address as follows:

If to: **SafetyPAD**

oPEN, inc. d/b/a SafetyPAD
Attn: Josh Austin, Chief Technology Officer
7760 France Avenue South, 11th Floor
Minneapolis, MN 55435

If to: **LICENSEE**

Mark Cantrell
Battalion Chief
Colleyville Fire Department
5209 Colleyville Blvd
Colleyville, TX 45231

14.0 DISPUTE RESOLUTION; VENUE. All disputes and claims relating to this Agreement, the rights and obligations of the Parties herein, and any claims or causes of action relating to the performance of either Party, shall first be referred for resolution to each respective Party's senior management. If such persons cannot resolve the matter within sixty (60) days of commencing negotiations, then the aggrieved Party shall refer the dispute to arbitration to be held at the office of the American Arbitration Association ("**AAA**") in Minneapolis, Minnesota or the office of the AAA nearest Licensee's site. The arbitration shall be held in accordance with the

United States Arbitration Act (9 U.S.C. § 1 et seq.) and the AAA Commercial Arbitration Rules then in effect; provided, however, that the Parties agree that any arbitration shall be conducted under AAA's expedited procedures then in effect, regardless of the amount in controversy. Each Party may be represented by counsel in such arbitration proceeding.

The arbitration proceeding shall be conducted by one arbitrator who shall be selected by the AAA. The Parties agree to request the arbitrator to render a written decision within three (3) months of the request for arbitration or within two (2) months after appointment of the arbitrator, whichever is earlier. To the extent permitted under applicable law, such award shall be final and binding upon both Parties. Any costs, fees or expenses incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the Party resisting such enforcement. Judgment upon an award rendered by the arbitrator may be entered in any court of competent jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the law of such jurisdiction may require or allow. Each Party shall be responsible for its own costs and expenses of arbitration.

15.0 CHOICE OF LAW. All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the laws of the Licensee is located.

16.0 NO WAIVER. The failure on the part of either Party to exercise any right or remedy hereunder will not operate as further waiver of such right or remedy in the future or any other right or remedy.

17.0 SEVERABILITY. Should any part, term or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the Licensee's state, the validity of the remaining portions or provisions shall not be affected thereby.

18.0 SURVIVAL. Sections 5.5, 5.6, 6.0, 9.0, 14.0 and 15.0 shall survive the termination of this Agreement.

19.0 ENTIRE AGREEMENT. This Agreement contains the entire agreement between the Parties. The Licensee and SafetyPAD each represent that in entering into this Agreement each has not relied on any previous oral and/or implied representations, inducements or understandings of any kind or nature.

20.0 ATTACHMENTS. The following named attachments are made an integral part of this Agreement:

- Exhibit A:** SafetyPAD End User License Agreement
- Exhibit B** Maintenance Agreement
- Exhibit C** Monthly Pricing and Maintenance

IN WITNESS OF THE FOREGOING, this Agreement is executed Effective Date first set forth above.

**OPEN, INC. d/b/a SAFETYPAD, a
Minnesota corporation**

LICENSEE

By _____
Josh Austin
Its Chief Technology Officer

By _____
Jennifer Fadden
Its City Manager

Exhibit A
SafetyPAD End User License Agreement

This End-User License Agreement (“EULA”) is a legal agreement between (a) Licensee (either an individual or a single entity) and (b) SafetyPAD that governs Licensee’s use of any Software Product installed on or made available by SafetyPAD for use with Licensee’s SafetyPAD mobile, desktop applications or associated products (each a **“SafetyPAD Product”**). Other software provided by third parties and used with a SafetyPAD Product may be subject to a separate EULA. The term **“Software Product,”** as used in this EULA, means computer software and may include associated media, printed materials and “online” or electronic documentation. An amendment or addendum to this EULA may accompany the SafetyPAD Product.

BY DOWNLOADING OR INSTALLING SAFETYPAD MOBILE, OR CONNECTING TO THE SAFETYPAD DATABASE, LICENSEE AGREES TO BE BOUND BY THE TERMS OF THIS EULA. LICENSEE ALSO ACCEPTS THIS EULA IF LICENSEE KEEPS THE SAFETYPAD PRODUCT FOR 30 DAYS. IF LICENSEE DOES NOT ACCEPT THESE LICENSE TERMS, LICENSEE’S SOLE REMEDY IS TO DISCONTINUE THE INSTALLATION PROCESS OR RETURN UNUSED SAFETYPAD PRODUCT (HARDWARE AND SOFTWARE) TO LICENSEE’S PLACE OF PURCHASE WITHIN 30 DAYS FOR A REFUND SUBJECT TO THE REFUND POLICY OF LICENSEE’S VENDOR.

1. GRANT OF LICENSE. SafetyPAD grants Licensee the following non-exclusive rights provided Licensee agrees to and complies with all terms and conditions of this EULA:

- a.) Use. Licensee may use the Software Product license only as integrated with the SafetyPAD Product and only on a single computer at one time (**“Licensee’s Computer”**). Licensee may install with additional 3rd party application or software. Licensee may not separate component parts of the Software Product from the SafetyPAD Product. Licensee does not have the right to distribute the Software Product. Licensee may install the Software Product into Licensee computer devices for purposes of using the SafetyPAD Product.
- b.) Storage. The Software Product may only be stored or copied into the SafetyPAD Product and may not be separated from the SafetyPAD Product.
- c.) Reservation of Rights. The Software Product is licensed, not sold, to Licensee by SafetyPAD. SafetyPAD and its suppliers own all right, title and interest in and to the Software Product and reserve all rights not expressly granted to Licensee in this EULA. Licensee agrees to refrain from any action that would diminish such rights or would call them into question.
- d.) Freeware. Notwithstanding the terms and conditions of this EULA, all or any portion of the Software Product which constitutes non-proprietary SafetyPAD software or software provided under public license by third parties (**“Freeware”**), is licensed to Licensee subject to the terms and conditions of the software license agreement accompanying such Freeware whether in the form of a discrete agreement, shrink wrap license or electronic license terms accepted at time of download. Use of the Freeware by Licensee shall be governed entirely by the terms and conditions of such license.

2. UPGRADES. To use a Software Product identified as an upgrade, Licensee must first be licensed for the original Software Product identified by SafetyPAD as eligible for the upgrade. After upgrading, Licensee may no longer use the original Software Product that formed the basis for its upgrade eligibility.

3. ADDITIONAL SOFTWARE. This EULA applies to updates or supplements to the original Software Product provided by SafetyPAD unless SafetyPAD provides other terms along with the update or supplement. In case of a conflict between such terms, the other terms will prevail. Without limitation to the preceding terms, Licensee agrees to be bound by the terms of the AirWatch End User License Agreement ("**AirWatch EULA**"). The complete terms of the AirWatch EULA are hereby incorporated by reference, and may be reviewed at: www.air-watch.com/downloads/legal/20140701_AirWatch_EULA.pdf

4. TRANSFER.

a.) Third Party. The Software Product may only be transferred to another end user as part of a transfer of the SafetyPAD Product on which it is installed. Any transfer must include all component parts, media, printed materials and this EULA. The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the transferred product must agree to all the EULA terms. Upon transfer of the SafetyPAD Product, Licensee license is automatically terminated.

b.) Restrictions.

i. Licensee shall not rent, lease or lend the Software Product or use the Software Product for commercial timesharing or bureau use;

ii. Licensee shall not sublicense, assign or transfer the license or Software Product except as expressly provided in this EULA;

iii. Licensee shall not employ any SafetyPAD competitor to use the Software on Licensee's behalf, view the Software or documentation, or provide management, staging, support, hosting or similar services with regard to the Software without prior written consent of SafetyPAD; and

iv. Licensee shall not permit any party, whether acting directly or on behalf of Licensee, to breach or violate any of these License Restrictions.

5. PROPRIETARY RIGHTS. All intellectual property rights in the Software Product and user documentation are owned by SafetyPAD or its suppliers and are protected by law, including but not limited to United States copyright, trade secret, and trademark law, as well as other applicable laws and international treaty provisions. The structure, organization and code of the Software Product are the valuable trade secrets and confidential information of SafetyPAD and its suppliers. Licensee shall not remove any product identification, copyright notices or proprietary restrictions from the Software Product or SafetyPAD Product.

6. LIMITATION ON REVERSE ENGINEERING. Licensee may not reverse engineer, decompile, disassemble or create derivative works of the Software Product, except and only to the extent that the right to do so is mandated under applicable law. Nothing contained herein shall be construed, expressly or implicitly, as transferring any right, license or title to Licensee other than those explicitly granted under this EULA. Unauthorized copying of the Software Product or failure to comply with the above restrictions will result in automatic termination of this Agreement and will constitute immediate, irreparable harm to SafetyPAD for which monetary damages would be an inadequate remedy, in which case injunctive relief will be an appropriate remedy for such breach.

7. TERM. This EULA is effective unless terminated or rejected. This EULA will also terminate upon conditions set forth elsewhere in this EULA or if Licensee fails to comply with any term or condition of this EULA.

8. CONSENT TO USE OF DATA. Licensee agrees that SafetyPAD and its affiliates or suppliers may collect and use technical information Licensee provides in relation to support services related to the Software Product. SafetyPAD and its suppliers agree not to use this information in a form that personally identifies Licensee except to the extent necessary to provide such services.

9. DISCLAIMER OF WARRANTIES. Licensee acknowledges that the SafetyPAD Product is for the collection, documentation and reporting of Emergency Medical Services data. The Software Product is offered on an “AS-IS” basis and SafetyPAD does NOT warrant that the functions contained in the Software Product will meet Licensee’s requirements or that the operation of the Software Product will be uninterrupted or error free. Computer software is inherently subject to bugs and potential incompatibility with other computer software and hardware. Licensee should not use the Software Product for any applications in which failure could cause any significant damage or injury to persons or tangible or intangible property.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAFETYPAD AND ITS SUPPLIERS PROVIDE THE SOFTWARE PRODUCT “AS IS” AND WITH ALL FAULTS, AND HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE AND NON-INFRINGEMENT, ANY IMPLIED WARRANTIES, DUTIES OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, AND OF LACK OF VIRUSES ALL WITH REGARD TO THE SOFTWARE PRODUCT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SAFETYPAD OR A SAFETYPAD AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY.

Some states/jurisdictions do not allow exclusion of implied warranties or limitations on the duration of implied warranties, so the above disclaimer may not apply to Licensee in its entirety. IN NO EVENT DOES SAFETYPAD PROVIDE ANY WARRANTY OR REPRESENTATIONS WITH RESPECT TO ANY THIRD PARTY HARDWARE OR SOFTWARE WITH WHICH THE SAFETYPAD PRODUCT IS DESIGNED TO BE USED, AND SAFETYPAD DISCLAIMS ALL LIABILITY WITH RESPECT TO ANY FAILURES THEREOF.

10. LIMITATION OF LIABILITY. Notwithstanding any damages that Licensee might incur, the entire liability of SafetyPAD and any of its suppliers under any provision of this EULA and Licensee’s exclusive remedy for all of the foregoing shall be limited to the greater of the amount actually paid by Licensee for the SafetyPAD Product or US\$100.00.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SAFETYPAD OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, FOR LOSS OF DATA OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE PRODUCT, OR OTHERWISE IN CONNECTION WITH ANY PROVISION OF THIS EULA), EVEN IF SAFETYPAD OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF THE REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to Licensee.

11. U.S. GOVERNMENT CUSTOMERS. Consistent with FAR 12.211 and 12.212, Commercial Computer Software, Computer Software Documentation, and Technical Data for Commercial Items are licensed to the U.S. Government under SafetyPAD's standard commercial license.

12. COMPLIANCE WITH EXPORT LAWS. Licensee shall comply with all laws and regulations of the United States and other countries ("**Export Laws**") to ensure that the Software Product is not (1) exported, directly or indirectly, in violation of Export Laws, or (2) used for any purpose prohibited by Export Laws, including, without limitation, nuclear, chemical, or biological weapons proliferation.

13. CAPACITY AND AUTHORITY TO CONTRACT. Licensee represents that it is duly authorized to enter into this EULA.

14. APPLICABLE LAW. This EULA is governed by the laws of the United State law, State of Minnesota exclusive of conflict of law provisions and Licensee's attorney to the jurisdiction of the courts of the State of Minnesota with respect to any proceedings arising from this EULA. The Parties hereby agree that this EULA is not governed by the United Nations Convention on Contracts for the International Sale of Goods.

15. ENTIRE AGREEMENT. This EULA (including any addendum or amendment to this EULA which is included with the SafetyPAD Product) is the entire agreement between Licensee and SafetyPAD relating to the Software Product and it supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software Product or any other subject matter covered by this EULA. To the extent the terms of any SafetyPAD policies or programs for support services conflict with the terms of this EULA, the terms of this EULA shall control. In the event of a conflict between the English and any non-English versions of this EULA, the English version shall govern. If any provision of this EULA is held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provision of the EULA will remain in force and effect.

Exhibit B

Maintenance Agreement

This Maintenance Agreement is incorporated into the Master Services and License Agreement between SafetyPAD and Licensee.

A. Included Maintenance. Maintenance included in this agreement is as follows:

1. All Core Software and Customized Software, excluding potential ongoing 3rd party maintenance fees (such as medical device manufacturer).
2. Corrections of defects in SafetyPAD so that SafetyPAD will operate with reliable functionality and without loss of data.
3. Periodic updates to SafetyPAD that may incorporate (i) corrections of any defects, (ii) fixes of any bugs, and (iii) at the sole discretion of SafetyPAD, enhancements to the SafetyPAD. Updates will be provided either remotely or on-site based on the complexity of the upgrade.
4. 24-hour telephone support to assist the Licensee in utilizing and managing the overall use of SafetyPAD, subject to the terms set forth below. Standard response times will be within 8 hours, excluding federal holidays. On federal holidays, 24-hour technical support with 8-hour response times will be provided for system-wide critical failure of the SafetyPAD system. Email and internet-based maintenance and support are included in the Maintenance Agreement.
5. For support-related issues, Maintenance Level I is based on SafetyPAD being contacted only after a support issue is unresolved by the Licensee's internal support staff. The Licensee will follow support guidelines that have been provided to the Licensee by SafetyPAD. In the event the issue is not resolved by the Licensee using these guidelines, the issue will be escalated to SafetyPAD's support team.
6. Maintenance-related problems are usually resolved by interfacing via phone (voice or remote connection) or remote access software, such as Microsoft Terminal Services or a similar product provided and installed by SafetyPAD onto the Licensee's server.
7. Maintenance at SafetyPAD's office of a test version, including a test database, for the most recent version of the Licensee's software release.

B. Excluded Maintenance. Maintenance excluded from this Maintenance Agreement is as follows:

1. Custom Programming Services. These services may be necessary to accommodate features or functionality unique to an agency's unique needs and requirements. However, any software changes or enhancements to SafetyPAD that can be utilized by most EMS agencies may be included as part of maintenance at no additional charge.
2. End-users questions and issues pertaining to:
 - i. The general use of the hardware or non-SafetyPAD software products; and
 - ii. Licensee network functionality and performance.
3. On-site support. (See On-Site Support below).

4. On-site training.
5. Hardware and related supplies. Warranty for hardware varies on manufacturer's terms and conditions. SafetyPAD must be contacted by the Licensee in the event any hardware defects occur. If equipment is procured through SafetyPAD, defective equipment should be sent to SafetyPAD with a SafetyPAD-issued return number, unless otherwise specified by SafetyPAD. Once repaired, the hardware manufacturer or SafetyPAD will send properly configured equipment back to the Licensee. The hardware manufacturer and the Licensee will pay postage expenses.

Should SafetyPAD offer any maintenance enhancements for the Maintenance Agreement procured by the Licensee to any of its existing or future clients, those enhancements will be provided to the Licensee at no additional charge. Maintenance enhancements include any modification to the existing inclusions and exclusions outlined above, or additions that result in a greater level of maintenance and support for a particular maintenance plan.

On-Site Support

On-site support to Licensee is an optional add-on to this Maintenance Agreement. Any on-site support plan will be billed to Licensee upon such terms and conditions agreed-upon by Licensee and SafetyPAD.

Exhibit C
Monthly Pricing and Maintenance

Software and Integration Costs

The prices set forth below shall apply for the term of the Master Services and License Agreement between the Licensee and SafetyPAD.

Core Software and Integration.

** The following are "not to exceed" prices. At preparation of this exhibit several factors that may impact pricing were unknown.

Description of Services / Product	
Electronic Patient Care Reporting	\$1.27 per record
<i>Unlimited mobile installations on Android ice cream sandwich or newer OS.</i>	
<i>Unlimited user access to web-based SafetyPAD Enterprise</i>	
<i>SafetyPAD Hosted Virtual Servers</i>	
Airwatch Mobile Device Management	\$7.00 per device/per month
<i>Per device fee-required for Android</i>	
<i>Full administrative controls per agency (http://www.air-watch.com/)</i>	
Electronic Health Information Exchange - Hospital	Included
<i>Utilizing SafetyPAD API protocol specifications</i>	
CAD Interface	\$125.00 per month
<i>SafetyPAD needs to scope</i>	<i>Maximum price per month</i>
Other:	
NEMSIS 3.0 (ONLY)	included
State Extract	
Hosting, Back-Up, Archiving	included
Data storage > 60 months	\$0.20 per GB/month
Fire RMS Interface	\$ month
<i>SafetyPAD need scope</i>	
Faxing (ePCR volume)	
1-20000	\$35.00 month

20000-40000	\$55.00 month
40000-80000	\$85.00 month
<i>**note pricing based on current SafetyPAD hosted server, may require eFax**</i>	
Training on-site:	
Training	\$1500 per trainer/per trip
Per Day Fee	\$1900 per day (2- 3hr sessions per day)
Web Session	\$80.00 hr
<i>One (1) field web session (3 hours training)</i>	<i>\$320.00 per session</i>
Administrative training web sessions	
Min 4-6 Hours web Admin Training Plus device configuration and set-up	\$960.00
xPlore Ranger X Hardware- Android <i>Base unit, fully 'loaded'. Mounting, accessories, etc available. Pricing can be provided. http://www.xplorettech.com/products/rangerx</i>	SafetyPAD is a <u>certified reseller</u> for Xplore products. Conduct your representative for pricing details

Fee Definitions

Annual ePCR Volume - invoices will be submitted based on the monthly total ePCR's in the database. Records with a status of "inactive" are not billed. Year-end reconciliation may be performed.

- Monthly volumes are calculated based on records written using SafetyPAD each medical-rescue dispatch.
 - An example of pricing is as follows:
 - Engine, rescue and truck are dispatched to a "man down" call. Three units are dispatched and three patient care reports are created. This is billed as three separate charges.
- If a record is written and submitted to the SafetyPAD database, it is calculated as part of the annual run volumes and applicable charges will apply.

- SafetyPAD will calculate Annual Run Volumes for ALL records in the SafetyPAD database to include Active and Inactive (or similar status) runs. Runs that are classified as “test” or “training” type runs are not calculated in the annual run volumes.
- Every patient report (ePCR) for any dispatched unit is included in the Annual Run Volume calculations when accounts are reconciled.

SafetyPAD Mobile and Enterprise - The monthly fee noted includes all components specified in the Summary of SafetyPAD features EXCEPT State Extract, CAD Integration and Fire RMS Integration. This includes but is not limited to:

- **Project Management (included in base fee)**
 - Remote Implementation and Planning Meetings
 - Up to 8 hours of initial Mobile and Enterprise configuration training and support is included in the administrative fees
 - Mobile Clinical Configuration
 - Rules/Protocol Guidelines Set-Up and Configuration (To-do list)
 - Initial Mobile Image Creation: Tablet Devices
 - Guidelines Mobile Web Page
 - Physio LifePAK12/15 ECG Configuration set-up support
 - Development, configure, Billing Extract, Auto Fax, Automation alerts
 - Remote: Go-live and Post Go-live support
 - Mobile to Mobile Configuration and Testing
 - System End to End Testing and Modifications
 - On-going maintenance upgrades: Mobile and Enterprise
 - 24/7 Tier 2 support
- **SafetyPAD Mobile**
 - ECG Interface with Medtronic LifePAK devices
 - Philips MRx, Zoll medical devices for windows (not yet Android supported)
 - Wireless SafetyPAD to SafetyPAD Transfers
 - Billing automation:
 - Android: only NEMSIS 3 formatted .xml files are available.
 - Patient Lookup module
 - Android release expected by Q3 2015
 - Autofax
 - Currently provided via SafetyPAD hosting center. Phone company changes may require pricing to be reevaluated and an eFax solution provided
 - Wireless data management- custom responsible for wireless services/payments
 - NFIRS basic Module if applicable
 - CAD interface if applicable
 - Access to all SafetyPAD mobile enhancements and releases.

- **SafetyPAD Enterprise (web-based application)**
 - Unlimited user access to all available modules
 - Data hosting via Amazon Web Services - SafetyPAD provided
 - Android offered ONLY in SafetyPAD hosted environments
 - Web-based access to all reports
 - Administrative tools for configuration
 - Redundant back-up systems
 - Vendor support for additional back-ups
 - Billing XML or API
 - Standard SafetyPAD formatted file - automated send
 - Configured to generate on customer defined triggers/periods
 - Can utilize SafetyPAD API for data extraction
 - Automated Enterprise updates
- **State Extract: NEMSIS 3**
 - For windows sites NEMSIS 2.2 and NEMSIS 3.0 are available.
 - Only NEMSIS 3.0 offered for Android products.
 - Includes up to 10 hrs of programming, review and configuration
 - SafetyPAD provides the interface application-output is a State defined XML file
 - SafetyPAD supports ONLY NEMSIS structured XML outputs
 - The Licensee is responsible for running, validating logs using SafetyPAD tools and upload submissions to State where applicable.
- **CAD Integration (If applicable)**
 - Includes up to 20 hrs of programming, review and configuration
 - Excludes 3rd party fees (from CAD Vendor or similar)
 - SafetyPAD specified XML or API structured files
- **FIRE RMS Integration (If applicable)**
 - Includes up to 15 hrs of programming, review and configuration
 - Excludes 3rd party fees (from CAD Vendor or similar)

Support Definitions

Tier 1 Support

This is the initial support level for basic customer issues. It is synonymous with first-line support, level 1 support and front-end support. The first job of a Tier I specialist is to gather the customer's information and to determine the customer's issue by analyzing the symptoms and figure out the underlying problem based on SafetyPAD administrative level training. When analyzing the symptoms, it is important for the technician to identify what the customer is trying to accomplish so that time is not wasted on "attempting to solve a symptom instead of a problem." Once identification of the underlying problem is established, the specialist can begin sorting through the possible solutions available. Technical support specialists in this group typically handle straightforward and simple problems while using knowledge of the SafetyPAD management tools. This includes troubleshooting methods such as verifying physical layer

issues, resolving username and password problems, uninstalling/reinstalling basic software applications, verification of proper hardware and software set up, and assistance with navigating around application menus. Personnel at this level have a basic to general understanding of the product or service and may not always contain the competency required for solving complex issues. Nevertheless, the goal for this group is to handle 80%-90% of the user problems before finding it necessary to escalate the issue to a higher level. The billing vendor will implement its own 1st level support process and define it to SafetyPAD and the customer.

Tier 2 Support

SafetyPAD is responsible for Tier 2 support. The agency will submit a support ticket to support@safetypad.com. Maintenance support is further set forth and detailed in Exhibit B of the Master Services Agreement. Tier 2 support is synonymous with level 2 support, support line 2, administrative level support, and various other headings denoting advanced technical troubleshooting and analysis methods. Technicians working in Tier 2 support are responsible for assisting Tier I personnel to solve basic technical problems and for investigating elevated issues by confirming the validity of the problem and seeking known solutions related to more complex issues.

Mobile Repair or Remote Mobile Computer Repair

The agency will be responsible for remote PC repair or remote computer repair. SafetyPAD technicians will install mobile software or assist clients with installations that allows its technician to access the user's desktop via the Internet or implement a hardware support process only with the user's permission. The technician can take control of the user's mouse and keyboard, transfer various diagnostic and repair applications to the user's desktop, run scans, install antivirus programs, etc. This remote software is to be installed on SafetyPAD Mobile platforms. If the remote service permits it, the technician can even reboot the PC and reconnect remotely to continue his work without the user needing to assist. The agency will implement its own hardware support process.

END OF AGREEMENT



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 5a

Agenda Date 05/03/2016

Number Resolution R-16-3986

Type Resolution

Department Public Works

Title

Approval of a Local Project Advance Funding Agreement (LPAFA) with the Texas Department of Transportation (TxDOT) for the reconstruction of SH26 (Colleyville Boulevard) from John McCain Road to Hall-Johnson Road, and authorize the city manager to execute the agreement

Strategy Map Connection

B3- Utilize partnerships to implement cost-effective service solutions

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

The purpose of this item is to seek City Council approval of the attached Local Project Advance Funding Agreement (LPAFA) with the Texas Department of Transportation (TxDOT), for the reconstruction of SH26 (Colleyville Boulevard) from John McCain Road to Hall-Johnson Road.

The City of Colleyville has been working for over a decade in an effort to have TxDOT reconstruct SH26 throughout the City of Colleyville. TxDOT has awarded this project to a contractor, and is working with the contractor to finalize the date the construction will commence. The attached LPAFA and the associated funding is required by TxDOT prior to the funding being released for the construction phase of the project.

The proposed LPAFA is consistent with the discussion during the Pre Council meeting of April 19, 2016 (attached). The LPAFA is also generally consistent with the Memorandum of Understanding that was approved by attached Resolution R-15-3936 on December 1, 2015.

The LPAFA establishes the funding commitments for the federal, state, and local funding sources. Attachment C of the proposed LPAFA states funding for the construction of the section of the project from south of John McCain Road to Hall-Johnson Road will be as follows:

Federal Funds	\$ 11,735,680
State Funds	\$ 3,003,235
Local (City of Colleyville) Funds	\$ 1,143,420
Total	\$15,882,335

The City of Colleyville is responsible for contributing \$1,143,420 for the construction of SH26 from John McCain Road to Hall-Johnson Road. The LPAFA establishes that the local funding requirements are limited to the amount specified, and the City of Colleyville will not be responsible for any additional costs or expenses above the \$1,143,420 amount.

Financial Impact

It has been determined the City's contribution for this section of construction, as set forth in this LPAFA is a fixed amount of \$1,143,420. These funds are currently available through the Tax Increment Finance District (TIF) and with available fund balance in the Capital Projects Fund from the FY2015 year-end budget amendment that transferred excess general fund revenues over expenditures to the Capital Projects Fund specifically for SH26 enhancements.

Tax Increment Finance District (TIF)	\$ 1,000,000
Capital Projects Fund	\$ 143,420
Total	\$ 1,143,420

Recommendation

Approve

Attachments

1. Proposed Local Project Advance Funding Agreement
2. Resolution R-15-3936
3. April 19, 2016 Presentation
4. Resolution R-16-3986

STATE OF TEXAS §

COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
For A
SURFACE TRANSPORTATION PROGRAM -METRO MOBILITY
(STP-MM)
ON-SYSTEM**

THIS Local Project Advance Funding Agreement (LPAFA) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State" and the City of Colleyville, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, a Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA; and,

WHEREAS, the Texas Transportation Commission passed Minute Order Number 114417 that provides for the development of, and funding for, the Project described herein; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this LPAFA by resolution or ordinance dated _____, 20__, which is attached to and made a part of this agreement as Attachment A for the development of the Project. A map showing the Project location appears in Attachment B, which is attached to and made a part of this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

The period of this LPAFA is as stated in the Master Agreement, without exception.

2. Termination of this LPAFA

Termination of this LPAFA shall be under the conditions as stated in the Master Agreement. This LPAFA may be terminated by the State if the Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds.

3. Amendments

Amendments to this LPAFA shall be made as described in the Master Agreement, without exception.

4. Scope of Work

The scope of work for this LPAFA is described as reconstruct four lane rural undivided to four lane urban divided with intersection improvements and bicycle/pedestrian amenities (six lane ultimate) on SH 26 from John McCain to Hall-Johnson Road.

5. Right of Way and Real Property

Right of way and real property shall be the responsibility of the State as stated in the Master Agreement, without exception.

6. Utilities

Adjustment of utilities will be provided by the State as required and as stated in the Master Agreement, without exception.

7. Environmental Assessment and Mitigation

Environmental assessment and mitigation will be carried out by the State as stated in the Master Agreement. Additionally, before the advertisement for bids, the State shall provide the written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Compliance with Texas Accessibility Standards and ADA

Compliance with Texas Accessibility Standards and the Americans with Disabilities Act (ADA) will be as stated in the Master Agreement, without exception.

9. Architectural and Engineering Services

Architectural and engineering services will be provided by the Local Government as stated in the Master Agreement. The Local Government is responsible for performance of any required architectural or preliminary engineering work. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. The State may review and comment on the work as required to accomplish the public purposes of the State. The Local Government will cooperate fully with the State in accomplishing these local public purposes to the degree permitted by State and Federal law.

10. Construction Responsibilities

Construction responsibilities will be carried out by the State as stated in the Master Agreement.

11. Project Maintenance

Project maintenance will be undertaken as provided for in the Master Agreement, without exception.

12. Local Project Sources and Uses of Funds

A. A Project Budget Estimate is provided in Attachment C. The State and the Federal Government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including

federal award information. The Local Government is responsible for one hundred percent (100%) of the cost of any work performed under its direction or control before the Federal spending authority is formally obligated.

- B.** If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C.** A Source of Funds estimate based on the Transportation Improvement Program (TIP) is also provided in Attachment C. Attachment C shows the percentage and estimated dollar amount to be contributed to the project by federal, state, and local sources. The parties agree that the LPAFA may be amended from time to time as required to meet the funding commitments based on revisions to the TIP, Federal Project Authorization and Agreement (FPAA), or other federal document.
- D.** The Local Government is responsible for all non-federal and non-state funding, unless otherwise provided for in this agreement or through amendment of this agreement. Where a Special Approval has been signed by the State, the Local Government shall only in that instance be responsible for overruns in excess of the amount to be paid by the Local Government.
- E.** Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs.
- F.** Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation." The check or warrant shall be deposited by the State and managed by the State. Funds may only be applied by the State to the Project. If after final Project accounting any excess funds remain, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- G.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain

proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

- H. When a Special Approval has been signed by the State so that the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification of those amounts.
- I. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Any entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- J. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- K. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

13. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

14. Incorporation of Master Agreement Provisions

This LPAFA incorporates all of the governing provisions of the Master Agreement in effect on the date of final execution of this LPAFA, unless an exception has been made in this agreement.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

17. Cost Principles and Office of Management and Budget (OMB) Audit Requirements

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

18. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City Manager City of Colleyville 100 Main Street Colleyville, Texas 76034	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

19. Civil Rights Compliance

The Local Government shall comply with the regulations of the U.S. Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

20. Disadvantaged Business Enterprise (DBE) Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.

- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

21. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>
- B. The Local Government agrees that it shall:
 - 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 - 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution

of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and

3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

22. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR 200.
- B. If threshold expenditures are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>. The expenditure threshold for fiscal years beginning prior to December 31, 2014 is \$500,000; the expenditure threshold for fiscal years beginning on or after December 31, 2014 is \$750,000.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

23. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE COUNTY

Signature

Typed or Printed Name

Title

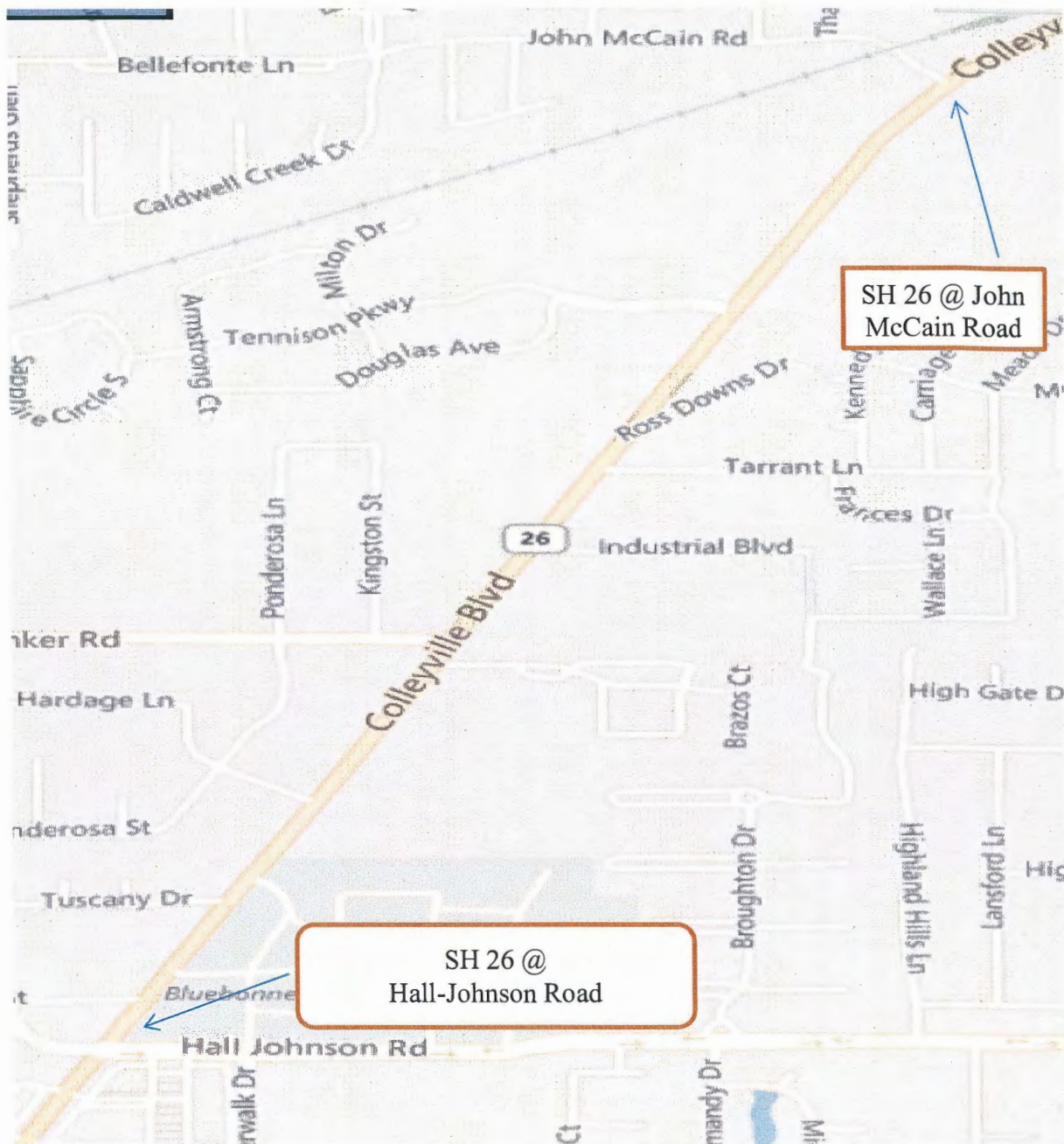
Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date

ATTACHMENT B PROJECT LOCATION MAP



ATTACHMENT C

PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

Costs will be allocated based on applicable Federal/State funding and a fixed amount of Local Government funding until Local Government funding reaches the maximum obligated amount. The State will then be responsible for 100% of the costs.

Description	Total Estimated Cost	Federal Participation Cost	State Participation Cost	Local Participation Cost
Construction (by State), STP-MM funds	\$3,052,500	\$2,442,000	\$0	\$610,500
Construction (by State), Strategic Priority funds	\$10,900,000	\$8,720,000	\$2,180,000	\$0
Construction (by State), Local funds	\$389,500	\$0	\$0	\$389,500
Subtotal	\$14,342,000	\$11,162,000	\$2,180,000	\$1,000,000
Environmental Direct State Costs	\$1	\$0	\$1	\$0
Engineering Direct State Costs	\$1	\$0	\$1	\$0
ROW Direct State Costs	\$1	\$0	\$1	\$0
Utilities Direct State Costs	\$1	\$0	\$1	\$0
Construction Direct State Costs (STP-MM)	\$717,100	\$573,680	\$0	\$143,420
Indirect State Costs	\$823,231	\$0	\$823,231	\$0
TOTAL	\$15,882,335	\$11,735,680	\$3,003,235	\$1,143,420

Initial payment by the Local Government to the State: \$1,143,420.00

Total payment by the Local Government to the State: \$1,143,420.00

The total amount of Local Government participation shall not exceed the amount appearing above.

RESOLUTION R-15-3936

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) FOR THE FUNDING AND IMPLEMENTATION STRATEGY FOR ROADWAY IMPROVEMENT TO BE MADE TO STATE HIGHWAY 26/COLLEYVILLE BOULEVARD FROM SOUTH OF JOHN MCCAIN ROAD TO APPROXIMATELY 400 FEET SOUTH OF BROWN TRAIL

WHEREAS, the City of Colleyville, Tarrant County, the Texas Department of Transportation (TxDOT), and the Regional Transportation Council (RTC), have agreed to utilizing a combination of federal, state, and local funds to fund roadway improvements for State Highway 26/Colleyville Boulevard (SH26), from south of John McCain Road to approximately 400 feet south of Brown Trail, in Colleyville; and

WHEREAS, the Colleyville City Council has agreed upon the completion of the reconstruction of SH26, the City will request the TxDOT remove from the State Highway System the portion of SH26 from John McCain Road to Brown Trail, including the transfer of the right-of-way to the City of Colleyville; and

WHEREAS, the City of Colleyville desires to enter into a Memorandum of Understanding for the funding and implementation strategy for the roadway improvements to State Highway 26/Colleyville Boulevard from south of John McCain Road to approximately 400 feet south of Brown Trail; and

WHEREAS, all legal prerequisites for the approval of this Resolution have been met, including but not limited to the Open Meetings Act.

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

- Sec. 1. THAT all of the above findings are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the Colleyville City Council authorizes the Mayor to execute the Memorandum of Understanding attached as Exhibit "A".

Sec. 3. THAT this resolution shall become effective immediately from and after its passage.

AND IT IS SO RESOLVED.

PASSED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 1ST DAY OF DECEMBER 2015.

ATTEST:


Amy Shelley, TMRC
City Secretary

CITY OF COLLEYVILLE

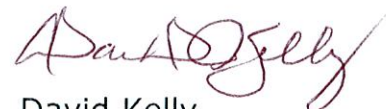

David Kelly
Mayor

EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING

**State Highway 26 from South of John McCain to Brown Trail
Among
City of Colleyville, Tarrant County, Regional Transportation Council, and Texas Department of
Transportation**

This memorandum of understanding (MOU) outlines the agreement regarding the funding and implementation strategy for roadway improvement to be made to State Highway 26 from south of John McCain Road to approximately 400 feet south of Brown Trail located in Colleyville, Texas.

I. BACKGROUND

Tarrant County, the City of Colleyville, the Texas Department of Transportation (TxDOT), and the Regional Transportation Council (RTC) have agreed to fund roadway improvements for State Highway 26 (Colleyville Boulevard) (hereafter referred to as "S.H. 26"), from south of John McCain Road to approximately 400 feet south of Brown Trail utilizing a combination of federal, state, and local funds. The City of Colleyville will enter into an agreement with TxDOT to remove S.H. 26 from the State Highway System in the sections noted below and to take over responsibility of this portion of S.H. 26 upon completion of the project.

Through this document, the impacted parties hereby state the terms of agreement and concur with the resulting commitments made as a part of this funding strategy.

II. S.H. 26 FROM SOUTH OF JOHN MCCAIN ROAD TO HALL-JOHNSON ROAD

Funding for TIP 11153.3/CSJ 0363-01-114 is for the section of S.H. 26 from south of John McCain Road to Hall-Johnson Road in order to widen the roadway from four (4) to six (6) lanes, add curb and gutter, storm sewer, replace bridges, and upgrade the signal system. The City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes.

Committed Funding by Agency for the Construction Phase:

\$ 2,442,000	– RTC Commitment (STP-MM Funds)
\$ 610,500	– Local Match to the Surface Transportation Program - Metropolitan Mobility Funds (STP-MM) (City of Colleyville)
\$10,900,000	– TxDOT Commitment Category 12 Funds
\$ 320,000	– Tarrant County
\$ 389,500	– City of Colleyville
\$14,662,000	

In addition, TxDOT previously funded the right-of-way acquisition phase, so the City of Colleyville commits to moving the necessary municipal utilities (oversight provided by TxDOT), and TxDOT will coordinate with the franchise utility companies to ensure that their utilities are relocated to enable the widening of S.H. 26.

Per Section VI, once this project is complete, this portion of S.H. 26 will be removed from the TxDOT system and ownership will be transferred to the City of Colleyville, who will be responsible for maintenance of the corridor.

III. S.H. 26 FROM HALL-JOHNSON ROAD TO BROWN TRAIL

Funding for TIP 11153.2/CSJ 0363-01-139 is for the section of S.H. 26 from Hall-Johnson Road to 400 feet south of Brown Trail in order to widen the roadway from four (4) to six (6) lanes, add curb and gutter, storm sewer, replace bridges, and upgrade the signal system. The City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes.

Committed Funding by Agency for the Construction Phase:

\$12,184,115 – RTC Commitment (STP-MM Funds)
\$ 2,731,528 – State Match to the STP-MM

\$ 314,500 – Local Match to the STP-MM (Tarrant County)
\$ 1,273,004 – RTC Commitment (Enhancement Funds)
\$ 318,251 – Local Match to Enhancement Funds (City of Colleyville)
\$ 365,500 – Local Commitment (Tarrant County)
\$17,186,898

In addition, TxDOT previously funded the right-of-way acquisition phase, the City of Colleyville commits to moving the necessary municipal utilities, and TxDOT will coordinate with the franchise utility companies to ensure that their utilities are relocated to enable the widening of S.H. 26.

Per Section VI, once this project is complete, this portion of S.H. 26 will be removed from the TxDOT system and ownership will be transferred to the City of Colleyville, who will be responsible for maintenance of the corridor.

IV. COST OVERRUNS AND OTHER FUNDING NOTES

The City of Colleyville and Tarrant County have collectively committed \$2,000,000 (\$1,000,000 each) in local funding for construction of the project. This \$2,000,000 includes the required local match to federal funds as noted in Sections II and III. The City of Colleyville has committed an additional \$318,251 in local match to the enhancement funding. County bond funds will be encumbered through a separate agreement between Tarrant County and TxDOT for the remainder of Tarrant County's \$1,000,000 commitment, and will be limited to eligible costs associated with the base construction of the projects.

In the event that the low bid is in excess of the approved funds, the overrun will be shared by funding parties in proportion to the currently approved funding, except that Tarrant County's funding will be limited to the amounts shown in Sections II and III and as stated in the preceding paragraph, not to exceed \$1,000,000. Similarly, this proportionally shared funding responsibility would apply to any change orders. In the event that a party to the MOU requests a change that is not in the original design or scope, then that party will be solely responsible for the additional funds within applicable state and federal rules. This shared responsibility for overruns applies only to the base construction of the projects and not to the upgrade features such as street lights and pedestrian lighting, which would be the sole responsibility of the City of Colleyville.

All of the City requested upgrades are included in the project design and accounted for in the currently approved funding. In the event that these upgrades exceed the approved funding, the City of Colleyville will provide additional funds not to exceed the cost of the requested upgrades. Upgrades include powder coated signal poles, back-lit street name signs, stamped and colored concrete crosswalks at intersections, and street lighting and pedestrian lighting. The street lighting and pedestrian lighting may be bid as a separate project due to the costs. The City of Colleyville has applied for Green Ribbon funds for landscaping and additional amenities.

V. INCONSISTENCY WITH MOBILITY 2035-2014 AMENDMENT

Currently, the redesign to a four (4) to six (6) lane configuration is inconsistent with the Mobility 2035-2014 Amendment and will need to be updated in Mobility 2040. RTC approval of Mobility 2040 is anticipated in March 2016 with federal approval in June 2016, prior to completion of this project. However, in the event that Mobility 2040 has not been approved by the time this project opens, this section of S.H. 26 (Colleyville Boulevard) would need to be temporarily striped as four (4) lanes and could be restriped to six (6) lanes once Mobility 2040 is approved.

VI. TURNBACK AGREEMENT

Once this project is complete, the City of Colleyville will be responsible for maintenance and control of the corridor (pavement, signals, striping, signage, etc.) from south of John McCain Road to 400 feet south of Brown Trail. The Turnback Agreement shall establish the specifics of the conveyance of the real property interest from the State to the City of Colleyville on the section of SH 26 from south of John McCain Road to South of Brown Trail. The Turnback Agreement shall also state that the City will be responsible for the operation, maintenance, and will take over ownership of the traffic signals at the John McCain Road Intersection and the Longwood Drive intersection. As part of this transfer of responsibility, TxDOT will commit \$10,900,000 for the construction of the section of S.H. 26 from south of John McCain Road to Hall-Johnson Road and will lead the construction of both sections. Upon completion of the project per design and contract specifications and acceptance of the reconstructed roadway, the City will assume responsibility for S.H. 26 maintenance and control, which is consistent with the 2014 Memorandum of Understanding Regarding the Texas Department of Transportation's Voluntary Turnback Program.

VII. SCHEDULE AND RESPONSIBILITIES

Both sections of S.H. 26 from south of John McCain Road to Hall-Johnson Road and from Hall-Johnson Road to Brown Trail are anticipated to be let in February 2016, with an anticipated construction start in April 2016. Construction is anticipated to be completed in 24 to 30 months (by October 2018.)

The City and TxDOT have overseen the relocation of city utilities along the project route. Relocation was completed in August 2015 except for AT&T's facilities. AT&T relocation is expected to be completed by January of 2016.

As noted in Section III, the City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes. Once the 95% plans are submitted, a review period by TxDOT of 20 days is anticipated. TxDOT comments to the design will then be provided to the engineer. The 100% plans are to be submitted to TxDOT 28 days after receipt of comments from TxDOT.

During the construction phase of this project, the parties agree to coordinate efforts in order to minimize the impact of construction. This includes, but is not limited to: City of Colleyville representation at weekly project meetings and coordination with City of Colleyville throughout project construction; additional signage throughout the corridor placed by the City of Colleyville for the benefit of motorists and business access, and monthly executive meetings to include requisite City of Colleyville representatives and TxDOT district leadership.

VIII. SIGNATURE OF AGREEMENT

This agreement is contingent upon approval of the terms outlined herein by the policy body of each impacted party. The Regional Transportation Council (RTC) approved the above funding changes April 9, 2015.

David Kelly, Mayor
City of Colleyville

Date

Gary Fickes, Commissioner
Tarrant County

Date

B. Glen Whitley, County Judge
Tarrant County

Date

Criminal District Attorney's Office*
Tarrant County

Date

Brian Barth, P.E.
Texas Department of Transportation

Date

Michael Morris, P.E.
North Central Texas Council of Governments

Date

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

SH26
Phase II Update
(John McCain to Brown Trail)

Pre Council Meeting
April 19, 2016

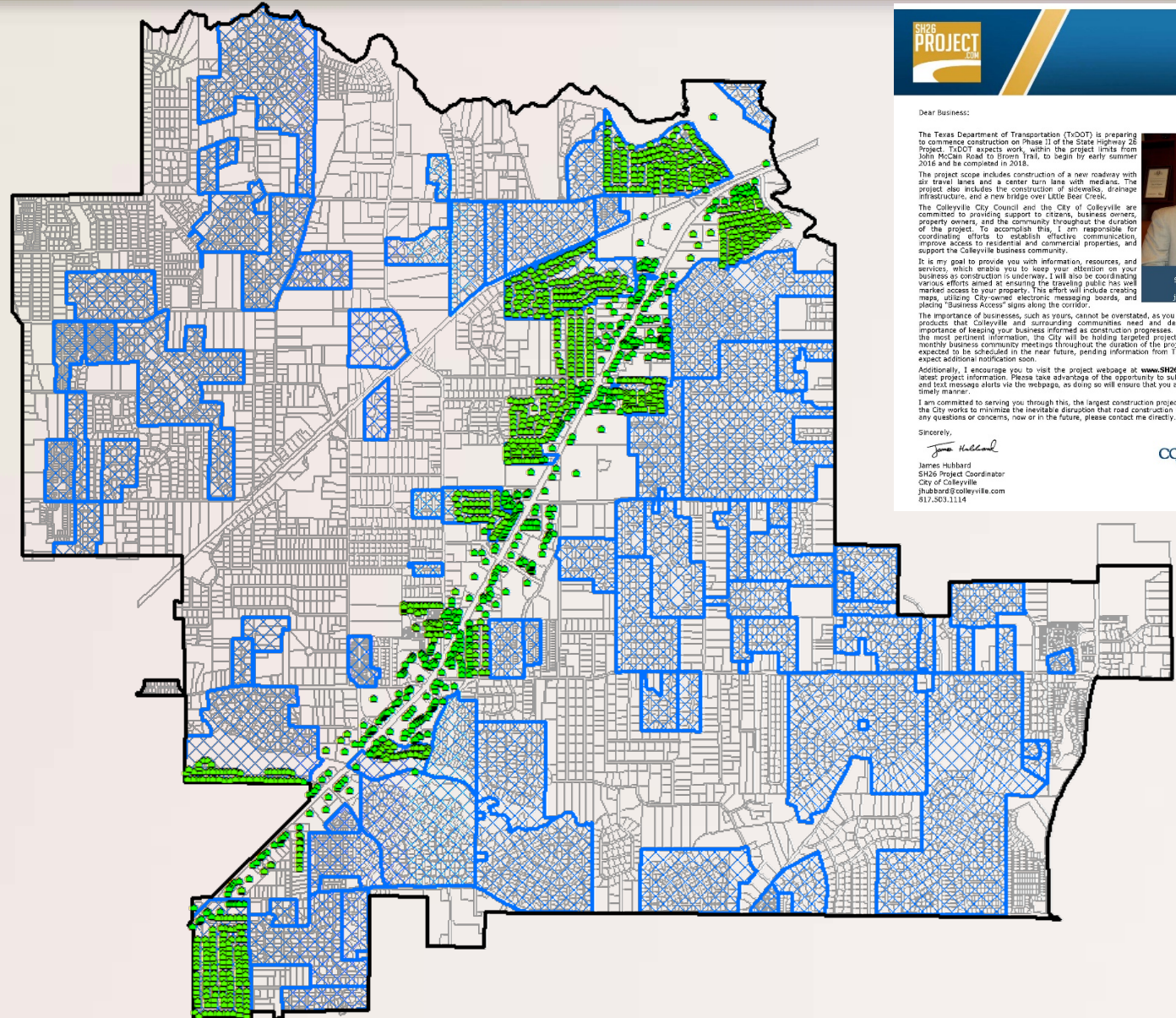
Communication

To establish bidirectional communication that is accurate, accessible, relevant, and up-to-date

Initial Mailing



Recipient Group	#
Residences	944
Businesses	555
Property Owners	418
HOAs	81
GCISD	25
Clubs/Organizations	8
Total	2031



Dear Business:

The Texas Department of Transportation (TxDOT) is preparing to commence construction on Phase II of the State Highway 26 Project. TxDOT expects work within the project limits from John McCain Road to Brown Trail, to begin by early summer 2016 and be completed in 2018.

The project scope includes construction of a new roadway with six travel lanes and a center turn lane with medians. The project also includes the construction of sidewalks, drainage infrastructure, and a new bridge over Little Bear Creek.

The Colleyville City Council and the City of Colleyville are committed to providing support to citizens, business owners, property owners, and the community throughout the duration of the project. To accomplish this, I am responsible for coordinating efforts to establish effective communication, improve access to residential and commercial properties, and support the Colleyville business community.

It is my goal to provide you with information, resources, and services, which enable you to keep your attention on your business as construction is underway. I will also be coordinating various efforts aimed at ensuring the traveling public has well marked access to your property. This effort will include creating maps, utilizing City-owned electronic messaging boards, and placing "Business Access" signs along the corridor.

The importance of businesses, such as yours, cannot be overstated, as you provide the services and products that Colleyville and surrounding communities need and desire. To understand the importance of keeping your business informed as construction progresses, to ensure that you have the most pertinent information, the City will be holding targeted project "kickoff" meetings and monthly business community meetings throughout the duration of the project. These meetings are expected to be scheduled in the near future, pending information from TxDOT. Therefore, please expect additional notification soon.

Additionally, I encourage you to visit the project webpage at www.SH26Project.com to find the latest project information. Please take advantage of the opportunity to subscribe to project emails and text message alerts via the webpage, as doing so will ensure that you are aware of updates in a timely manner.

I am committed to serving you through this, the largest construction project in the city's history, as the City works to minimize the inevitable disruption that road construction causes. Should you have any questions or concerns, now or in the future, please contact me directly.

Sincerely,

James Hubbard
 James Hubbard
 SH26 Project Coordinator
 City of Colleyville
jhubbard@colleyville.com
 817.303.1114

Webpage Modifications



*** THE OFFICIAL WEBSITE FOR THE CITY OF COLLEYVILLE, TEXAS ***

SH 26 Colleyville Blvd. Reconstruction

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Search our site...

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Select a Department...

SH26/Colleyville Blvd. Reconstruction

SH26 Reconstruction Home Receive Updates

TxDOT SH 26/Colleyville Blvd. Reconstruction Project

TxDOT SH Reconstruction Project Update - Feb. 5, 2016

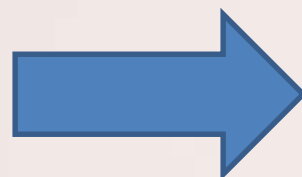
The Texas Department of Transportation (TxDOT) has signed off on the completion of Phase I construction from the northern city limits to John McCain Road and is nearing the start of the next phase. Phase II will be the largest road project in Colleyville history and includes a new six-lane roadway with a center turn lane and raised medians, and drainage system improvements along the city's main commercial corridor. It features approximately 23 lane miles of new roadway, approximately 4.8 miles of 8-foot-wide sidewalks, eight signalized intersections, and a bridge over Little Bear Creek. TxDOT estimates the project cost at approximately \$33.5 million. TxDOT has advertised the project and a bid opening has been set for Feb. 10. Unlike Phase I, the city was able to work with TxDOT to have incentives and liquidated damages terms added to the Phase II contract. These terms are tied to four milestones spread throughout the project's duration, allowing for four separate opportunities for TxDOT to assess the contractor, which is intended to keep the contractor on schedule. The construction plan includes a traffic control plan to guide work that has the least impact on drivers. The traffic plan's main goal is to maintain four lanes of traffic, with the exception of temporary lane closures. Single-lane closures will be limited to off-peak hours, which means no single-lane closures from 6:00-9:00 a.m. and 3:00-7:00 p.m., Monday through Friday. Work that requires multiple lane closures in the same direction will be limited from 9:00 p.m. to 6:00 a.m. or weekends.

Webcast [PC-3]

TxDOT SH Reconstruction Project Update - Jan. 13, 2016

TxDOT has completed the SH 26 Phase I reconstruction from Brumlow Avenue/Pool Road to John McCain Road is now complete. The speed limit will remain at 35 miles-per-hour at this portion of the roadway until a final inspection, according to TxDOT's mobility coordinator. If there are no issues the work zone signs should be removed in a few weeks.

Colleyville Public Library
Activities & Programs
Spring 2016
Recreation Sensation



*** SH 26 RECONSTRUCTION ***

SH26 PROJECT.COM

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SH 26 Project Overview
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TxDOT SH 26 Reconstruction Project

TxDOT SH Reconstruction Project Update - Feb. 5, 2016

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Subscriber Alerts



★ ★ ★ SH 26 RECONSTRUCTION ★ ★ ★



SH26 Reconstruction
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Receive Updates About SH 26 Reconstruction

To receive news and information on State Highway 26 reconstruction efforts, please provide the following information:

Phone Number

Email Address



City of Colleyville | 100 Main Street, Colleyville, Texas 76034 | 817-503-1000 | [Contact the city](#)

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Outreach Meetings



State Highway 26 Phase II

Tara Homeowners Association Meeting
April 7, 2016



Project Overview



Texas Department of Transportation Project (TxDOT)

Limits

- John McCain Road to Brown Trail

Design

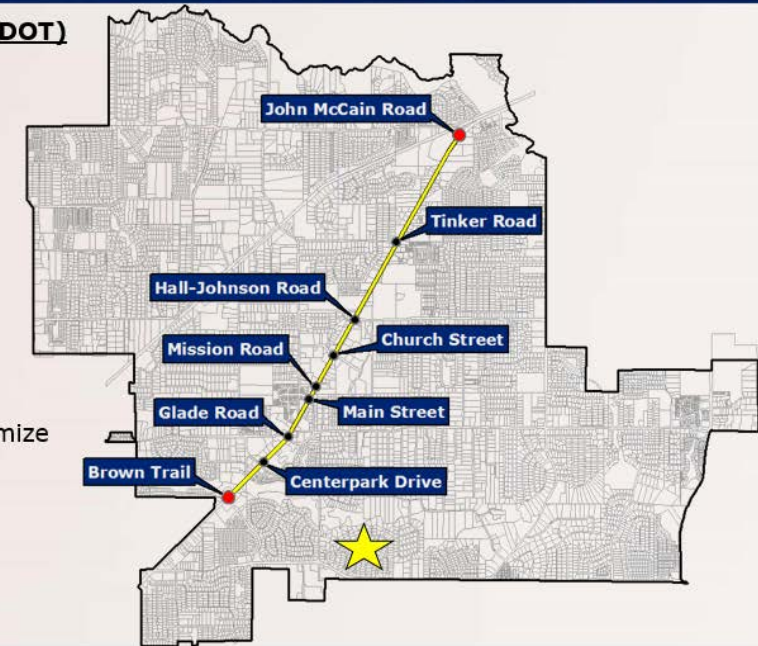
- Six-lane roadway with raised curbed medians
- Landscaped medians
- Enhanced crosswalks
- Sidewalks on both sides of the highway
- Realignment of Tinker Road and Oak Pointe Drive
- Reconstructed bridge over Little Bear Creek

Traffic Impact

- Lane closures are limited to off-peak hours to minimize the impact on weekday commutes

Duration (TxDOT Contract)

- 555 construction days (approximately 2.2 years)



Targeted Kickoff Meetings



Who: Residents and businesses within 500' of SH 26

What: Project kickoff meetings

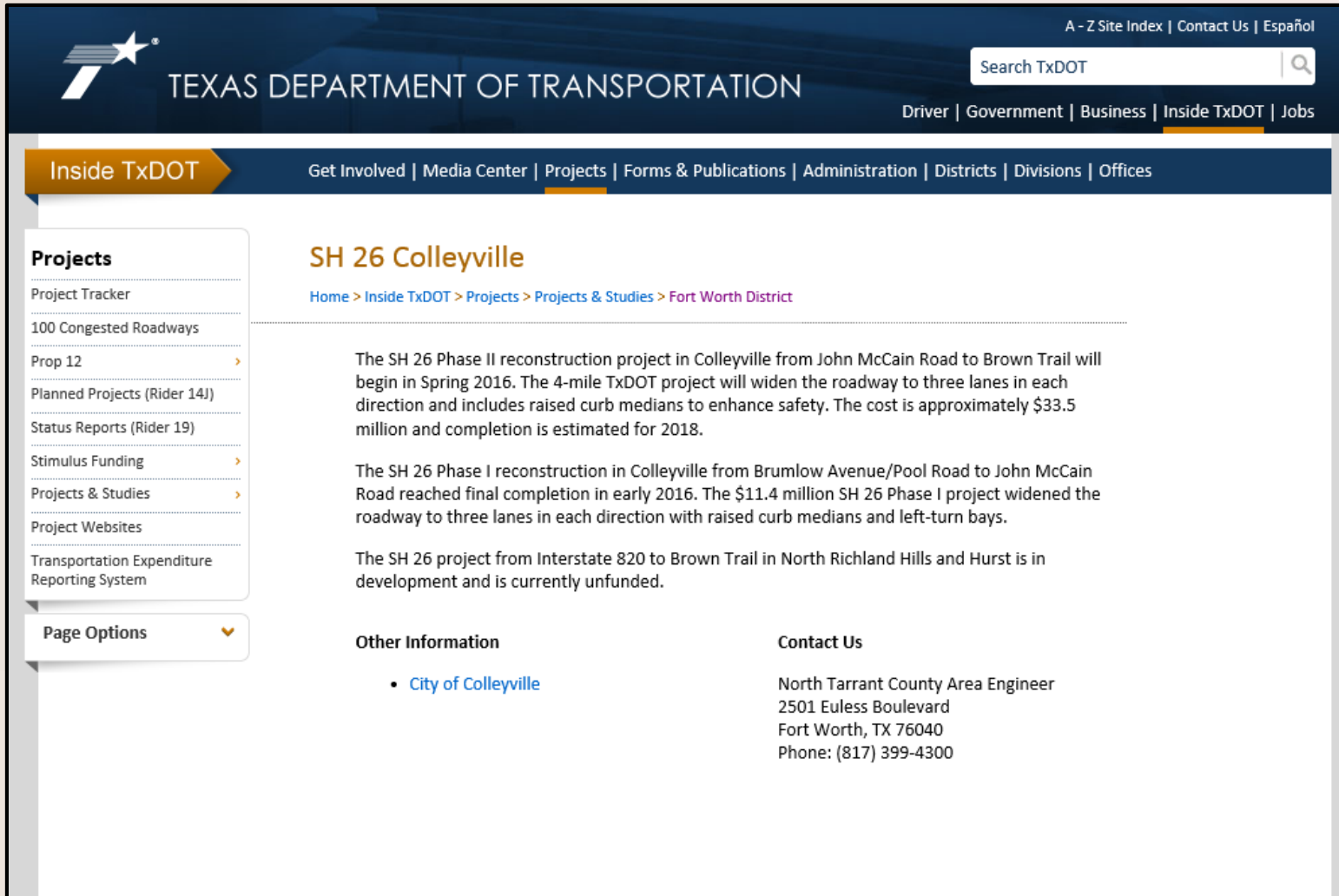
When: Following the pre-construction meeting (3-5 meetings)

Where: Colleyville Public Library

Why: To ensure that those closest to the project are informed and heard



Coordination with TxDOT



TEXAS DEPARTMENT OF TRANSPORTATION

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- Planned Projects (Rider 14J)
- Status Reports (Rider 19)
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SH 26 Colleyville

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The SH 26 Phase II reconstruction project in Colleyville from John McCain Road to Brown Trail will begin in Spring 2016. The 4-mile TxDOT project will widen the roadway to three lanes in each direction and includes raised curb medians to enhance safety. The cost is approximately \$33.5 million and completion is estimated for 2018.

The SH 26 Phase I reconstruction in Colleyville from Brumlow Avenue/Pool Road to John McCain Road reached final completion in early 2016. The \$11.4 million SH 26 Phase I project widened the roadway to three lanes in each direction with raised curb medians and left-turn bays.

The SH 26 project from Interstate 820 to Brown Trail in North Richland Hills and Hurst is in development and is currently unfunded.

Other Information

- [City of Colleyville](#)

Contact Us

North Tarrant County Area Engineer
2501 Euless Boulevard
Fort Worth, TX 76040
Phone: (817) 399-4300

TxDOT Project Webpage



SH 26 Project

The SH 26/Colleyville Boulevard project plans to improve mobility on Colleyville's main commercial corridor, while enhancing an important north/south route through Northeast Tarrant County.

Project Scope
John McCain Road to Brown Trail

- Construction is expected to start in spring 2016, with an estimated completion in 2018
- Widen the roadway to six lanes with curbed medians, continuous sidewalks, and upgraded signal systems
- Lane closures limited to off-peak travel times to lessen traffic impact
- Manage access to properties along the roadway throughout the project
- Financial incentives for early completion and financial penalties for unwarranted delays

Mobility Improvements

Construction will include curbed medians with designated left-turn bays in the center of the roadway to improve mobility and safety.

Other mobility improvements include:

- Three lanes of traffic in both directions
- Improved intersections and signals
- Continuous sidewalks



SH 26 Phase I from Pool Avenue/Brumlow Road to John McCain Road was completed in early 2016.

Stay Informed

Sign up for e-alerts
sh26mobility@gmail.com

Stephen E. Ranft
Mobility Coordinator
817-462-0520

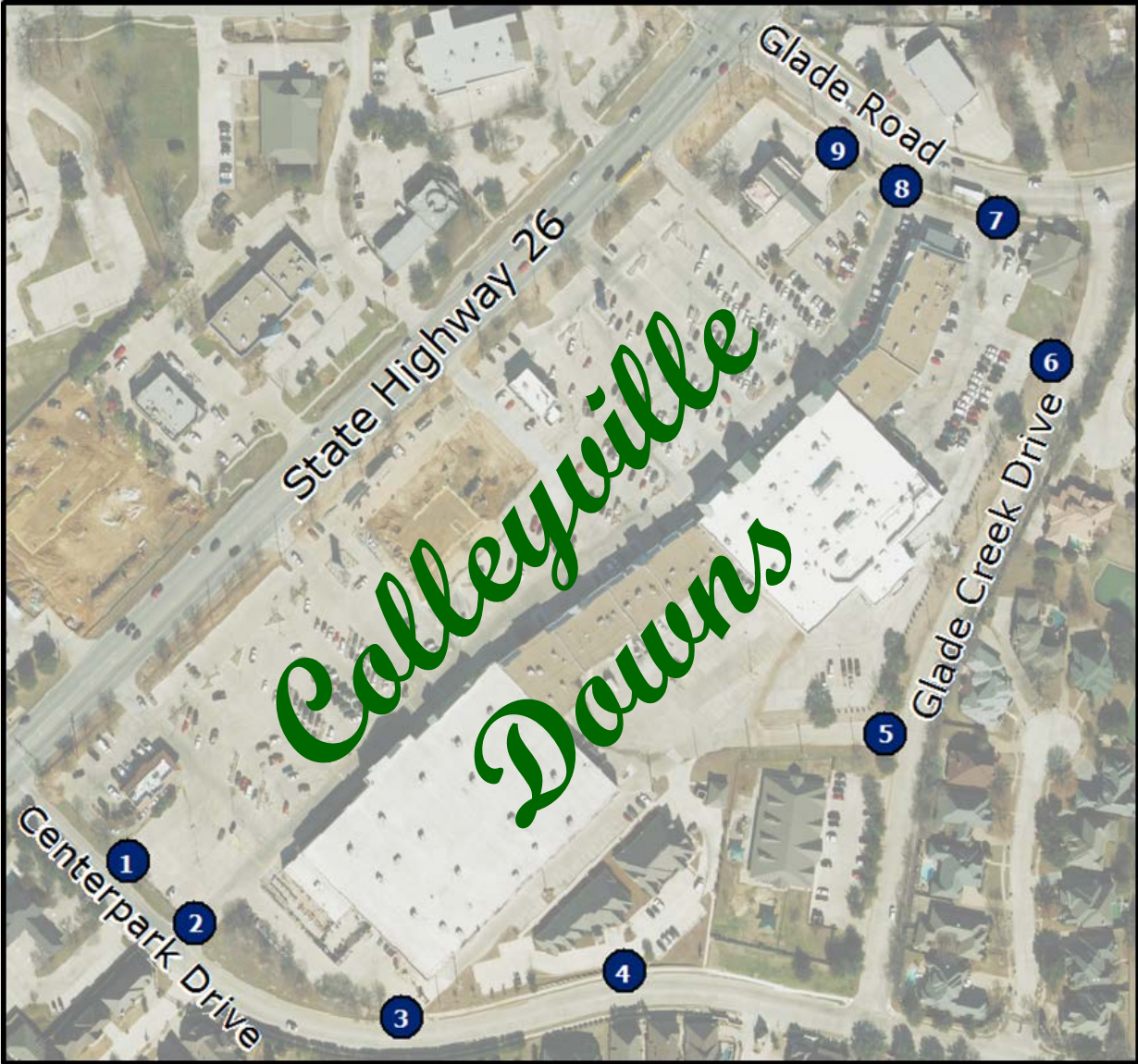
North Central Texas Council of Governments | Texas Department of Transportation

TxDOT Project Handout

Mobility

To improve access to residential and commercial properties along the corridor throughout construction

Commercial Access



Business Support

To support the Colleyville business community through initiatives aimed at providing additional services, resources, and marketing

Site Visits and Meetings



Site Visits



Business Owner/Operator Meetings

Vehicle Magnets

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Shop
Colleyville
For project text alerts
**Text SH26
to 48421**

Standard City Vehicles
Approx. 8" X 18"

Public Safety Vehicles
Approx. 5" X 12"

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For project
text alerts:
**Text SH26
to 48421**

Advance Funding Agreement

- An Advance Funding Agreement (AFA) is a written contract that must be executed between TxDOT and the local government in order for TxDOT to spend funds or other resources on a transportation project
- An AFA is the agreement under which TxDOT and the local government allocate funding participation and designate the respective responsibilities in a transportation improvement project
- An AFA allows TxDOT and the local government to “jointly” provide for the implementation of a specific project

Memorandum of Understanding



- The Memorandum of Understanding (MOU) approved on December 1, 2015 by Resolution R-15-3936:
 - Identifies a total amount of funding of \$31,848,898 from various sources
 - Established the City of Colleyville funding commitments at a total of \$1,318,251 (\$1,000,000 for the section between John McCain Road and Hall-Johnson Road; \$318,251 for the section between Hall-Johnson Road and Brown Trail)
 - Establishes the methodology for addressing a funding shortage (which did occur due to the low bid exceeding the total identified funding)
- The additional funding needed from the City is **\$336,184**

Bid Amount and Funding

- The bid opening occurred February 10, 2016, and the low bid was for a total of \$38,223,663
 - MOU includes identified funding for a total of \$31,848,898
 - There was a funding shortfall of \$6,374,765, therefore additional funding is needed for the project and is proposed to come from the following sources
 - Additional funding that is being allocated above the low bid amount (\$3,139,432) is to address any change orders that may arise during construction

Funding Source	Additional Funding Amount
Federal Funding	\$ 6,701,172
State Funding	\$ 2,476,841
City of Colleyville	\$ 336,184

Proposed AFA



- The proposed Advance Funding Agreement establishes the new City commitment at \$1,654,435
 - The MOU established the original amount for the City commitment at \$1,318,251
 - The revised amount is generally consistent with the methodology established in the MOU
 - If the AFA is approved, the City will be responsible for funding the \$336,184 increase

	Original Funding Amounts	Proposed Funding Amounts
Section between John McCain to Hall-Johnson	\$1,000,000	\$1,143,420
Section between Hall-Johnson to Brown Trail	\$ 318,251	\$ 511,015
Total	\$1,318,251	\$1,654,435

SH26 Enhancements



Phase II Enhancements

Valued over \$4,000,000

(Trails and Sidewalks, Crosswalks, Black Powder Coated Poles, Backlit Signage, Corridor Lighting Foundations, Extra Bridge Railing, Landscaping)

Phase I Enhancements

City Expense \$210,377

(Trails and Sidewalks, Crosswalks, Black Powder Coated Poles, Backlit Signage)



Next Steps



- **Consideration of the two Advance Funding Agreements**
 - To be presented at a future City Council Meeting
- **Payment of funds committed by the City will be paid to TxDOT**
- **Construction of the project commences**

Questions and Discussion

RESOLUTION R-16-3986

A RESOLUTION APPROVING THE LOCAL PROJECT ADVANCE FUNDING AGREEMENT (LPAFA) BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF COLLEYVILLE REGARDING FUNDING FOR THE RECONSTRUCTION OF COLLEYVILLE BOULEVARD (SH26) FROM JOHN MCCAIN ROAD TO HALL-JOHNSON ROAD IN THE CITY OF COLLEYVILLE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the Texas Department of Transportation and the City of Colleyville have entered into an agreement for funding the reconstruction of Colleyville Boulevard (SH26) from John McCain Road to Hall-Johnson Road in Colleyville; and

WHEREAS, the Local Project Advance Funding Agreement (LPAFA) establishes the funding commitments for the federal, state, and local funding sources; and

WHEREAS, the amount of funding provided by the City of Colleyville will be limited to the fixed amount of \$1,143,420 as identified in Attachment C; and

WHEREAS, this agreement shall take effect upon full execution of a Local Project Advance Funding Agreement between all said parties.

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

Sec. 1. THAT the Local Project Advance Funding Agreement, attached as Exhibit "A", is hereby approved.

Sec. 2. THAT the city manager is hereby authorized to execute the agreement.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON THIS THE _____ DAY OF _____ 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

David Kelly
Mayor

EXHIBIT "A"

CSJ # 0363-01-114
District # 02-Fort Worth
Code Chart 64 # 09100
Project: SH 26; John McCain to
Hall-Johnson Road
Federal Highway Administration
CFDA # 20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
For A
SURFACE TRANSPORTATION PROGRAM -METRO MOBILITY
(STP-MM)
ON-SYSTEM**

THIS Local Project Advance Funding Agreement (LPAFA) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State" and the City of Colleyville, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, a Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA; and,

WHEREAS, the Texas Transportation Commission passed Minute Order Number 114417 that provides for the development of, and funding for, the Project described herein; and,

WHEREAS, the Governing Body of the Local Government has approved entering into this LPAFA by resolution or ordinance dated _____, 20__, which is attached to and made a part of this agreement as Attachment A for the development of the Project. A map showing the Project location appears in Attachment B, which is attached to and made a part of this agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

The period of this LPAFA is as stated in the Master Agreement, without exception.

2. Termination of this LPAFA

Termination of this LPAFA shall be under the conditions as stated in the Master Agreement. This LPAFA may be terminated by the State if the Project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds.

3. Amendments

Amendments to this LPAFA shall be made as described in the Master Agreement, without exception.

4. Scope of Work

The scope of work for this LPAFA is described as reconstruct four lane rural undivided to four lane urban divided with intersection improvements and bicycle/pedestrian amenities (six lane ultimate) on SH 26 from John McCain to Hall-Johnson Road.

5. Right of Way and Real Property

Right of way and real property shall be the responsibility of the State as stated in the Master Agreement, without exception.

6. Utilities

Adjustment of utilities will be provided by the State as required and as stated in the Master Agreement, without exception.

7. Environmental Assessment and Mitigation

Environmental assessment and mitigation will be carried out by the State as stated in the Master Agreement. Additionally, before the advertisement for bids, the State shall provide the written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Compliance with Texas Accessibility Standards and ADA

Compliance with Texas Accessibility Standards and the Americans with Disabilities Act (ADA) will be as stated in the Master Agreement, without exception.

9. Architectural and Engineering Services

Architectural and engineering services will be provided by the Local Government as stated in the Master Agreement. The Local Government is responsible for performance of any required architectural or preliminary engineering work. For projects on the state highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the state highway system, the design shall, at a minimum, conform to applicable *American Association of State Highway and Transportation Officials* design standards. The State may review and comment on the work as required to accomplish the public purposes of the State. The Local Government will cooperate fully with the State in accomplishing these local public purposes to the degree permitted by State and Federal law.

10. Construction Responsibilities

Construction responsibilities will be carried out by the State as stated in the Master Agreement.

11. Project Maintenance

Project maintenance will be undertaken as provided for in the Master Agreement, without exception.

12. Local Project Sources and Uses of Funds

A. A Project Budget Estimate is provided in Attachment C. The State and the Federal Government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including

federal award information. The Local Government is responsible for one hundred percent (100%) of the cost of any work performed under its direction or control before the Federal spending authority is formally obligated.

- B.** If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C.** A Source of Funds estimate based on the Transportation Improvement Program (TIP) is also provided in Attachment C. Attachment C shows the percentage and estimated dollar amount to be contributed to the project by federal, state, and local sources. The parties agree that the LPAFA may be amended from time to time as required to meet the funding commitments based on revisions to the TIP, Federal Project Authorization and Agreement (FPAA), or other federal document.
- D.** The Local Government is responsible for all non-federal and non-state funding, unless otherwise provided for in this agreement or through amendment of this agreement. Where a Special Approval has been signed by the State, the Local Government shall only in that instance be responsible for overruns in excess of the amount to be paid by the Local Government.
- E.** Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering for the project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction costs.
- F.** Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation." The check or warrant shall be deposited by the State and managed by the State. Funds may only be applied by the State to the Project. If after final Project accounting any excess funds remain, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- G.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than State or Federal Regulations, or if any other locally proposed changes, including but not limited to plats or replats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain

proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.

- H. When a Special Approval has been signed by the State so that the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from receipt of the State's written notification of those amounts.
- I. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Any entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- J. Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.
- K. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

13. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

14. Incorporation of Master Agreement Provisions

This LPAFA incorporates all of the governing provisions of the Master Agreement in effect on the date of final execution of this LPAFA, unless an exception has been made in this agreement.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

17. Cost Principles and Office of Management and Budget (OMB) Audit Requirements

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

18. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City Manager City of Colleyville 100 Main Street Colleyville, Texas 76034	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

19. Civil Rights Compliance

The Local Government shall comply with the regulations of the U.S. Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

20. Disadvantaged Business Enterprise (DBE) Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.

- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

21. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>
- B. The Local Government agrees that it shall:
 - 1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 - 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution

of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and

3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

22. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR 200.
- B. If threshold expenditures are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>. The expenditure threshold for fiscal years beginning prior to December 31, 2014 is \$500,000; the expenditure threshold for fiscal years beginning on or after December 31, 2014 is \$750,000.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

23. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date

THE COUNTY

Signature

Typed or Printed Name

Title

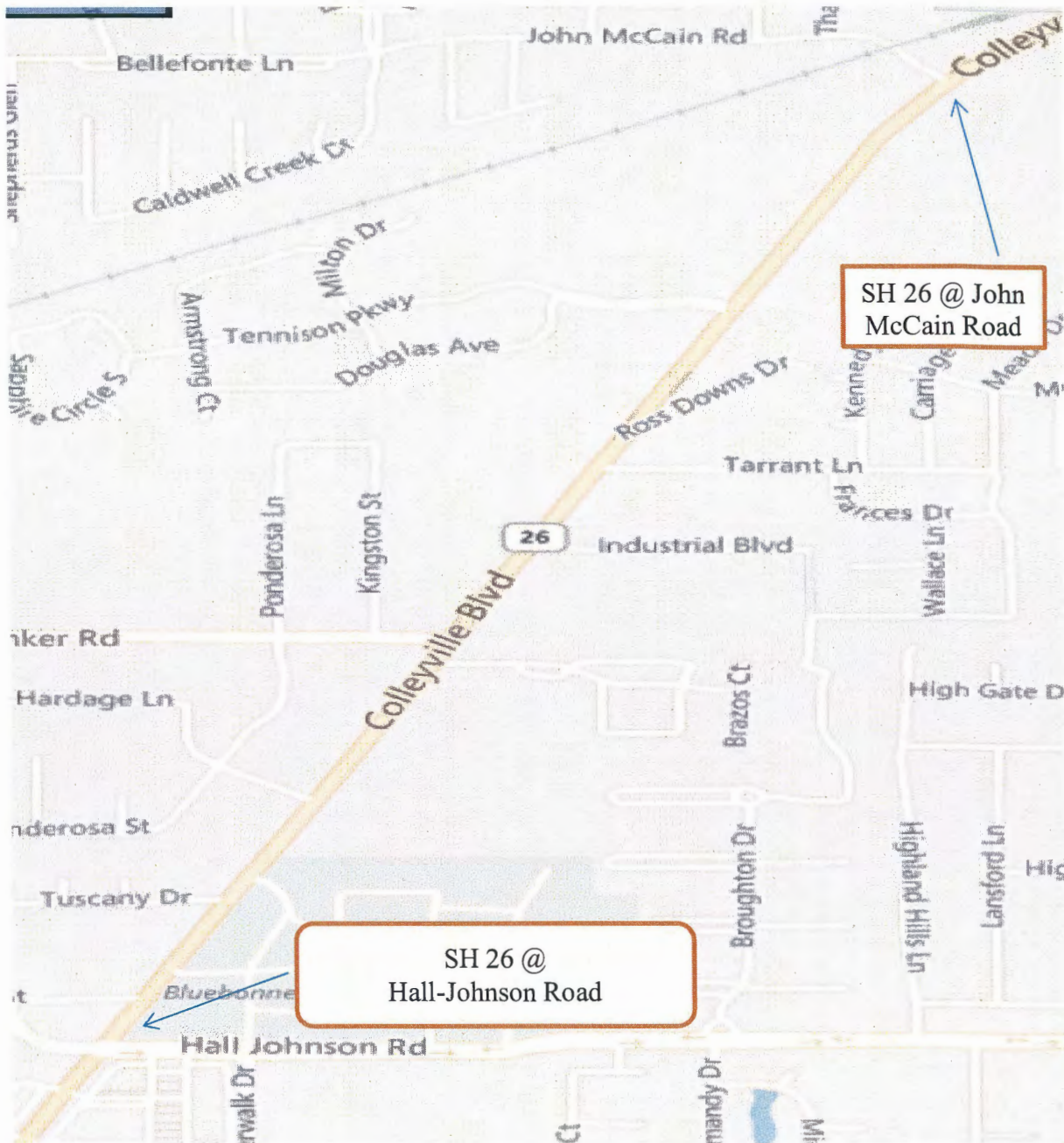
Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date

ATTACHMENT B PROJECT LOCATION MAP



ATTACHMENT C

PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

Costs will be allocated based on applicable Federal/State funding and a fixed amount of Local Government funding until Local Government funding reaches the maximum obligated amount. The State will then be responsible for 100% of the costs.

Description	Total Estimated Cost	Federal Participation Cost	State Participation Cost	Local Participation Cost
Construction (by State), STP-MM funds	\$3,052,500	\$2,442,000	\$0	\$610,500
Construction (by State), Strategic Priority funds	\$10,900,000	\$8,720,000	\$2,180,000	\$0
Construction (by State), Local funds	\$389,500	\$0	\$0	\$389,500
Subtotal	\$14,342,000	\$11,162,000	\$2,180,000	\$1,000,000
Environmental Direct State Costs	\$1	\$0	\$1	\$0
Engineering Direct State Costs	\$1	\$0	\$1	\$0
ROW Direct State Costs	\$1	\$0	\$1	\$0
Utilities Direct State Costs	\$1	\$0	\$1	\$0
Construction Direct State Costs (STP-MM)	\$717,100	\$573,680	\$0	\$143,420
Indirect State Costs	\$823,231	\$0	\$823,231	\$0
TOTAL	\$15,882,335	\$11,735,680	\$3,003,235	\$1,143,420

Initial payment by the Local Government to the State: \$1,143,420.00

Total payment by the Local Government to the State: \$1,143,420.00

The total amount of Local Government participation shall not exceed the amount appearing above.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 5b

Agenda Date 05/03/2016

Number Resolution R-16-3987

Type Resolution

Department Public Works

Title

Approval of an amendment to an existing Advance Funding Agreement with the Texas Department of Transportation (TxDOT) for the reconstruction of SH26 (Colleyville Boulevard) from Hall-Johnson Road to Brown Trail, and authorize the city manager to execute the amendment

Strategy Map Connection

B3- Utilize partnerships to implement cost-effective service solutions

F2- Invest to provide and maintain high quality public assets

Explanation

Reading and Public Hearing

The purpose of this item is to seek City Council approval of an amendment to an existing Local Transportation Project Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for the purposes of adding the reconstruction of SH26 (Colleyville Boulevard) from Hall-Johnson Road to Brown Trail to the existing AFA.

The City of Colleyville has been working for over a decade in an effort to have TxDOT reconstruct SH26 throughout the City of Colleyville. TxDOT has awarded this project to a contractor, and is working with the contractor to finalize the date construction of the project will commence.

In 2012, staff submitted an application for a Transportation Enhancement (TE) Project grant to the North Central Texas Council of Governments (NCTCOG) requesting funding for a sidewalk and other pedestrian enhancements along both sides of the SH26 corridor. The grant was approved for \$1,591,255 and requires the City to provide a 20 percent match of \$318,251. This grant funding was codified in an AFA that was approved by the City Council on July 15, 2014, by Resolution R-14-3769 (attached).

This amendment to the existing AFA (attached) will incorporate the street reconstruction project and will establish the associated funding required by TxDOT prior to the funding being released for the construction phase of the project.

The proposed amendment to the AFA (attached) is consistent with the discussion during the Pre Council meeting of April 19, 2016 (attached). The proposed amendment to the AFA is also generally consistent with the Memorandum of

Understanding that was approved by Resolution R-15-3936 on December 1, 2015 (attached).

This amendment to the AFA establishes the funding commitments for the Federal, State and Local funding sources. Attachment C-1 of the proposed amendment to the AFA states funding for the construction of the section of the project from south of Hall-Johnson Road to Brown Trail will be as follows:

Federal Funds	\$ 19,896,611
State Funds	\$ 4,463,138
Local (City of Colleyville) Funds	\$ 511,015
Total	\$ 24,870,764

The City of Colleyville is responsible for contributing \$511,015 for the reconstruction of SH26 from Hall-Johnson Road to Brown Trail. Attachment C-1 of the proposed AFA states "The State will be responsible for 100% of the overrun costs." Therefore, the AFA establishes the local funding requirements are limited to the amount specified and the City of Colleyville will not be responsible for any additional cost or expenses above the \$511,015 amount for this section of the project.

Financial Impact

It has been determined the City's contribution for this section of construction, as set forth in this AFA is a fixed amount of \$511,015. These funds are currently available through the Tax Increment Finance District (TIF) and with available fund balance in the Capital Projects Fund from the FY2015 year-end budget amendment that transferred excess general fund revenues over expenditures to the Capital Projects Fund specifically for SH26 enhancements.

Tax Increment Finance District (TIF)	\$ 318,251
Capital Projects Fund	\$ 192,764
Total	\$ 511,015

Recommendation

Approve

Attachments

1. Proposed AFA Amendment
2. Existing AFA
3. Resolution R-14-3769
4. Resolution R-15-3936
5. April 19, 2016 Presentation
6. Resolution R-16-3987

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
AMENDMENT #1**

THIS AMENDMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the State, and the City of Colleyville, acting by and through its duly authorized officials, called the Local Government.

W I T N E S S E T H

WHEREAS, the State and the Local Government executed a contract on August 15th of 2014 to effectuate their agreement to construct an eight foot wide concrete pedestrian facility with amenities and landscaping along both sides of SH 26; and,

WHEREAS, it has become necessary to amend that contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, the State and the Local Government do agree as follows:

A G R E E M E N T

1. Description of Amended Items

Article 4, Scope of Work, Use of Project, and Project Location

The first paragraph is deleted in its entirety and replaced with the following to include the Green Ribbon Program funds for landscaping improvements:

The scope of work for the Transportation Enhancement Project, which is shown in Attachment B, the Project Location Map, described in the nomination form and as approved by the Texas Transportation Commission, consists of: The TE portion of the project is constructing an eight foot wide concrete pedestrian facility with amenities and landscaping along both sides of SH 26, approximately the length of the 4.8 mile path. The path will connect the downtown business district with The Village at Colleyville, where City Hall and the Public Library are located. The purpose of this Transportation Enhancement project is to connect other paths that will provide continuous linkage between the City's schools, parks, Civic Center and other community facilities. The STP-MM project consists of: reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail.

Landscaping improvements will include irrigation and drought tolerant landscaping to the center median and the parkways of SH 26 in the location of the TE/STP-MM portion of this project.

Article 5, Right of Way and Real Property Acquisition language is deleted in its entirety and replaced with the following:

Right of way and real property acquisition for the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail is the responsibility of the State.

Right of way and real property acquisition for the Transportation Enhancement portion of the project is the responsibility of the Local Government, as stated in the Master Agreement unless otherwise provided below:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of the Project site under this LPAFA, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- B. The Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- C. The Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- D. The State will not reimburse the Local Government for any real property acquired before execution of this LPAFA and before federal spending authority is approved.
- E. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- F. The Local Government agrees to make a determination of property values for each real property parcel to be purchased with federal funds by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership,

acreage, and recommended compensation. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market value.

- G.** Condemnation shall not be used to acquire real property for this enhancement Project.
- H.** Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this LPAFA. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined fair market value of each parcel, or the net cost of each parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Any costs associated with the relocation of displaced persons and personal property, as well as incidental expenses incurred in acquiring property to implement a TE project, will be the responsibility of the Local Government and current property owner at no cost to the State.
- I.** If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this LPAFA. The separate agreement must establish that the Project will be dedicated for public use for a period of time commensurate with the federal investment, but not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed separate agreement shall be provided to the State.
- J.** The Local Government agrees to execute individually or produce a legal document as necessary to provide for the Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- K.** Local governments receiving federal funds must retain an inventory of funded items and monitor projects in accordance with 23 CFR 710 and 49 CFR 18, and with the procedures provided in the State's Local Government Project Procedures manual.
The Local Government agrees to monitor the Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the federal funds, as appropriate.
 - 1. The Local Government agrees to the review of their Project accounts and site visits by the State during the development of the Project at any time;
 - 2. Upon Project completion, the State will continue to perform periodic visits to confirm the Project's continued use and upkeep.
- L.** Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all real property has been acquired.

6. Utilities language is deleted in its entirety and replaced with the following:

Adjustment, removal, or relocation of utility facilities is the responsibility of the State and was done in accordance with applicable State laws, regulations, rules, policies, and procedures for the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail.

Adjustment, removal, or relocation of utility facilities for the Transportation Enhancement portion of the project is the responsibility of the Local Government and was done in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work, unless specified in the Transportation Enhancement Nomination form and approved by the State. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction begins.

7. Environmental Assessment and Mitigation language is deleted in its entirety and replaced with the following:

- A.** Environmental assessment and mitigation will be carried out by the State, as stated in the Master Agreement, unless otherwise specified in the Transportation Enhancement Nomination form and approved by the State. These costs will not be reimbursed or credited towards the Local Government's financial share of the Project unless specified in the nominating form and approved by the State.
- B.** Forty five (45) days prior to any construction contract let date, the State shall provide a certification that all environmental problems have been remediated. Additionally, before the advertisement for bids, shall provide written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Project Maintenance language is deleted in its entirety and replaced with the following:

For the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail, the Local Government shall be responsible for maintenance of locally owned roads after completion of the work and the State shall be responsible for maintenance of state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in the LPAFA or other prior existing maintenance agreement with the Local Government.

For the Transportation Enhancement portion of the project:

- A. Upon completion of the TE Project the Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should the Local Government at any time after TE Project completion decide it can no longer maintain and operate the Project for its intended purpose, the Local Government shall return the federal funds in accordance with CFR federal recapture requirements. Should the Local Government consider conveying the property, the State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction detailing any required recapture must be obtained from FHWA prior to the transaction. Advance notice from the Local Government of their intended action must be submitted to the State for an FHWA review a minimum of sixty (60) days prior to any action being taken by the Local Government. The Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from the TE Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to the Local Government as a result of the TE Project shall remain in the name of the Local Government. The State shall not be responsible for honoring any warranties under this LPAFA.
- C. Should the Local Government derive any income from the development and operation of the TE Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property, shall be set aside for future maintenance. A project income report shall be submitted to the State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures established under OMB-133 and with the property management standards established in Title 49 CFR §18.32.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of the TE Project.

Attachment B, Project Location Map is deleted in its entirety, and replaced with Attachment B-1, Project Location Map, which is attached to this amendment.

Attachment C, Project Budget Estimate and Source of Funds, is deleted in its entirety, and replaced with Attachment C-1, Project Budget, which is attached to this amendment.

All other provisions of the original contract are unchanged and remain in full force and effect.

Not Research and Development

2. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date _____

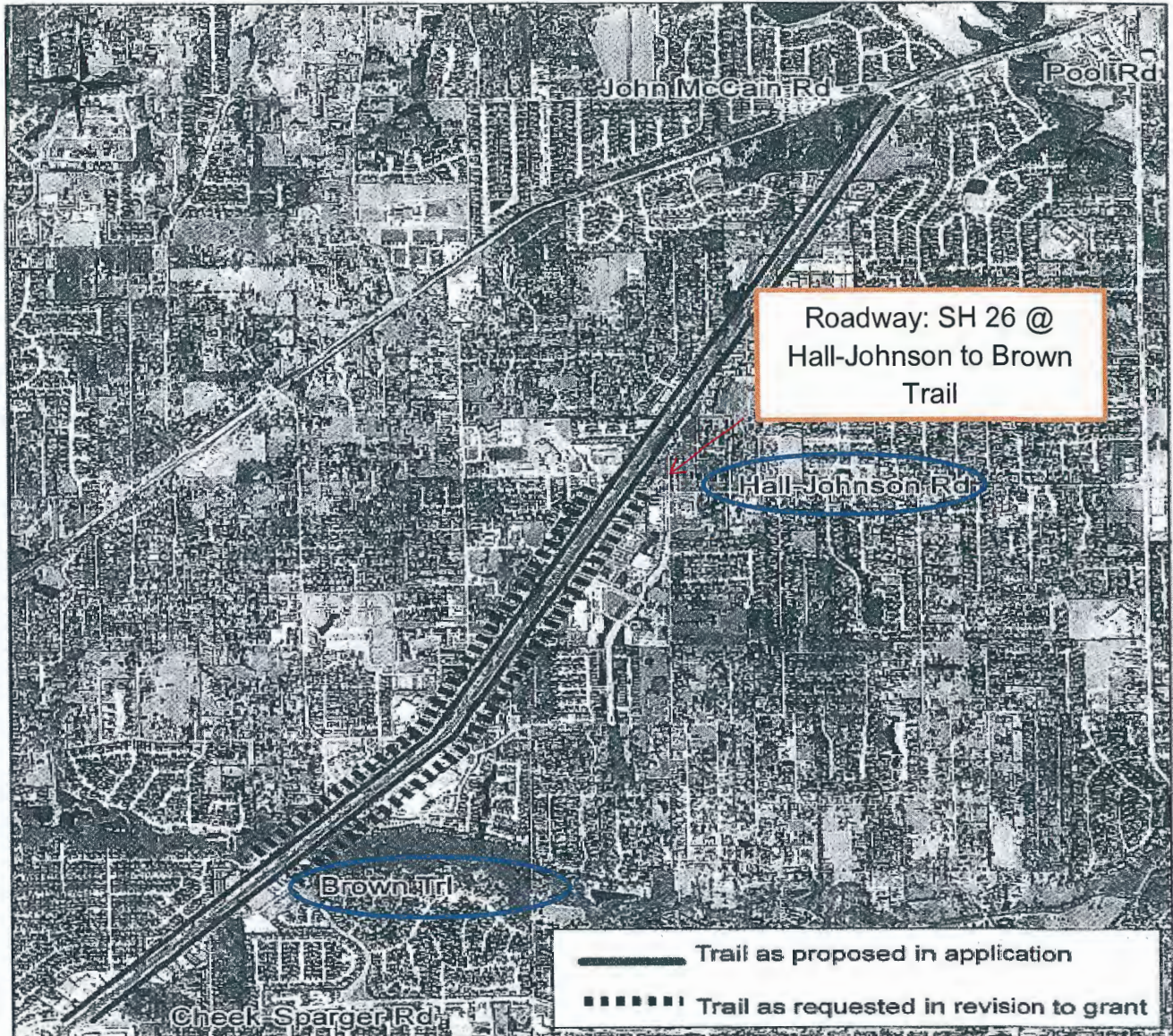
THE STATE OF TEXAS

Texas Department of Transportation

Date _____

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and
four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

**ATTACHMENT B-1
PROJECT LOCATION MAP**



**Transportation Enhancement Project
Revision Request**

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

ATTACHMENT C-1
PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS
On-System Standard AFA Budget Page – for TE Projects Budget Estimate -
State Performs PE Work or Hires Consultant / TxDOT Lets Project to Construction Contract

Description of Project Cost to be incurred:	Total Estimated Cost = Authorized Amount	Federal Participation (80% or <) Max TE \$1,273,004		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Locals: Retain their match for any services listed below, when they administer those services.							
Engineering	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
Subtotal by Local Gov't	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
TxDOT - PE Phase – Direct State Cost	\$23,243	0%	\$0	100%	\$23,243	0%	\$0
TxDOT – Environmental – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT – ROW Phase – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT – Utilities Phase – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT- Construction Phase – Direct State Costs	\$546,306	80%	\$437,045	20%	\$109,261	0%	\$0
Construction Contract – TE phase	\$1,591,255	80%	\$1,273,004	0%	\$0	20%	\$318,251
Construction Contract – STP-MM phase	\$22,889,509	80%	\$18,311,607	18%	\$4,385,138	2%	\$192,764
Construction Contract – Green Ribbon phase	\$390,000	80%	\$312,000	20%	\$78,000	0%	\$0
Subtotal Construction	\$24,870,764		\$19,896,611		\$4,463,138		\$511,015
TOTAL	\$26,021,383		\$20,333,656		\$4,595,645		\$1,092,082

The Estimated Total Participation by the Local Government is \$1,092,082.00. Payment of the Local's share of TxDOT's ADM PE Cost to be incurred is \$0.00. Payment of the Local's share of TxDOT's ADM Cost for Construction and Direct Project Construction Cost to be incurred is \$511,015.00, due 60 days prior to the Construction contract being advertised for bids. This is an estimate. The eligible percent of required local match as stated in the nomination is 20% or greater. The final amount of Local Government participation will be based on actual costs and values. The Maximum TE federal funds available for the project are \$1,273,004.00. The State will be responsible for 100% of the overrun costs.

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

STATE OF TEXAS §
COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
FOR A TRANSPORTATION ENHANCEMENT (TE) PROJECT
AND
SURFACE TRANSPORTATION PROGRAM -METRO MOBILITY (STP MM)
(ON-SYSTEM)**

This Local Project Advance Funding Agreement (LPAFA) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and the City of Colleyville, acting by and through its duly authorized officials called the "Local Government".

WITNESSETH

WHEREAS, a Master Agreement between the Local Government and the State has been adopted and states the general terms and conditions for transportation projects developed through this LPAFA; and,

WHEREAS, the Local Government prepared and submitted to the State a nomination form for consideration under the Transportation Enhancement Program for the project which is briefly described as downtown Colleyville Pedestrian facility project, called the Project; and

WHEREAS, the Texas Transportation Commission (the Commission) passed Minute Order Number 113642 dated July 25, 2013 awarding funding for projects in the 2012 Program Call of the Transportation Enhancement Program, including the Project; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 113948 that provides for the development of, and funding for, the STP-MM Project described herein; and,

WHEREAS, the rules and procedures for the selection and administration of the Transportation Enhancement Program are established in 43 TAC Sections 11.200 et seq.; and

WHEREAS, the governing body of the Local Government has approved entering into this LPAFA by resolution or ordinance dated July 15, 2014, which is attached to and made a part of this LPAFA as Attachment A;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

AGREEMENT

1. Period of the Agreement

The period of this LPAFA is as stated in the Master Agreement, without exception.

2. Termination of this LPAFA

The termination of this LPAFA shall extinguish all rights, duties, obligations, and liabilities of the State under this LPAFA. This LPAFA shall be terminated under the conditions as stated in the Master Agreement or for the conditions, and in the manner, described in this LPAFA.

- A. If the potential termination of the LPAFA is due to the failure of the Local Government to fulfill its contractual obligations, the State will notify the Local Government that possible breach of contract has occurred. The Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- B. If the Local Government withdraws from the Project after the LPAFA is executed, it shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system.
- C. A Project may be eliminated from the program as outlined below. If the Project is eliminated for any of these reasons, this LPAFA will be appropriately terminated. A project may be eliminated from the program if:
 - 1. The Local Government fails to satisfy any requirements of the program rules cited as 43 TAC §11.200 et seq.
 - 2. The implementation of the Project would involve significant deviation from the activities as proposed in the nomination form.
 - 3. The Local Government withdraws from participation in the Project.
 - 4. This is a construction project and construction has not been let by August 31, 2016.
 - 5. This is not a construction project and project activities have not been completed by N/A____, 20____.
 - 6. The State determines that federal funding may be lost due to the Project not being implemented and completed.
 - 7. Funds are not appropriated, in which case this LPAFA shall be terminated immediately with no liability to either party. Payment under this LPAFA beyond the current fiscal biennium is subject to availability of appropriated funds.
 - 8. The Local Government fails to attend progress meetings at least twice yearly, as scheduled by the State.

3. Amendments

Amendments of this LPAFA shall be made as described in the Master Agreement, without exception.

4. Scope of Work, Use of Project, and Project Location

The scope of work for the Transportation Enhancement Project, which is shown in Attachment B, the Project Location Map, described in the nomination form and as approved by the Texas Transportation Commission, consists of: The TE portion of the project is constructing an eight foot wide concrete pedestrian facility with amenities and landscaping along both sides of SH 26, approximately the length of the 4.8 mile path. The path will connect the downtown business district with The Village at Colleyville, where City Hall and the Public Library are located. The purpose of this Transportation Enhancement project is to connect other paths

that will provide continuous linkage between the City's schools, parks, Civic Center and other community facilities. The STP-MM project, consists of: reconstructing four lane undivided to four lane divided with median, curb and gutter from Hall-Johnson to Brown Trail.

Any project changes proposed must be submitted in writing by the Local Government to the State. Changes may also require an amendment to the LPAFA and the approval of the Federal Highway Administration (FHWA), the State, or the Commission. Any changes undertaken without written approval and agreement amendment may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

5. Right of Way and Real Property Acquisition

Right of way and real property acquisition shall be the responsibility of the Local Government, as stated in the Master Agreement unless otherwise provided below:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of the Project site under this LPAFA, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- B. The Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- C. The Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- D. The State will not reimburse the Local Government for any real property acquired before execution of this LPAFA and before federal spending authority is approved.
- E. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- F. The Local Government agrees to make a determination of property values for each real property parcel to be purchased with federal funds by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel

numbers, ownership, acreage, and recommended compensation. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market value.

- G. Condemnation shall not be used to acquire real property for this enhancement Project.
- H. Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this LPAFA. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined fair market value of each parcel, or the net cost of each parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Any costs associated with the relocation of displaced persons and personal property, as well as incidental expenses incurred in acquiring property to implement a TE project, will be the responsibility of the Local Government and current property owner at no cost to the State.
- I. If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this LPAFA. The separate agreement must establish that the Project will be dedicated for public use for a period of time commensurate with the federal investment, but not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed separate agreement shall be provided to the State.
- J. The Local Government agrees to execute individually or produce a legal document as necessary to provide for the Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- K. Local governments receiving federal funds must retain an inventory of funded items and monitor projects in accordance with 23 CFR 710 and 49 CFR 18, and with the procedures provided in the State's Local Government Project Procedures manual. The Local Government agrees to monitor the Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the federal funds, as appropriate.
 - 1. The Local Government agrees to the review of their Project accounts and site visits by the State during the development of the Project at any time;
 - 2. Upon Project completion, the State will continue to perform periodic visits to confirm the Project's continued use and upkeep.
- L. Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all real property has been acquired.

6. Utilities

The Local Government shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work, unless specified in the Transportation Enhancement Nomination form and approved by the State. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction begins.

7. Environmental Assessment and Mitigation

- A. Environmental assessment and mitigation will be carried out as stated in the Master Agreement, unless otherwise specified in the Transportation Enhancement Nomination form and approved by the State. These costs will not be reimbursed or credited towards the Local Government's financial share of the Project unless specified in the nominating form and approved by the State.
- B. Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all environmental problems have been remediated. Additionally, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

8. Architectural and Engineering Services

Architectural and engineering services will be provided by the Local Government. Compliance with Texas Accessibility Standards and the Americans with Disabilities Act (ADA) will be as stated in the Master Agreement. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and the Local Government will be seeking reimbursement for these services; and with Texas Government Code 2254, Subchapter A, in all cases. Professional services contracts for federally funded projects must conform to federal requirements.

- A. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's *Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites* and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with the State's applicable *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the two American Association of State Highway Transportation Officials' (AASHTO) publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the *Standard Specifications for Construction and*

Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by the State in writing in advance.

- B. When architectural and engineering services are provided by or through the Local Government, the Local Government shall submit any plans it has completed to the State for review and approval. The Local Government may also submit the plans to the State for review anytime prior to completion. The Local Government shall make the necessary revisions determined by the State. The Local Government will not let the construction contract until all required plans have received State approval.
- C. When architectural and engineering services are provided by or through the State, then the following applies:
The State is responsible for the delivery and performance of any required architectural or preliminary engineering work. The Local Government may review and comment on the work as required to accomplish the Project purposes. The State will cooperate fully with the Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

9. Construction Responsibilities

- A. The State shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. All contract letting and award procedures must be approved by the State prior to letting and award of the construction contract, whether the construction contract is awarded by the State or by the Local Government.
- C. All contract change order review and approval procedures must be approved by the State prior to start of construction.
- D. Upon completion of the Project, the party constructing the project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion.
- E. For federally funded contracts, the parties to this LPAFA will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Part 635, Subpart B.
- F. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by the State and the Local Government prior to authorizing the contractor to perform the work. Prior to completion of the Project, the party responsible for construction will notify the other party to this LPAFA of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

10. Project Maintenance

- A.** Upon completion of the Project the Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should the Local Government at any time after Project completion decide it can no longer maintain and operate the Project for its intended purpose, the Local Government shall return the federal funds in accordance with CFR federal recapture requirements. Should the Local Government consider conveying the property, the State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction detailing any required recapture must be obtained from FHWA prior to the transaction. Advance notice from the Local Government of their intended action must be submitted to the State for an FHWA review a minimum of sixty (60) days prior to any action being taken by the Local Government. The Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from the Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B.** Any manufacturer warranties extended to the Local Government as a result of the Project shall remain in the name of the Local Government. The State shall not be responsible for honoring any warranties under this LPAFA.
- C.** Should the Local Government derive any income from the development and operation of the Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property, shall be set aside for future maintenance. A project income report shall be submitted to the State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures established under OMB-133 and with the property management standards established in Title 49 CFR §18.32.
- D.** Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of the Project.

11. Local Project Sources and Uses of Funds

- A.** A Project Budget Estimate is provided in Attachment C, showing the total estimated development cost of the Project. This estimate shows the itemized cost of real property, utilities, environmental assessments and remediation, construction, and any other substantial items of cost. To be eligible for reimbursement, costs must have been included in the itemized budget section of the nomination form approved by the Texas Transportation Commission. The State and the Federal Government will not reimburse the Local Government for any work performed before federal spending authority is formally obligated to the Project by the Federal Highway Administration. After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The

Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.

- B. If the Local Government will perform any work under this LPAFA for which reimbursement will be provided by or through the State, the Local Government must complete training in *Local Government Procedures Qualification for the Texas Department of Transportation* before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not designated a qualified individual to oversee the Project.
- C. A Source of Funds estimate based on the budget provided in the project nomination form is included as Attachment C. Attachment C shows the percentage and estimated dollar amounts to be contributed to the Project by state and local sources, as well as the maximum amount in federal Transportation Enhancement Funds assigned by the Commission to the project. The parties agree that this agreement may be amended from time to time as required to meet the funding commitments based on revisions to the Transportation Improvement Program, FPAA, or other federal document.
- D. The Local Government will be responsible for all non-federal participation costs associated with the Project, including any overruns in excess of the Project cost estimate and any operating or maintenance expenses.
- E. The State will be responsible for securing the federal share of funding required for the development and construction of the Project, in an amount not to exceed eighty percent (80%) of the actual cost of the work up to the amount of funds approved for the Project by the Texas Transportation Commission. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to Project selection by the Texas Transportation Commission and approval by the State to proceed are not eligible for reimbursement.
- F. Following execution of this LPAFA, but prior to the performance of any review work by the State, the Local Government will pay to the State the amount sufficient to cover the estimated cost for the State's review. The Local Government shall advance to the State zero percent (0%) of the State's administrative and associated cost for review of the plans, specifications, and estimate. The Local Government must also advance to the State zero percent (0%) of the Project's estimated preliminary engineering cost, if the State is administering the architectural or engineering contract. The estimated amount of this advance for this Project's preliminary engineering is \$0.00, in cash. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government must advance to the State zero percent (0%) of the State's administrative and associated costs for letting and construction. The Local Government shall also remit its remaining financial share for the Project's estimated construction and construction engineering costs if the State is letting the project. The amount to be advanced for this Project's Construction is estimated to be \$318,251.00 in cash for the TE portion of the project.

- G.** In the event the State determines that additional funding is required by the Local Government at any time during the development of the Project, the State will notify the Local Government in writing. The Local Government is responsible for twenty percent (20%) of the authorized Project cost and one hundred percent (100%) of any overruns of the TE federally authorized amount. The Local Government is responsible for zero percent (0%) of the authorized Project cost and one hundred percent (100%) of any overruns of the STP-MM federally/state authorized amount for the pedestrian and betterment items. The Local Government will make payment to the State within thirty (30) days from receipt of the State's written notification.
- H.** Whenever funds are paid by the Local Government to the State under this LPAFA, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project.
- I.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due to the Local Government, the State, or the Federal Government will be promptly paid by the owing party. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.
- J.** In the event the Project is not completed, the State may seek reimbursement from the Local Government of the expended federal funds. The Local Government will remit the required funds to the State within sixty (60) days from receipt of the State's notification.
- K.** If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal Regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by the Local Government. The cost of providing right of way acquired by the State shall mean the total expenses in acquiring the property interests either through negotiations or eminent domain proceedings, including but not limited to expenses related to relocation, removal, and adjustment of eligible utilities.
- L.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this LPAFA or indirectly through a contract or subcontract under this LPAFA. Acceptance of funds directly under this LPAFA or indirectly through a contract or subcontract under this LPAFA acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- M.** The State will not pay interest on any funds provided by the Local Government.
- N.** The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this LPAFA.

- O. The Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by the State no more frequently than monthly, and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred, and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.

12. Inspection of Books and Records

The parties to this LPAFA shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this LPAFA and shall make such materials available to the State, the Local Government, and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the agreement period and for four (4) years from the date of completion of work defined under this LPAFA or until any impending litigation, or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this LPAFA for the purpose of making audits, examinations, excerpts, and transcriptions.

13. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

14. Lobbying Certification

The parties to this LPAFA reaffirm that no federal funds were used to lobby for Project funds, but that if any lobbying occurred, it has been reported to the State, pursuant to the requirements of the Master Agreement.

15. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar format. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in which the activity will be completed in the format required by the State. This requirement applies whether the Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

16. Incorporation

The Master Agreement is incorporated into this LPAFA as if fully set forth in this LPAFA.

17. Insurance

If this LPAFA authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

18. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this LPAFA, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this LPAFA shall require any party to a contract, subcontract, or purchase order awarded under this LPAFA to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

19. Civil Rights Compliance

The Local Government shall comply with the regulations of the U.S. Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

20. Disadvantaged Business Enterprise Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-

assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this LPAFA. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this LPAFA. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

21. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

22. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

- B. If threshold expenditures of \$750,000 or more are met during the Local Government's fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/inside-txdot/office/audit/contact.html>.
- C. If expenditures are less than \$750,000 during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY ____."
- D. For each year the project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the LPAFA, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

23. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT


Signature

DAVID KELLY
Typed or Printed Name

MAYOR
Title

08/06/2014
Date

THE STATE OF TEXAS


Kenneth Stewart
Interim Director of Contract Services
Texas Department of Transportation

08/15/14
Date

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

**ATTACHMENT A
RESOLUTION OF LOCAL GOVERNMENT
APPROVING THIS LPAFA**

RESOLUTION R-14-3769

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER BUSINESS AT THE REGULAR CITY COUNCIL MEETING OF
JULY 15, 2014**

WHEREAS, City Council has taken action on certain items on the agenda under Business.

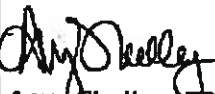
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

- Sec. 1. THAT the agenda decisions approved by City Council action under Business this date and not otherwise adopted by Ordinance and/or separate Resolution as follows are hereby adopted:
- a. Approval of a Local Project Advance, Funding Agreement for a Transportation Enhancement (TE) Project, and Surface Transportation Program Metro Mobility (STP-MM) On-System Project, and authorize the mayor to execute the agreement

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 6 AYES, 1 NAYS, AND 0 ABSTENTIONS ON THIS THE 15TH DAY OF JULY 2014.

ATTEST:



Amy Shelley, TRMC
City Secretary

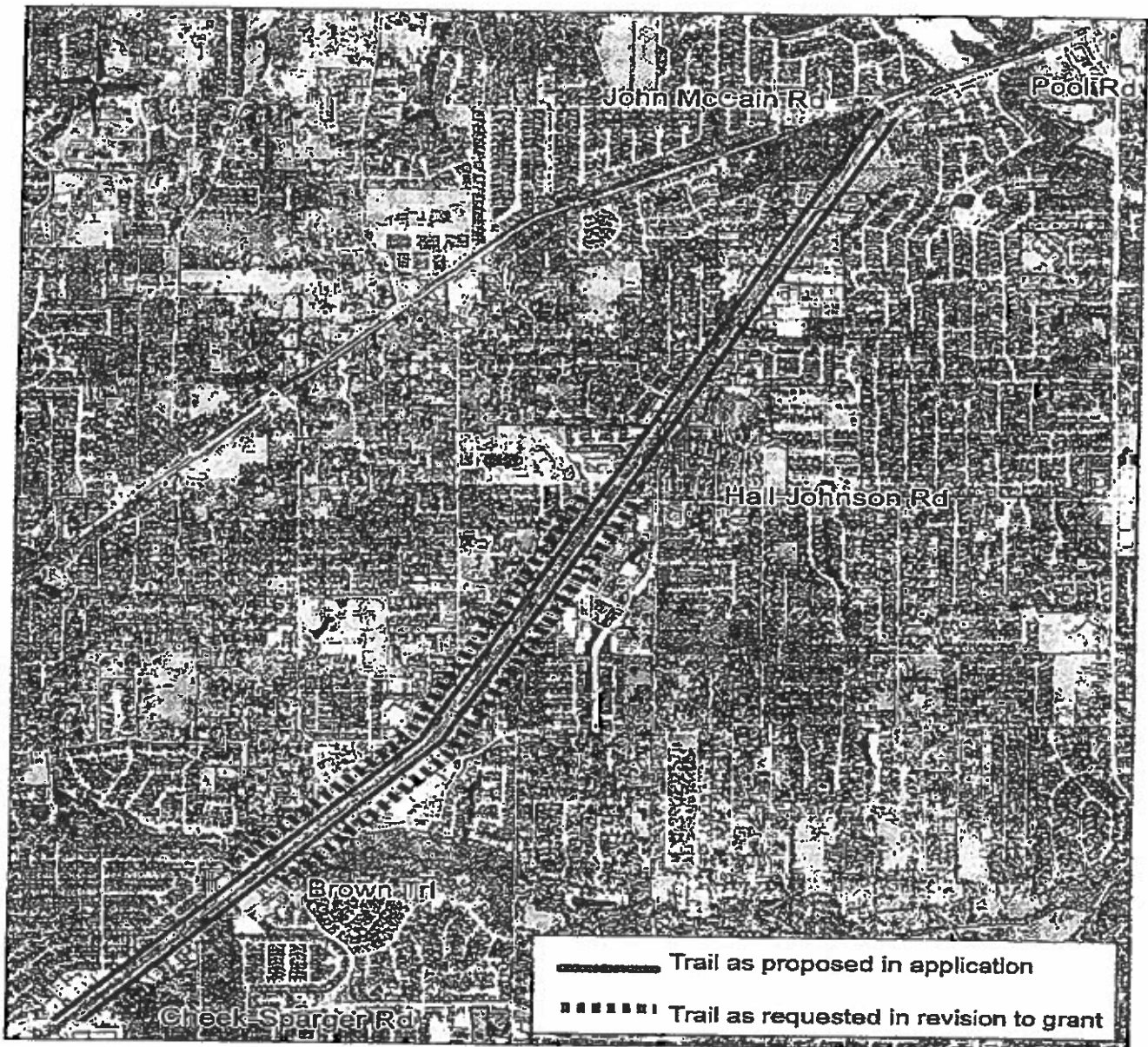
CITY OF COLLEYVILLE



David Kelly
Mayor

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

**ATTACHMENT B
PROJECT LOCATION MAP**



**Transportation Enhancement Project
Revision Request**

CSJ # 0363-01-139
 District # 02-Fort Worth
 Code Chart 64 #09100
 Project: SH 26; Pedestrian and four lane divided
 Federal Highway Administration
 CFDA #20.205
 Not Research and Development

ATTACHMENT C
PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS
 On-System Standard AFA Budget Page – for TE Projects Budget Estimate -
 State Performs PE Work or Hires Consultant / TxDOT Lets Project to Construction Contract

Description of Project Cost to be Incurred:	Total Estimated Cost = Authorized Amount	Federal Participation (80% or <) Max TE \$1,273,004		State Participation = 0		Local Participation (20% or greater)	
		%	Cost	%	Cost	%	Cost
Locals: Retain their match for any services listed below, when they administer those services.							
Engineering	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
Subtotal by Local Gov't	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
TxDOT Administrative cost incurred - PE:							*Due within 30 days
TxDOT - PE Phase – Direct State Cost	\$23,243	0%	\$0	100%	\$23,243	0%	*\$0
TxDOT Administrative cost incurred - CE:							**Due 60 days prior
TxDOT - Construction Phase – Direct State Costs	\$546,306	80%	\$437,045	20%	\$109,261	0%	\$0
Direct Project Construction COST							
Construction Contract – TE phase	\$1,591,255	80%	\$1,273,004	0%	\$0	20%	\$318,251
Construction Contract – STP-MM phase	13,657,643	80%	\$10,926,115	20%	\$2,731,528	0%	\$0
Subtotal Construction	\$15,248,898		\$12,199,119		\$2,731,528		**\$318,251
TOTAL	\$16,399,514		\$12,636,164	0%	\$2,864,032	20%	\$899,318

The Estimated Total Participation by the Local Government is \$899,318.00, plus 100% of overruns. Payment of the Local's share of TxDOT's ADM PE Cost to be incurred is \$0.00. Payment of the Local's share of TxDOT's ADM Cost for Construction and Direct Project Construction Cost to be incurred is \$318,251.00, due 60 days prior to the Construction contract being advertised for bids. This is an estimate. The eligible percent of required local match as stated in the nomination is 20% or greater. The final amount of Local Government participation will be based on actual costs and values. The Maximum TE federal funds available for the project are \$1,273,004.00.

RESOLUTION R-14-3769

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER BUSINESS AT THE REGULAR CITY COUNCIL MEETING OF
JULY 15, 2014**

WHEREAS, City Council has taken action on certain items on the agenda under Business.

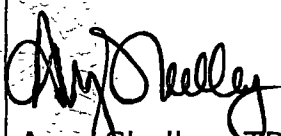
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF COLLEYVILLE, TEXAS:**

- Sec. 1. THAT the agenda decisions approved by City Council action under Business this date and not otherwise adopted by Ordinance and/or separate Resolution as follows are hereby adopted:
- a. Approval of a Local Project Advance, Funding Agreement for a Transportation Enhancement (TE) Project, and Surface Transportation Program Metro Mobility (STP-MM) On-System Project, and authorize the mayor to execute the agreement

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF 6 AYES, 1 NAYS, AND 0 ABSTENTIONS ON
THIS THE 15TH DAY OF JULY 2014.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

RESOLUTION R-15-3936

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) FOR THE FUNDING AND IMPLEMENTATION STRATEGY FOR ROADWAY IMPROVEMENT TO BE MADE TO STATE HIGHWAY 26/COLLEYVILLE BOULEVARD FROM SOUTH OF JOHN MCCAIN ROAD TO APPROXIMATELY 400 FEET SOUTH OF BROWN TRAIL

WHEREAS, the City of Colleyville, Tarrant County, the Texas Department of Transportation (TxDOT), and the Regional Transportation Council (RTC), have agreed to utilizing a combination of federal, state, and local funds to fund roadway improvements for State Highway 26/Colleyville Boulevard (SH26), from south of John McCain Road to approximately 400 feet south of Brown Trail, in Colleyville; and

WHEREAS, the Colleyville City Council has agreed upon the completion of the reconstruction of SH26, the City will request the TxDOT remove from the State Highway System the portion of SH26 from John McCain Road to Brown Trail, including the transfer of the right-of-way to the City of Colleyville; and

WHEREAS, the City of Colleyville desires to enter into a Memorandum of Understanding for the funding and implementation strategy for the roadway improvements to State Highway 26/Colleyville Boulevard from south of John McCain Road to approximately 400 feet south of Brown Trail; and

WHEREAS, all legal prerequisites for the approval of this Resolution have been met, including but not limited to the Open Meetings Act.

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

- Sec. 1. THAT all of the above findings are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the Colleyville City Council authorizes the Mayor to execute the Memorandum of Understanding attached as Exhibit "A".

Sec. 3. THAT this resolution shall become effective immediately from and after its passage.

AND IT IS SO RESOLVED.

PASSED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS
THE 1ST DAY OF DECEMBER 2015.

ATTEST:


Amy Shelley, TMRC
City Secretary

CITY OF COLLEYVILLE

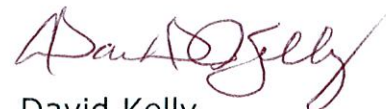

David Kelly
Mayor

EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING

**State Highway 26 from South of John McCain to Brown Trail
Among
City of Colleyville, Tarrant County, Regional Transportation Council, and Texas Department of
Transportation**

This memorandum of understanding (MOU) outlines the agreement regarding the funding and implementation strategy for roadway improvement to be made to State Highway 26 from south of John McCain Road to approximately 400 feet south of Brown Trail located in Colleyville, Texas.

I. BACKGROUND

Tarrant County, the City of Colleyville, the Texas Department of Transportation (TxDOT), and the Regional Transportation Council (RTC) have agreed to fund roadway improvements for State Highway 26 (Colleyville Boulevard) (hereafter referred to as "S.H. 26"), from south of John McCain Road to approximately 400 feet south of Brown Trail utilizing a combination of federal, state, and local funds. The City of Colleyville will enter into an agreement with TxDOT to remove S.H. 26 from the State Highway System in the sections noted below and to take over responsibility of this portion of S.H. 26 upon completion of the project.

Through this document, the impacted parties hereby state the terms of agreement and concur with the resulting commitments made as a part of this funding strategy.

II. S.H. 26 FROM SOUTH OF JOHN MCCAIN ROAD TO HALL-JOHNSON ROAD

Funding for TIP 11153.3/CSJ 0363-01-114 is for the section of S.H. 26 from south of John McCain Road to Hall-Johnson Road in order to widen the roadway from four (4) to six (6) lanes, add curb and gutter, storm sewer, replace bridges, and upgrade the signal system. The City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes.

Committed Funding by Agency for the Construction Phase:

\$ 2,442,000	– RTC Commitment (STP-MM Funds)
\$ 610,500	– Local Match to the Surface Transportation Program - Metropolitan Mobility Funds (STP-MM) (City of Colleyville)
\$10,900,000	– TxDOT Commitment Category 12 Funds
\$ 320,000	– Tarrant County
\$ 389,500	– City of Colleyville
\$14,662,000	

In addition, TxDOT previously funded the right-of-way acquisition phase, so the City of Colleyville commits to moving the necessary municipal utilities (oversight provided by TxDOT), and TxDOT will coordinate with the franchise utility companies to ensure that their utilities are relocated to enable the widening of S.H. 26.

Per Section VI, once this project is complete, this portion of S.H. 26 will be removed from the TxDOT system and ownership will be transferred to the City of Colleyville, who will be responsible for maintenance of the corridor.

III. S.H. 26 FROM HALL-JOHNSON ROAD TO BROWN TRAIL

Funding for TIP 11153.2/CSJ 0363-01-139 is for the section of S.H. 26 from Hall-Johnson Road to 400 feet south of Brown Trail in order to widen the roadway from four (4) to six (6) lanes, add curb and gutter, storm sewer, replace bridges, and upgrade the signal system. The City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes.

Committed Funding by Agency for the Construction Phase:

\$12,184,115 – RTC Commitment (STP-MM Funds)
\$ 2,731,528 – State Match to the STP-MM

\$ 314,500 – Local Match to the STP-MM (Tarrant County)
\$ 1,273,004 – RTC Commitment (Enhancement Funds)
\$ 318,251 – Local Match to Enhancement Funds (City of Colleyville)
\$ 365,500 – Local Commitment (Tarrant County)
\$17,186,898

In addition, TxDOT previously funded the right-of-way acquisition phase, the City of Colleyville commits to moving the necessary municipal utilities, and TxDOT will coordinate with the franchise utility companies to ensure that their utilities are relocated to enable the widening of S.H. 26.

Per Section VI, once this project is complete, this portion of S.H. 26 will be removed from the TxDOT system and ownership will be transferred to the City of Colleyville, who will be responsible for maintenance of the corridor.

IV. COST OVERRUNS AND OTHER FUNDING NOTES

The City of Colleyville and Tarrant County have collectively committed \$2,000,000 (\$1,000,000 each) in local funding for construction of the project. This \$2,000,000 includes the required local match to federal funds as noted in Sections II and III. The City of Colleyville has committed an additional \$318,251 in local match to the enhancement funding. County bond funds will be encumbered through a separate agreement between Tarrant County and TxDOT for the remainder of Tarrant County's \$1,000,000 commitment, and will be limited to eligible costs associated with the base construction of the projects.

In the event that the low bid is in excess of the approved funds, the overrun will be shared by funding parties in proportion to the currently approved funding, except that Tarrant County's funding will be limited to the amounts shown in Sections II and III and as stated in the preceding paragraph, not to exceed \$1,000,000. Similarly, this proportionally shared funding responsibility would apply to any change orders. In the event that a party to the MOU requests a change that is not in the original design or scope, then that party will be solely responsible for the additional funds within applicable state and federal rules. This shared responsibility for overruns applies only to the base construction of the projects and not to the upgrade features such as street lights and pedestrian lighting, which would be the sole responsibility of the City of Colleyville.

All of the City requested upgrades are included in the project design and accounted for in the currently approved funding. In the event that these upgrades exceed the approved funding, the City of Colleyville will provide additional funds not to exceed the cost of the requested upgrades. Upgrades include powder coated signal poles, back-lit street name signs, stamped and colored concrete crosswalks at intersections, and street lighting and pedestrian lighting. The street lighting and pedestrian lighting may be bid as a separate project due to the costs. The City of Colleyville has applied for Green Ribbon funds for landscaping and additional amenities.

V. INCONSISTENCY WITH MOBILITY 2035-2014 AMENDMENT

Currently, the redesign to a four (4) to six (6) lane configuration is inconsistent with the Mobility 2035-2014 Amendment and will need to be updated in Mobility 2040. RTC approval of Mobility 2040 is anticipated in March 2016 with federal approval in June 2016, prior to completion of this project. However, in the event that Mobility 2040 has not been approved by the time this project opens, this section of S.H. 26 (Colleyville Boulevard) would need to be temporarily striped as four (4) lanes and could be restriped to six (6) lanes once Mobility 2040 is approved.

VI. TURNBACK AGREEMENT

Once this project is complete, the City of Colleyville will be responsible for maintenance and control of the corridor (pavement, signals, striping, signage, etc.) from south of John McCain Road to 400 feet south of Brown Trail. The Turnback Agreement shall establish the specifics of the conveyance of the real property interest from the State to the City of Colleyville on the section of SH 26 from south of John McCain Road to South of Brown Trail. The Turnback Agreement shall also state that the City will be responsible for the operation, maintenance, and will take over ownership of the traffic signals at the John McCain Road Intersection and the Longwood Drive intersection. As part of this transfer of responsibility, TxDOT will commit \$10,900,000 for the construction of the section of S.H. 26 from south of John McCain Road to Hall-Johnson Road and will lead the construction of both sections. Upon completion of the project per design and contract specifications and acceptance of the reconstructed roadway, the City will assume responsibility for S.H. 26 maintenance and control, which is consistent with the 2014 Memorandum of Understanding Regarding the Texas Department of Transportation's Voluntary Turnback Program.

VII. SCHEDULE AND RESPONSIBILITIES

Both sections of S.H. 26 from south of John McCain Road to Hall-Johnson Road and from Hall-Johnson Road to Brown Trail are anticipated to be let in February 2016, with an anticipated construction start in April 2016. Construction is anticipated to be completed in 24 to 30 months (by October 2018.)

The City and TxDOT have overseen the relocation of city utilities along the project route. Relocation was completed in August 2015 except for AT&T's facilities. AT&T relocation is expected to be completed by January of 2016.

As noted in Section III, the City of Colleyville is responsible for the funding and completion of the latest redesign to change the project from four (4) to four (4) lanes to four (4) to six (6) lanes. Once the 95% plans are submitted, a review period by TxDOT of 20 days is anticipated. TxDOT comments to the design will then be provided to the engineer. The 100% plans are to be submitted to TxDOT 28 days after receipt of comments from TxDOT.

During the construction phase of this project, the parties agree to coordinate efforts in order to minimize the impact of construction. This includes, but is not limited to: City of Colleyville representation at weekly project meetings and coordination with City of Colleyville throughout project construction; additional signage throughout the corridor placed by the City of Colleyville for the benefit of motorists and business access, and monthly executive meetings to include requisite City of Colleyville representatives and TxDOT district leadership.

VIII. SIGNATURE OF AGREEMENT

This agreement is contingent upon approval of the terms outlined herein by the policy body of each impacted party. The Regional Transportation Council (RTC) approved the above funding changes April 9, 2015.

David Kelly, Mayor
City of Colleyville

Date

Gary Fickes, Commissioner
Tarrant County

Date

B. Glen Whitley, County Judge
Tarrant County

Date

Criminal District Attorney's Office*
Tarrant County

Date

Brian Barth, P.E.
Texas Department of Transportation

Date

Michael Morris, P.E.
North Central Texas Council of Governments

Date

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

SH26
Phase II Update
(John McCain to Brown Trail)

Pre Council Meeting
April 19, 2016

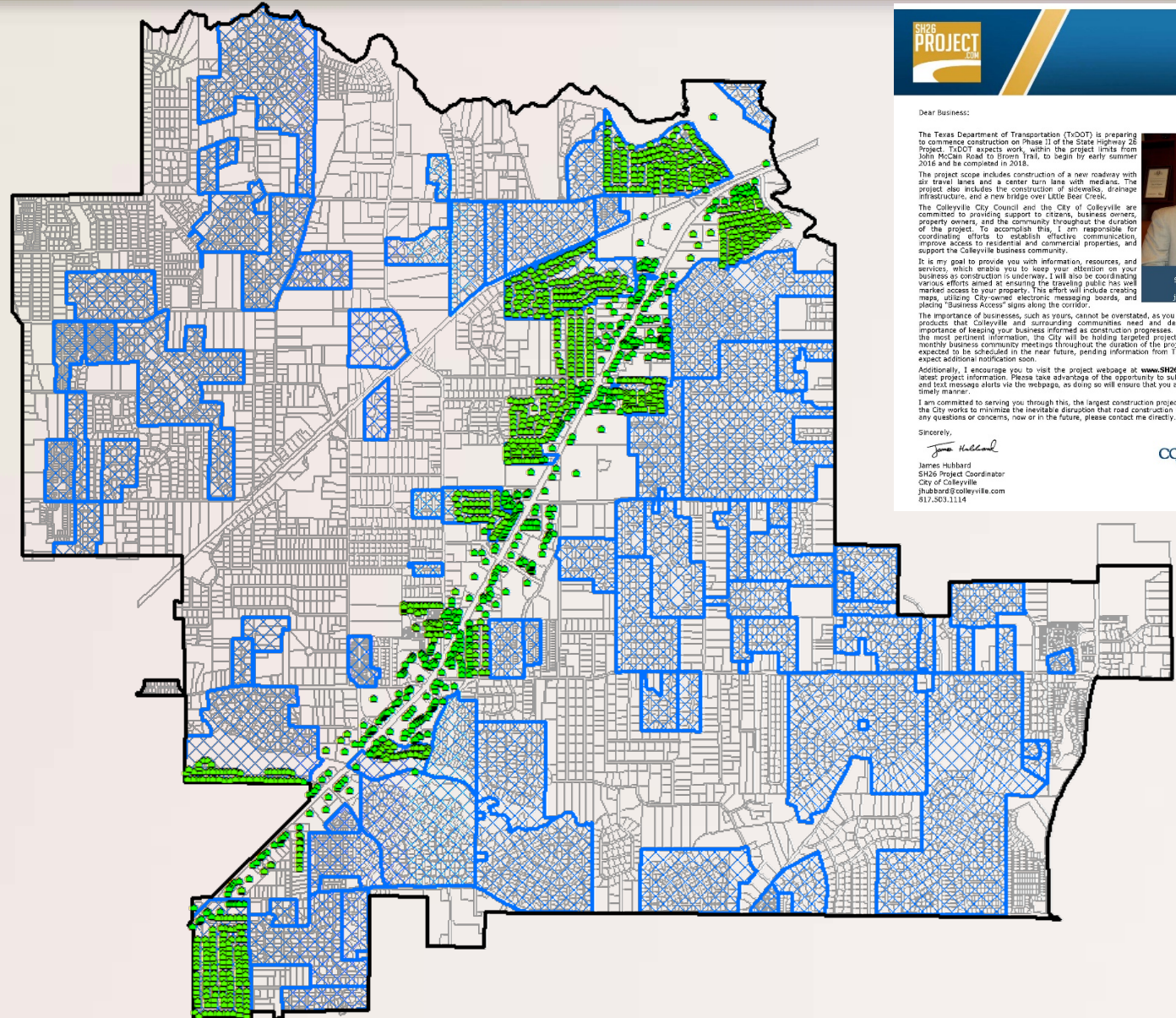
Communication

To establish bidirectional communication that is accurate, accessible, relevant, and up-to-date

Initial Mailing



Recipient Group	#
Residences	944
Businesses	555
Property Owners	418
HOAs	81
GCISD	25
Clubs/Organizations	8
Total	2031



Dear Business:

The Texas Department of Transportation (TxDOT) is preparing to commence construction on Phase II of the State Highway 26 Project. TxDOT expects work within the project limits from John McCain Road to Brown Trail, to begin by early summer 2016 and be completed in 2018.

The project scope includes construction of a new roadway with six travel lanes and a center turn lane with medians. The project also includes the construction of sidewalks, drainage infrastructure, and a new bridge over Little Bear Creek.

The Colleyville City Council and the City of Colleyville are committed to providing support to citizens, business owners, property owners, and the community throughout the duration of the project. To accomplish this, I am responsible for coordinating efforts to establish effective communication, improve access to residential and commercial properties, and support the Colleyville business community.

It is my goal to provide you with information, resources, and services, which enable you to keep your attention on your business as construction is underway. I will also be coordinating various efforts aimed at ensuring the traveling public has well marked access to your property. This effort will include creating maps, utilizing City-owned electronic messaging boards, and placing "Business Access" signs along the corridor.

The importance of businesses, such as yours, cannot be overstated, as you provide the services and products that Colleyville and surrounding communities need and desire. To understand the importance of keeping your business informed as construction progresses, to ensure that you have the most pertinent information, the City will be holding targeted project "kickoff" meetings and monthly business community meetings throughout the duration of the project. These meetings are expected to be scheduled in the near future, pending information from TxDOT. Therefore, please expect additional notification soon.

Additionally, I encourage you to visit the project webpage at www.SH26Project.com to find the latest project information. Please take advantage of the opportunity to subscribe to project emails and text message alerts via the webpage, as doing so will ensure that you are aware of updates in a timely manner.

I am committed to serving you through this, the largest construction project in the city's history, as the City works to minimize the inevitable disruption that road construction causes. Should you have any questions or concerns, now or in the future, please contact me directly.

Sincerely,

James Hubbard
 James Hubbard
 SH26 Project Coordinator
 City of Colleyville
jhubbard@colleyville.com
 817.303.1114

Webpage Modifications



THE OFFICIAL WEBSITE FOR THE CITY OF COLLEYVILLE, TEXAS

SH 26 Colleyville Blvd. Reconstruction

HOME CITIZENS BUSINESS VISITORS GOVERNMENT DEPARTMENTS ABOUT US

Search our site...

City Departments
Select a Department...

SH26/Colleyville Blvd. Reconstruction

SH26 Reconstruction Home Receive Updates

TxDOT SH 26/Colleyville Blvd. Reconstruction Project

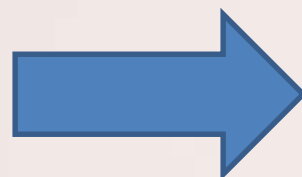
TxDOT SH Reconstruction Project Update - Feb. 5, 2016

The Texas Department of Transportation (TxDOT) has signed off on the completion of Phase I construction from the northern city limits to John McCain Road and is nearing the start of the next phase. Phase II will be the largest road project in Colleyville history and includes a new six-lane roadway with a center turn lane and raised medians, and drainage system improvements along the city's main commercial corridor. It features approximately 23 lane miles of new roadway, approximately 4.8 miles of 8-foot-wide sidewalks, eight signalized intersections, and a bridge over Little Bear Creek. TxDOT estimates the project cost at approximately \$33.5 million. TxDOT has advertised the project and a bid opening has been set for Feb. 10. Unlike Phase I, the city was able to work with TxDOT to have incentives and liquidated damages terms added to the Phase II contract. These terms are tied to four milestones spread throughout the project's duration, allowing for four separate opportunities for TxDOT to assess the contractor, which is intended to keep the contractor on schedule. The construction plan includes a traffic control plan to guide work that has the least impact on drivers. The traffic plan's main goal is to maintain four lanes of traffic, with the exception of temporary lane closures. Single-lane closures will be limited to off-peak hours, which means no single-lane closures from 6:00-9:00 a.m. and 3:00-7:00 p.m., Monday through Friday. Work that requires multiple lane closures in the same direction will be limited from 9:00 p.m. to 6:00 a.m. or weekends.

Webcast [PC-3]

TxDOT SH Reconstruction Project Update - Jan. 13, 2016

TxDOT has completed the SH 26 Phase I reconstruction from Brumlow Avenue/Pool Road to John McCain Road is now complete. The speed limit will remain at 35 miles-per-hour at this portion of the roadway until a final inspection, according to TxDOT's mobility coordinator. If there are no issues the work zone signs should be removed in a few weeks.



SH 26 RECONSTRUCTION

SH26 PROJECT.COM

SH26 Reconstruction SH 26 Project Home

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SH 26 Project Overview

SH 26 Project Contact

SH 26 Project FAQs

TxDOT SH 26 Reconstruction Project

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Subscriber Alerts



★ ★ ★ SH 26 RECONSTRUCTION ★ ★ ★



SH26 Reconstruction
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SH 26 Project FAQs

Receive Updates About SH 26 Reconstruction

To receive news and information on State Highway 26 reconstruction efforts, please provide the following information:

Phone Number

Email Address



City of Colleyville | 100 Main Street, Colleyville, Texas 76034 | 817-503-1000 | [Contact the city](#)

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Outreach Meetings



State Highway 26 Phase II

Tara Homeowners Association Meeting
April 7, 2016



Project Overview



Texas Department of Transportation Project (TxDOT)

Limits

- John McCain Road to Brown Trail

Design

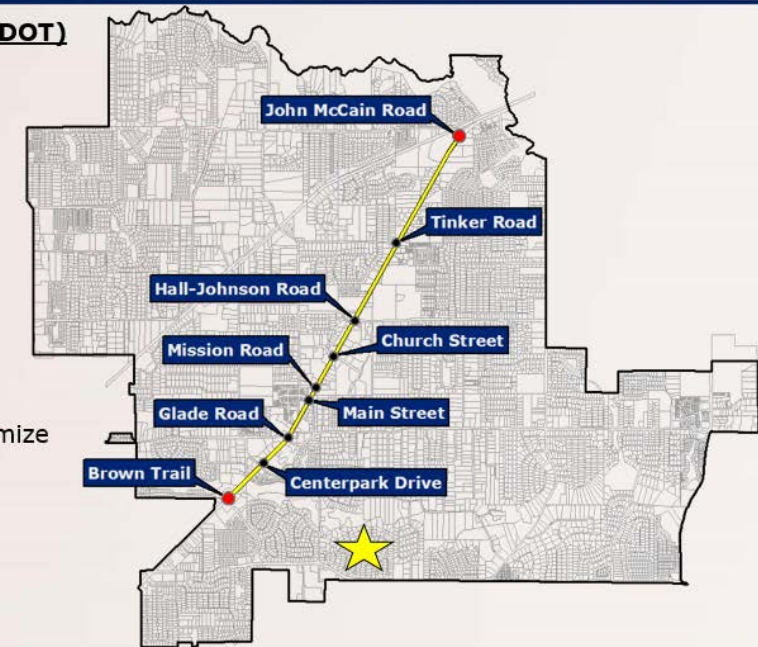
- Six-lane roadway with raised curbed medians
- Landscaped medians
- Enhanced crosswalks
- Sidewalks on both sides of the highway
- Realignment of Tinker Road and Oak Pointe Drive
- Reconstructed bridge over Little Bear Creek

Traffic Impact

- Lane closures are limited to off-peak hours to minimize the impact on weekday commutes

Duration (TxDOT Contract)

- 555 construction days (approximately 2.2 years)



Targeted Kickoff Meetings



Who: Residents and businesses within 500' of SH 26

What: Project kickoff meetings

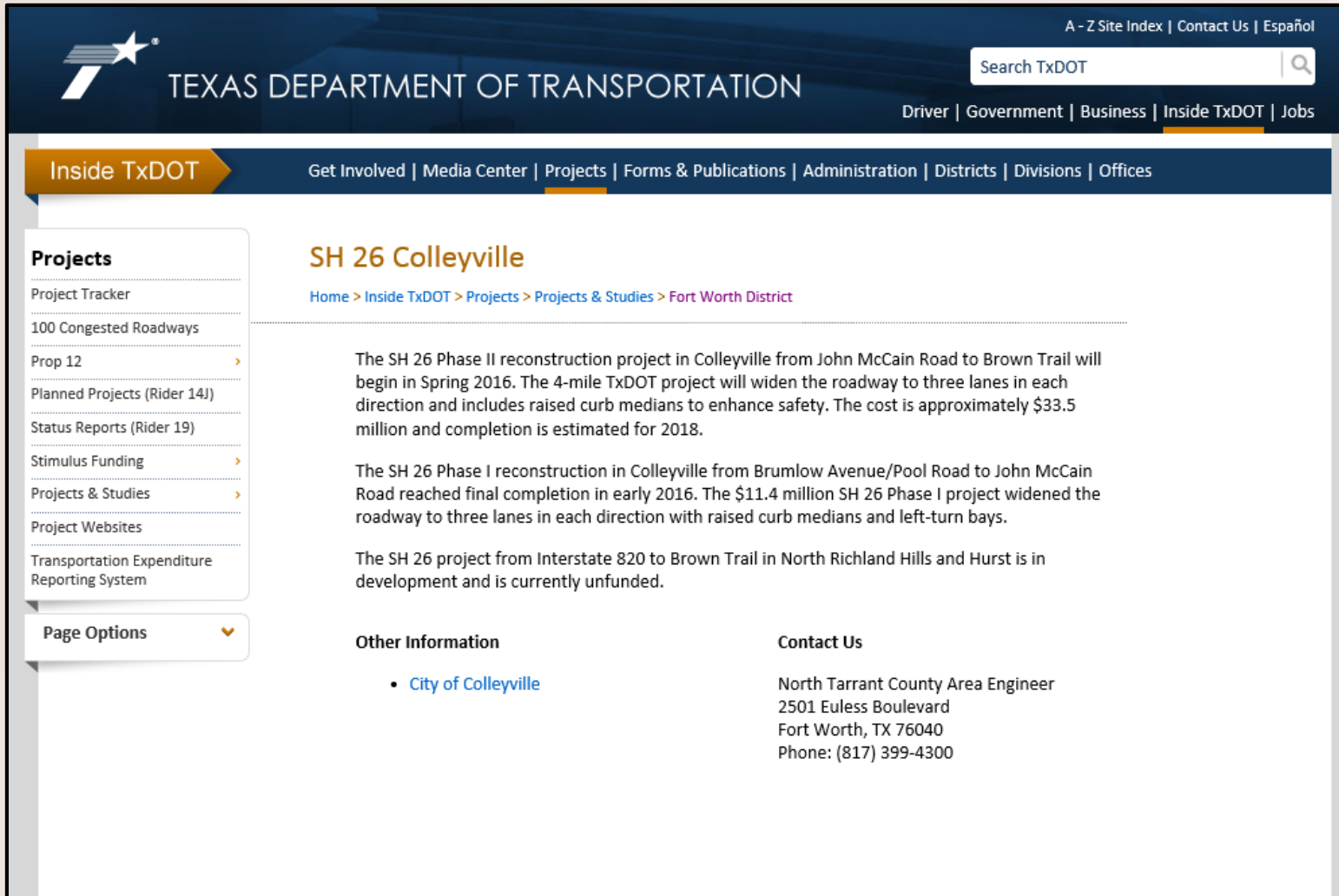
When: Following the pre-construction meeting (3-5 meetings)

Where: Colleyville Public Library

Why: To ensure that those closest to the project are informed and heard



Coordination with TxDOT



TEXAS DEPARTMENT OF TRANSPORTATION

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- 100 Congested Roadways
- Prop 12
- Planned Projects (Rider 14J)
- Status Reports (Rider 19)
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- Project Websites
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SH 26 Colleyville

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The SH 26 Phase II reconstruction project in Colleyville from John McCain Road to Brown Trail will begin in Spring 2016. The 4-mile TxDOT project will widen the roadway to three lanes in each direction and includes raised curb medians to enhance safety. The cost is approximately \$33.5 million and completion is estimated for 2018.

The SH 26 Phase I reconstruction in Colleyville from Brumlow Avenue/Pool Road to John McCain Road reached final completion in early 2016. The \$11.4 million SH 26 Phase I project widened the roadway to three lanes in each direction with raised curb medians and left-turn bays.

The SH 26 project from Interstate 820 to Brown Trail in North Richland Hills and Hurst is in development and is currently unfunded.

Other Information

- [City of Colleyville](#)

Contact Us

North Tarrant County Area Engineer
2501 Euless Boulevard
Fort Worth, TX 76040
Phone: (817) 399-4300

TxDOT Project Webpage



SH 26 Project

The SH 26/Colleyville Boulevard project plans to improve mobility on Colleyville's main commercial corridor, while enhancing an important north/south route through Northeast Tarrant County.

Project Scope

John McCain Road to Brown Trail

- Construction is expected to start in spring 2016, with an estimated completion in 2018
- Widen the roadway to six lanes with curbed medians, continuous sidewalks, and upgraded signal systems
- Lane closures limited to off-peak travel times to lessen traffic impact
- Manage access to properties along the roadway throughout the project
- Financial incentives for early completion and financial penalties for unwarranted delays

Mobility Improvements

Construction will include curbed medians with designated left-turn bays in the center of the roadway to improve mobility and safety.

Other mobility improvements include:

- Three lanes of traffic in both directions
- Improved intersections and signals
- Continuous sidewalks



SH 26 Phase I from Pool Avenue/Brumlow Road to John McCain Road was completed in early 2016.

Stay Informed

Sign up for e-alerts
sh26mobility@gmail.com

Stephen E. Ranft
Mobility Coordinator
817-462-0520

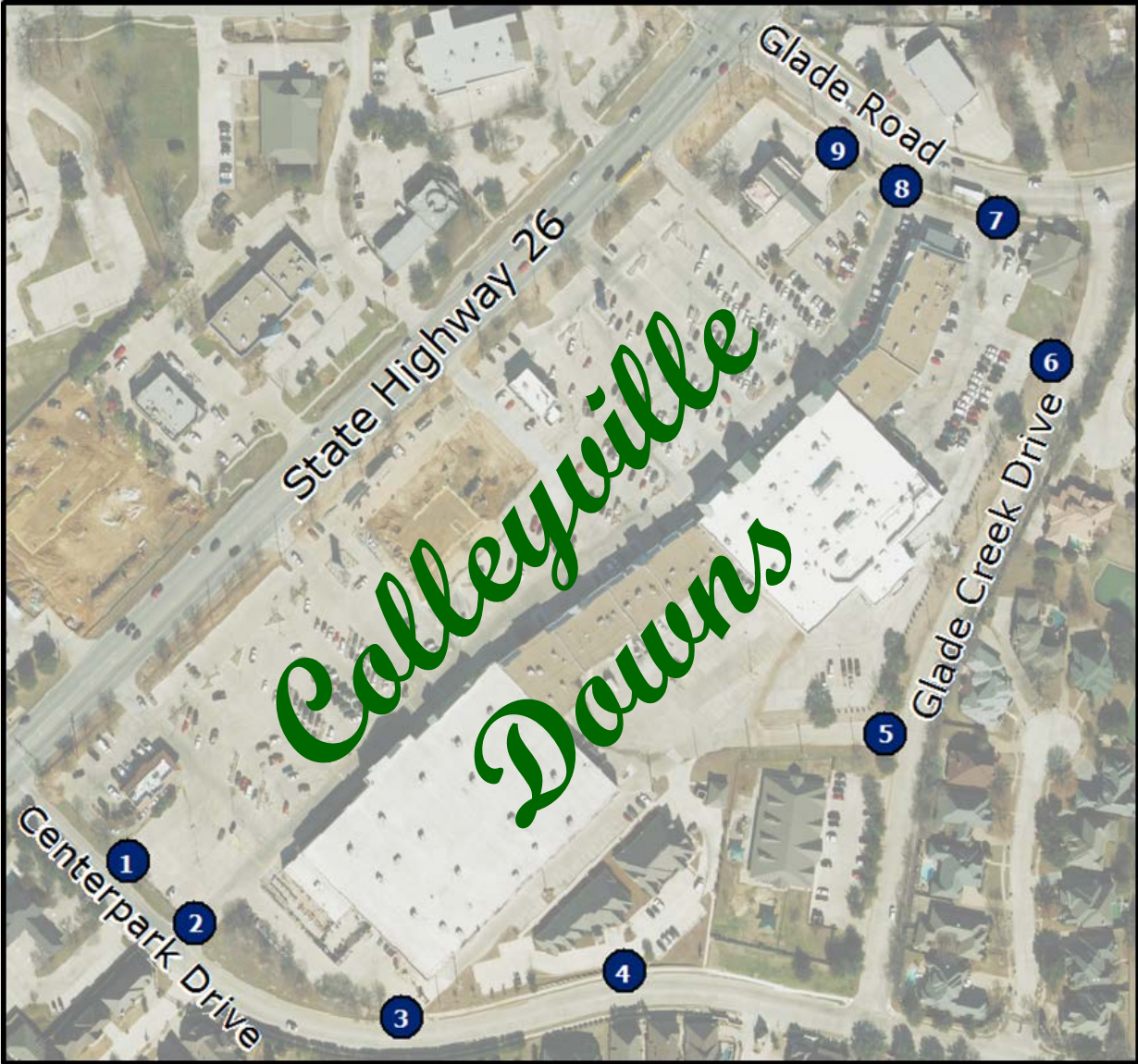
 

TxDOT Project Handout

Mobility

To improve access to residential and commercial properties along the corridor throughout construction

Commercial Access



Business Support

To support the Colleyville business community through initiatives aimed at providing additional services, resources, and marketing

Site Visits and Meetings



Site Visits



Business Owner/Operator Meetings

Vehicle Magnets

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Shop
Colleyville
For project text alerts
**Text SH26
to 48421**

Standard City Vehicles
Approx. 8" X 18"

Public Safety Vehicles
Approx. 5" X 12"

SH26
PROJECT
.COM

For project
text alerts:
**Text SH26
to 48421**

Advance Funding Agreement

- An Advance Funding Agreement (AFA) is a written contract that must be executed between TxDOT and the local government in order for TxDOT to spend funds or other resources on a transportation project
- An AFA is the agreement under which TxDOT and the local government allocate funding participation and designate the respective responsibilities in a transportation improvement project
- An AFA allows TxDOT and the local government to “jointly” provide for the implementation of a specific project

Memorandum of Understanding



- The Memorandum of Understanding (MOU) approved on December 1, 2015 by Resolution R-15-3936:
 - Identifies a total amount of funding of \$31,848,898 from various sources
 - Established the City of Colleyville funding commitments at a total of \$1,318,251 (\$1,000,000 for the section between John McCain Road and Hall-Johnson Road; \$318,251 for the section between Hall-Johnson Road and Brown Trail)
 - Establishes the methodology for addressing a funding shortage (which did occur due to the low bid exceeding the total identified funding)
- The additional funding needed from the City is **\$336,184**

Bid Amount and Funding

- The bid opening occurred February 10, 2016, and the low bid was for a total of \$38,223,663
 - MOU includes identified funding for a total of \$31,848,898
 - There was a funding shortfall of \$6,374,765, therefore additional funding is needed for the project and is proposed to come from the following sources
 - Additional funding that is being allocated above the low bid amount (\$3,139,432) is to address any change orders that may arise during construction

Funding Source	Additional Funding Amount
Federal Funding	\$ 6,701,172
State Funding	\$ 2,476,841
City of Colleyville	\$ 336,184

Proposed AFA



- The proposed Advance Funding Agreement establishes the new City commitment at \$1,654,435
 - The MOU established the original amount for the City commitment at \$1,318,251
 - The revised amount is generally consistent with the methodology established in the MOU
 - If the AFA is approved, the City will be responsible for funding the \$336,184 increase

	Original Funding Amounts	Proposed Funding Amounts
Section between John McCain to Hall-Johnson	\$1,000,000	\$1,143,420
Section between Hall-Johnson to Brown Trail	\$ 318,251	\$ 511,015
Total	\$1,318,251	\$1,654,435

SH26 Enhancements



Phase II Enhancements

Valued over \$4,000,000

(Trails and Sidewalks, Crosswalks, Black Powder Coated Poles, Backlit Signage, Corridor Lighting Foundations, Extra Bridge Railing, Landscaping)

Phase I Enhancements

City Expense \$210,377

(Trails and Sidewalks, Crosswalks, Black Powder Coated Poles, Backlit Signage)



Next Steps



- **Consideration of the two Advance Funding Agreements**
 - To be presented at a future City Council Meeting
- **Payment of funds committed by the City will be paid to TxDOT**
- **Construction of the project commences**

Questions and Discussion

RESOLUTION R-16-3987

A RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING LOCAL TRANSPORTATION PROJECT ADVANCE FUNDING AGREEMENT (AFA) WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE PURPOSE OF ADDING THE RECONSTRUCTION OF SH26 (COLLEYVILLE BOULEVARD) FROM HALL-JOHNSON ROAD TO BROWN TRAIL IN THE CITY OF COLLEYVILLE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on July 15, 2014, the Colleyville City Council approved Resolution R-14-3769, approving a Local Project Advance, Funding Agreement (AFA) for a Transportation Enhancement (TE) Project, and Surface Transportation Program Metro Mobility (STP-MM) On-System Project; and

WHEREAS, the City Council requests adding the reconstruction of SH26 (Colleyville Boulevard) from Hall-Johnson Road to Brown Trail to the existing AFA agreement; and

WHEREAS, approval of the amendment will commit the City of Colleyville to a contribution of \$511,015 for the construction of SH26 from Hall-Johnson Road to Brown Trail; and

WHEREAS, this amendment shall take effect upon full execution between all said parties.

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

Sec. 1. THAT the Advance Funding Agreement Amendment #1 attached as Exhibit "A", is hereby approved.

Sec. 2. THAT the city manager is hereby authorized to execute the agreement.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE _____ DAY OF _____ 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

David Kelly
Mayor

EXHIBIT "A"

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and
four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

ADVANCE FUNDING AGREEMENT AMENDMENT #1

THIS AMENDMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the State, and the City of Colleyville, acting by and through its duly authorized officials, called the Local Government.

W I T N E S S E T H

WHEREAS, the State and the Local Government executed a contract on August 15th of 2014 to effectuate their agreement to construct an eight foot wide concrete pedestrian facility with amenities and landscaping along both sides of SH 26; and,

WHEREAS, it has become necessary to amend that contract;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, the State and the Local Government do agree as follows:

A G R E E M E N T

1. Description of Amended Items

Article 4, Scope of Work, Use of Project, and Project Location

The first paragraph is deleted in its entirety and replaced with the following to include the Green Ribbon Program funds for landscaping improvements:

The scope of work for the Transportation Enhancement Project, which is shown in Attachment B, the Project Location Map, described in the nomination form and as approved by the Texas Transportation Commission, consists of: The TE portion of the project is constructing an eight foot wide concrete pedestrian facility with amenities and landscaping along both sides of SH 26, approximately the length of the 4.8 mile path. The path will connect the downtown business district with The Village at Colleyville, where City Hall and the Public Library are located. The purpose of this Transportation Enhancement project is to connect other paths that will provide continuous linkage between the City's schools, parks, Civic Center and other community facilities. The STP-MM project consists of: reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail.

Landscaping improvements will include irrigation and drought tolerant landscaping to the center median and the parkways of SH 26 in the location of the TE/STP-MM portion of this project.

Article 5, Right of Way and Real Property Acquisition language is deleted in its entirety and replaced with the following:

Right of way and real property acquisition for the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail is the responsibility of the State.

Right of way and real property acquisition for the Transportation Enhancement portion of the project is the responsibility of the Local Government, as stated in the Master Agreement unless otherwise provided below:

- A. Right of way and real property acquisition shall be the responsibility of the Local Government. Title to right of way and other related real property must be acceptable to the State before funds may be expended for the improvement of the right of way or real property. If the Local Government is the owner of any part of the Project site under this LPAFA, the Local Government shall permit the State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- B. The Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C.A. Section 4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to the Local Government, and benefits applicable to the relocation of any displaced person as defined in 49 CFR Section 24.2(g). Documentation to support such compliance must be maintained and made available to the State and its representatives for review and inspection.
- C. The Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use in the name of the Local Government to the real property required for development of the Project. The evidence of title or rights shall be acceptable to the State, and be free and clear of all encroachments. The Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop the Project according to the approved Project plans. The Local Government shall be responsible for securing any additional real property required for completion of the Project.
- D. The State will not reimburse the Local Government for any real property acquired before execution of this LPAFA and before federal spending authority is approved.
- E. The Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to the State for approval prior to the Local Government acquiring the real property. Tracings of the maps shall be retained by the Local Government for a permanent record.
- F. The Local Government agrees to make a determination of property values for each real property parcel to be purchased with federal funds by methods acceptable to the State and to submit to the State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations shall list the parcel numbers, ownership,

acreage, and recommended compensation. This tabulation shall be accompanied by an explanation to support the determined values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by the Local Government in performing this work may be eligible for reimbursement after the Local Government has received written authorization by the State to proceed with determination of real property values. The State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market value.

- G.** Condemnation shall not be used to acquire real property for this enhancement Project.
- H.** Reimbursement for real property costs will be made to the Local Government for real property purchased in an amount not to exceed eighty percent (80%) of the cost of the real property purchased in accordance with the terms and provisions of this LPAFA. Reimbursement will be in an amount not to exceed eighty percent (80%) of the State's predetermined fair market value of each parcel, or the net cost of each parcel, whichever is less. In addition, reimbursement will be made to the Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Any costs associated with the relocation of displaced persons and personal property, as well as incidental expenses incurred in acquiring property to implement a TE project, will be the responsibility of the Local Government and current property owner at no cost to the State.
- I.** If the Project requires the use of real property to which the Local Government will not hold title, a separate agreement between the owners of the real property and the Local Government must be executed prior to execution of this LPAFA. The separate agreement must establish that the Project will be dedicated for public use for a period of time commensurate with the federal investment, but not less than 10 (ten) years after completion. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of the Project after completion. The separate agreement must be approved by the State prior to its execution. A copy of the executed separate agreement shall be provided to the State.
- J.** The Local Government agrees to execute individually or produce a legal document as necessary to provide for the Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- K.** Local governments receiving federal funds must retain an inventory of funded items and monitor projects in accordance with 23 CFR 710 and 49 CFR 18, and with the procedures provided in the State's Local Government Project Procedures manual.
The Local Government agrees to monitor the Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the federal funds, as appropriate.
 - 1. The Local Government agrees to the review of their Project accounts and site visits by the State during the development of the Project at any time;
 - 2. Upon Project completion, the State will continue to perform periodic visits to confirm the Project's continued use and upkeep.
- L.** Forty five (45) days prior to any construction contract let date, the Local Government shall provide a certification to the State that all real property has been acquired.

6. Utilities language is deleted in its entirety and replaced with the following:

Adjustment, removal, or relocation of utility facilities is the responsibility of the State and was done in accordance with applicable State laws, regulations, rules, policies, and procedures for the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail.

Adjustment, removal, or relocation of utility facilities for the Transportation Enhancement portion of the project is the responsibility of the Local Government and was done in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or state funds for the cost of required utility work, unless specified in the Transportation Enhancement Nomination form and approved by the State. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction begins.

7. Environmental Assessment and Mitigation language is deleted in its entirety and replaced with the following:

- A.** Environmental assessment and mitigation will be carried out by the State, as stated in the Master Agreement, unless otherwise specified in the Transportation Enhancement Nomination form and approved by the State. These costs will not be reimbursed or credited towards the Local Government's financial share of the Project unless specified in the nominating form and approved by the State.
- B.** Forty five (45) days prior to any construction contract let date, the State shall provide a certification that all environmental problems have been remediated. Additionally, before the advertisement for bids, shall provide written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Project Maintenance language is deleted in its entirety and replaced with the following:

For the STP-MM portion of the project, which consists of reconstructing four lane rural undivided to four lane urban divided with intersections improvements (six lane ultimate) on SH 26 from Hall-Johnson to Brown Trail, the Local Government shall be responsible for maintenance of locally owned roads after completion of the work and the State shall be responsible for maintenance of state highway system after completion of the work if the work was on the state highway system, unless otherwise provided for in the LPAFA or other prior existing maintenance agreement with the Local Government.

For the Transportation Enhancement portion of the project:

- A. Upon completion of the TE Project the Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period of time commensurate with the federal investment or State rules, whichever is greater. Should the Local Government at any time after TE Project completion decide it can no longer maintain and operate the Project for its intended purpose, the Local Government shall return the federal funds in accordance with CFR federal recapture requirements. Should the Local Government consider conveying the property, the State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction detailing any required recapture must be obtained from FHWA prior to the transaction. Advance notice from the Local Government of their intended action must be submitted to the State for an FHWA review a minimum of sixty (60) days prior to any action being taken by the Local Government. The Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from the TE Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to the Local Government as a result of the TE Project shall remain in the name of the Local Government. The State shall not be responsible for honoring any warranties under this LPAFA.
- C. Should the Local Government derive any income from the development and operation of the TE Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property, shall be set aside for future maintenance. A project income report shall be submitted to the State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures established under OMB-133 and with the property management standards established in Title 49 CFR §18.32.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of the TE Project.

Attachment B, Project Location Map is deleted in its entirety, and replaced with Attachment B-1, Project Location Map, which is attached to this amendment.

Attachment C, Project Budget Estimate and Source of Funds, is deleted in its entirety, and replaced with Attachment C-1, Project Budget, which is attached to this amendment.

All other provisions of the original contract are unchanged and remain in full force and effect.

Not Research and Development

2. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT

Signature

Typed or Printed Name

Title

Date _____

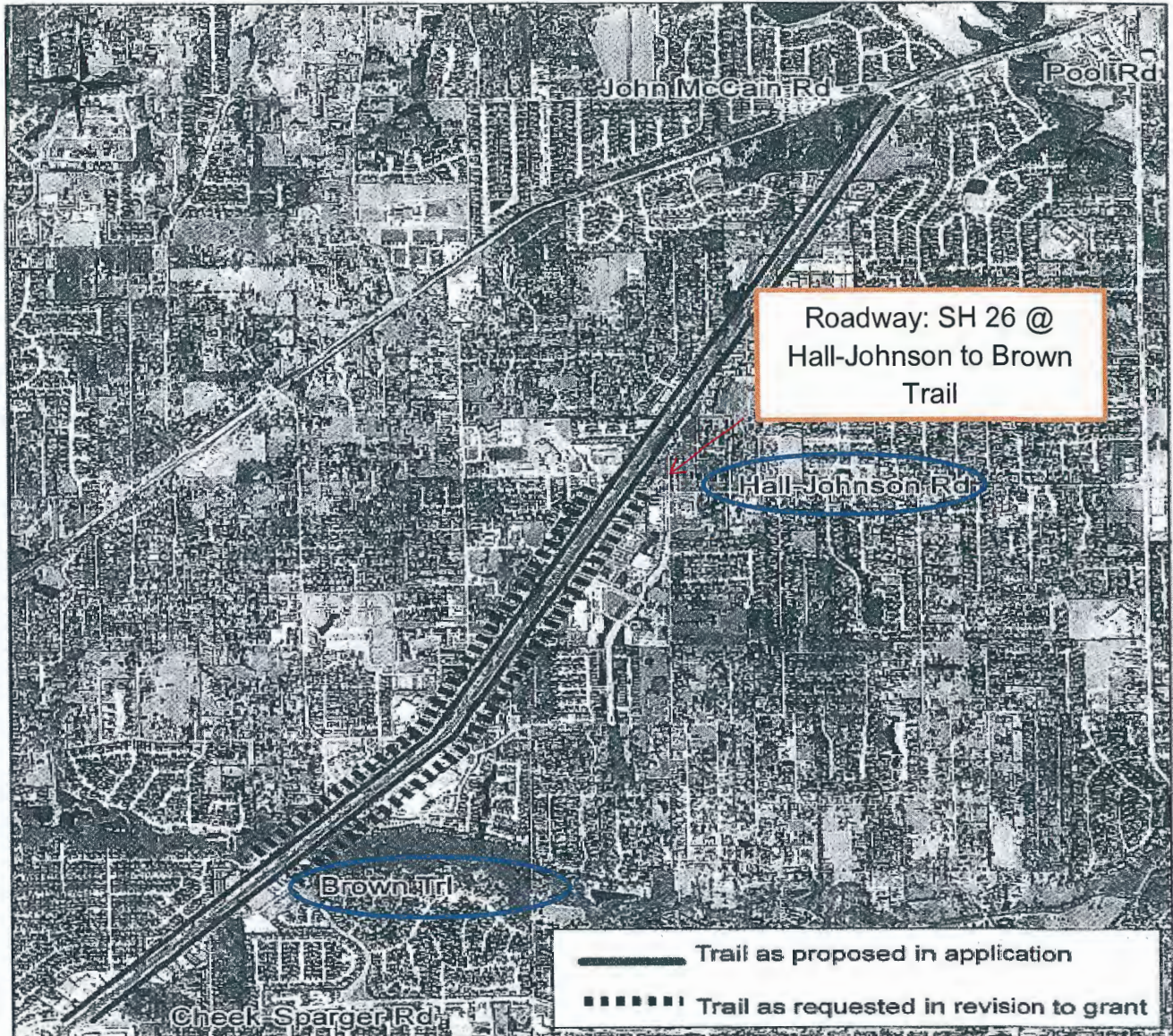
THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date _____

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and
four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

**ATTACHMENT B-1
PROJECT LOCATION MAP**



**Transportation Enhancement Project
Revision Request**

CSJ # 0363-01-139
District # 02-Fort Worth
Code Chart 64 #09100
Project: SH 26; Pedestrian and four lane divided
Federal Highway Administration
CFDA #20.205
Not Research and Development

ATTACHMENT C-1
PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS
On-System Standard AFA Budget Page – for TE Projects Budget Estimate -
State Performs PE Work or Hires Consultant / TxDOT Lets Project to Construction Contract

Description of Project Cost to be incurred:	Total Estimated Cost = Authorized Amount	Federal Participation (80% or <) Max TE \$1,273,004		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Locals: Retain their match for any services listed below, when they administer those services.							
Engineering	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
Subtotal by Local Gov't	\$581,067	0%	\$0	0%	\$0	100%	\$581,067
TxDOT - PE Phase – Direct State Cost	\$23,243	0%	\$0	100%	\$23,243	0%	\$0
TxDOT – Environmental – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT – ROW Phase – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT – Utilities Phase – Direct State Costs	\$1	0%	\$0	100%	\$1	0%	\$0
TxDOT- Construction Phase – Direct State Costs	\$546,306	80%	\$437,045	20%	\$109,261	0%	\$0
Construction Contract – TE phase	\$1,591,255	80%	\$1,273,004	0%	\$0	20%	\$318,251
Construction Contract – STP-MM phase	\$22,889,509	80%	\$18,311,607	18%	\$4,385,138	2%	\$192,764
Construction Contract – Green Ribbon phase	\$390,000	80%	\$312,000	20%	\$78,000	0%	\$0
Subtotal Construction	\$24,870,764		\$19,896,611		\$4,463,138		\$511,015
TOTAL	\$26,021,383		\$20,333,656		\$4,595,645		\$1,092,082

The Estimated Total Participation by the Local Government is \$1,092,082.00. Payment of the Local's share of TxDOT's ADM PE Cost to be incurred is \$0.00. Payment of the Local's share of TxDOT's ADM Cost for Construction and Direct Project Construction Cost to be incurred is \$511,015.00, due 60 days prior to the Construction contract being advertised for bids. This is an estimate. The eligible percent of required local match as stated in the nomination is 20% or greater. The final amount of Local Government participation will be based on actual costs and values. The Maximum TE federal funds available for the project are \$1,273,004.00. The State will be responsible for 100% of the overrun costs.



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 5c

Agenda Date 05/03/2016

Number Resolution R-16-3988

Type Resolution

Department Public Works

Title

Approval of a professional services agreement with Teague Nall and Perkins, Inc., (TNP) for the negotiation and closing services for the property acquisition associated with the Glade Road Phase 1 Project, in an amount not to exceed \$253,055 and authorize the city manager to execute the agreement

Strategy Map Connection

C4- Provide mobility enhancements that complement neighborhoods

Explanation

Reading and Public Hearing

The proposed professional services agreement is with Teague Nall and Perkins, Inc. (TNP) who has a team of experienced and knowledgeable right-of-way professionals who have extensive experience in the acquisition of right-of-way. The agreement establishes that TNP will provide appraisal, negotiation, and closing services with respect to the City of Colleyville's intent to acquire property to allow for the reconstruction of Glade Road Phase 1. Services will comply with City of Colleyville standards and the requirements of Texas Senate Bill 18. The specifics of the scope of the professional services agreement are outlined in Attachment "A" of Agreement.

The Glade Road Phase 1 Project includes an estimated total of 33 separate parcels with a total of 51 easements/rights-of-way acquisitions. The cost of the appraisals, negotiation, and closing services is set at a not to exceed amount of \$253,055 and will be billed on a monthly basis for only the actual work performed. It is likely that not all services will be needed for the completion of the acquisitions, however, it is not known at this time exactly what services will be needed, therefore the proposed contract is set up with a not to exceed amount.

The preliminary design for the Glade Road Phase 1 Project estimated the cost of property acquisition at \$925,000. The City has already acquired the parcel at 1209 Glade Road in order to acquire a portion of the space necessary to construct the proposed roundabout at the Riverwalk Drive intersection. This was at a cost of \$449,000 and was authorized by Resolution R-14-3772, which is attached for reference. It should be noted the acquisition of 1209 Glade Road included the existing property in its entirety which resulted in an additional expense. That additional expense could be partially recovered at a later date if the remaining property is sold by the City. Once TNP has completed the appraisals for the subject parcels, the cost of the

property acquisition will be better known and each acquisition will be brought to City Council for consideration.

The Glade Road Phase 1 Project has reached a point in the design process where the City can now begin acquiring the needed parcels. During the April 19, 2016, Pre Council Meeting, staff provided an update on the Glade Road Phase 1 Project, which is attached for reference. This presentation covered several topics regarding the Glade Road Phase 1 Project, including the necessary rights-of-way, sidewalk easements, and temporary construction easements, which will be needed in order to construct the project as designed. Property acquisition is not something City staff is able to perform at this level, therefore, staff is proposing to utilize a professional firm with the expertise to perform the negotiation and closing services for the City of Colleyville.

The acquisition services schedule is greatly dependent on several factors and is attached to the Professional Services Agreement as Attachment "C".

Financial Impact

Funding for the right-of-way for the Glade Road Phase 1 project has been identified and is available in the Tax Increment Financing District (TIF) fund.

Form 1295 - Acknowledged by City

Recommendation

Approve

Attachments

1. Proposed Professional Services Agreement
2. Resolution R-14-3772
3. April 19, 2016 Presentation
4. Resolution R-16-3988



AUTHORIZATION FOR PROFESSIONAL SERVICES

PROJECT NAME: Glade Road – Phase 1

TNP PROJECT NUMBER:

CLIENT: City of Colleyville

ADDRESS: 100 Main Street
Colleyville, TX 76034

City of Colleyville (the CLIENT) hereby requests and authorizes Teague Nall and Perkins, Inc., (the ENGINEER) to perform the following services:

Article I

SCOPE: Provide negotiating and closing services for the City of Colleyville's intent to acquire property to support the expansion of Glade Road Phase 1.

The project includes the following:

Phase 1 includes a total of 33 separate parcels with a total of 51 easements/rights of way. Services will comply with City of Colleyville standards and the requirements of Texas Senate Bill 18.

A detailed scope of services is included as Attachment 'A' and is made a part hereto.

Article II

COMPENSATION to be on a basis of the following:

The total fee is not to exceed \$253,055.00 without prior permission by CLIENT.

- A. Negotiation and Closing Services: The ENGINEER shall be compensated on an hourly basis at ENGINEER's standard hourly rates for personnel working on the project. A schedule of ENGINEER's hourly rates is provided as Attachment 'B' Services shall be billed monthly based on actual time spent working on the project by ENGINEER's staff.
- B. Appraisal Services: The ENGINEER will engage an appraisal firm and shall be compensated based on the rates provided in the itemized scope (Attachment 'A') plus 10%.
- C. Direct Cost Reimbursable: Mileage, Printing, copies, plots and reproduction work done in-house shall be compensated per the ENGINEER's most current rate schedule for such work (Attachment 'B'). These fees are included in the total not to exceed amount.
- D. Work Outsourced to Others: For work done by others, at the actual cost to the ENGINEER of such services plus 10%.

E. Additional Services: Any service provided by the ENGINEER which is not specifically described in the scope of work for this contract as defined above or delineated in an attachment shall be considered additional services. Additional services shall include, but shall not be limited to:

- 1.) Addition of parcels for acquisition caused by change in design, parcel splits, additional requirements for either enlarged or additional parcels, settlement negotiations after City accepts eminent domain recommendation or other valid causes approved or required by the City.
- 2.) In the event of eminent domain proceedings against any parcel, the City may require the Provider to be an expert witness for pretrial conferences, depositions, special commissioner hearing, court appearances and any other consultation with City directly related to preparations of court testimony.

Additional services shall be considered additional work and shall be reimbursed at ENGINEER'S current standard rates. The standard rates effective for 2015-2016 are included as Attachment 'B'.

F. Payment Terms: CLIENT shall be billed monthly for services rendered and pay promptly upon receipt of invoice. Delays of transmitting payments to ENGINEER more than 30 days from invoice date may result in cessation of services until payment is received.

Article III

SCHEDULE: The proposed services shall begin within 10 working days of authorization to proceed. A schedule is included as Attachment 'C', and made a part hereto.

Article IV

CONTRACT PROVISIONS: Contract provisions are attached hereto and made a part hereof.

Please execute and return a signed copy for our files. Receipt of an executed copy of this contract will serve as notice to proceed. No work shall commence on the project until ENGINEER receives an executed copy of this contract. By signing below, the signer warrants that he or she is authorized to execute binding contracts for the CLIENT.

Approved by CLIENT:

City of Colleyville

Accepted by ENGINEER:

Teague Nall and Perkins, Inc.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

PROVISIONS

1. **AUTHORIZATION TO PROCEED**
Signing this agreement shall be construed as authorization by CLIENT for TNP, Inc. to proceed with the work, unless otherwise provided for in this agreement.
2. **LABOR COSTS**
TNP, Inc.'s Labor Costs shall be the amount of salaries paid TNP, Inc.'s employees for work performed on CLIENTS Project plus a stipulated percentage of such salaries to cover all payroll-related taxes, payments, premiums, and benefits.
3. **DIRECT EXPENSES**
TNP, Inc.'s Direct Expenses shall be those costs incurred on or directly for the CLIENT's Project, including but not limited to necessary transportation costs including mileage at TNP, Inc.'s current rate when its, or its employee's, automobiles are used, meals and lodging, laboratory tests and analyses, computer services, word processing services, telephone, printing and binding charges. Reimbursement for these expenses shall be on the basis of actual charges when furnished by commercial sources and on the basis of usual commercial charges when furnished by TNP, Inc.
4. **OUTSIDE SERVICES**
When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount shall be added to the cost of these services for TNP, Inc.'s administrative costs, as provided herein.
5. **OPINION OF PROBABLE COST**
In providing opinions of probable cost, the CLIENT understands that TNP, Inc. has no control over costs or the price of labor, equipment, or materials, or over the Contractor's method of pricing, and that the opinions of probable cost provided to CLIENT are to be made on the basis of the design professional's qualifications and experience. TNP, Inc. makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.
6. **PROFESSIONAL STANDARDS**
TNP, Inc. shall be responsible, to the level of competency presently maintained by other practicing professional engineers in the same type of work in the State of Texas, for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Authorization. TNP, Inc. makes no other warranty, expressed or implied.
7. **TERMINATION**
Either CLIENT or TNP, Inc. may terminate this authorization by giving 10 days written notice to the other party. In such event CLIENT shall forthwith pay TNP, Inc. in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
8. **MEDIATION**
In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and the ENGINEER agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbonding mediation unless the parties mutually agree otherwise.

The CLIENT and the ENGINEER further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants retained also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.
9. **LEGAL EXPENSES**
In the event legal action is brought by CLIENT or TNP, Inc. against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.
10. **PAYMENT TO TNP, INC.**
Monthly invoices will be issued by TNP, Inc. for all work performed under the terms of this agreement. Invoices are due and payable on receipt. If payment is not received within 30 days of invoice date, all work on CLIENT's project shall cease and all work products and documents shall be withheld until payment is received by TNP. Time shall be added to the project schedule for any work stoppages resulting from CLIENT's failure to render payment within 30 days of invoice date. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law, in which case, interest will be charged at the highest amount permitted by law.
11. **LIMITATION OF LIABILITY**
TNP, Inc.'s liability to the CLIENT for any cause or combination of causes is in the aggregate, limited to an amount no greater than the fee earned under this agreement.
12. **ADDITIONAL SERVICES**
Services not specified as Basic Services in Scope and Attachment 'A' will be provided by TNP, Inc. as Additional Services when required. The CLIENT agrees upon execution of this contract that no additional authorization is required. Additional services will be paid for by CLIENT as indicated in Article II, Compensation.
13. **SALES TAX**
In accordance with the State Sales Tax Codes, certain surveying services are taxable. Applicable sales tax is not included in the fee set forth and will be added on and collected when required by state law. Sales tax at the applicable rate will be indicated on invoice statements.
14. **SURVEYING SERVICES**
In accordance with the Professional Land Surveying Practices Act of 1989, the CLIENT is informed that any complaints about surveying services may be forwarded to the Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Building A, Suite 156, MC-230, Austin, Texas 78753, (512) 239-5263.
15. **LANDSCAPE ARCHITECT SERVICES**
The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as landscape architects in Texas. The CLIENT is informed that any complaints about landscape architecture services be forwarded to the Texas Board of Architectural Examiners, Hobby Building: 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Telephone (512) 305-9000, Fax (512) 305-8900.
16. **INVALIDITY CLAUSE**
In case any one or more of the provisions contained in this Agreement shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.
17. **PROJECT SITE SAFETY**
TNP, Inc. has no duty or responsibility for project site safety.
18. **CONSTRUCTION MEANS AND METHODS AND JOBSITE SAFETY**
Means and methods of construction and jobsite safety are the sole responsibility of the contractor.

ATTACHMENT 'A' ITEMIZED SCOPE OF SERVICES

Teague Nall and Perkins, Inc., (TNP) shall render the following professional services (**BASIC SERVICES**) necessary for the development of the project.

GENERAL SCOPE:

TNP will provide appraisal, negotiation and closing services with respect to the City of Colleyville's intent to acquire property to support the expansion of Glade Road Phase 1. Phase 1 includes a total of 33 separate parcels with a total of 51 easements/rights of way. Services will comply with City of Colleyville Standards and the requirements of Texas Senate Bill 18.

SPECIFIC SCOPE:

1.1 Project Administration

1.1.1 Communication

1.1.1.1 Prepare and deliver monthly invoice for each active Work Authorization to City Staff. Prepare invoices utilizing City standard payment submissions forms with supporting documentation.

1.1.1.2 Attend status meetings with appropriate City Staff. Date, time and location are determined by City Staff.

1.1.1.3 Provide bi-monthly written report to City Staff on the status of service tasks completed and service tasks remaining in order to bring the parcel into possession of the City. The reporting format will be determined by the City Staff.

1.1.2 File Management

1.1.2.1 Primary project and parcel files will be kept in the TNP Office with permanent records transferred to the City as Office of Permanent Record. The format for type of file folders and document order and placement are determined by City Staff.

1.1.2.2 Maintain records of all payments including, but not limited to, warrant number, amount, date paid, etc.

1.1.2.3 Maintain copies of all correspondence and contacts with property owners.

1.2 Title and Closing Services (combined)

1.2.1 Secure preliminary title commitment or preliminary title search, and 5-year sales data from Title Company that will be providing title insurance. The charges from the Title Company for the preliminary title commitments will be paid for by the City.

1.2.2 Secure title commitment updates in accordance with insurance rules and requirements for parcel payment submissions

1.2.3 Secure title insurance for all parcels acquired, insuring acceptable title to the City. Written approval by the City required for any exception.

1.2.4 The curative services necessary to provide clear title to the City is the responsibility of the Engineer.

1.2.4.1 Cost of curative services must be included in the negotiated fee schedule for this service.

1.2.4.2 Curative services do not include costs/expenses that qualify as payment of incidental expenses to transfer real property to the City.

1.2.5 The Engineer has the responsibility of direct contact with the Title Company to obtain an updated title commitment along with other forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from City Staff.

1.2.6 The Engineer provides closing services in conjunction with the Title Company and will be required to attend closings.

1.2.7 Any fee related to obtaining certified court documents and fees for recording same which are not collected at the closing of the parcel shall be direct pass through fees at the exact cost supported by the county court house receipts.

1.2.8 Engineer shall cause the recordation all original instruments immediately after closing at the respective County Clerk's Office. The cost of the recording fees and filing fees are paid by City and must not be included in the Engineer's negotiated fee schedule.

1.3 Negotiation Services

1.3.1 Analyze preliminary title report to determine potential title problems, propose and inform City Office of methods to cure title deficiencies. This includes analysis of access easements.

1.3.2 Analyze appraisal and appraisal review reports and confirm the City's approved value prior to making offer for each parcel.

1.3.3 Prepare and send the letter transmitting the Landowners' Bill of Rights by Certified Mail-Return Receipt Requested (CMRRR).

1.3.4 Prepare the initial offer letter, memorandum of agreement, instruments of conveyance, and any other documents required or requested by the City on applicable City forms.

1.3.5 The written offer, appraisal report and required brochures must be sent to each property owner or the property owner's designated representative through CMRRR. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing. Retain copies of the unsigned CMRRR receipt and the appraisal as support for billing purposes.

1.3.6 Make at least four (4) diligent attempts to negotiate with each property owner after which negotiations will be considered exhausted.

1.3.7 Prepare a separate negotiator contact report for each parcel, per contact.

1.3.8. Copies or working and final file documents may be kept by the Provider. Parcel files of original documentation related to the purchase of the real property or property interests will be maintained.

1.3.9 Receive any counteroffers from the property owner. Evaluate all counters and submit and discuss them with the City's Project Manager.

- 1.3.10 After concurrence of City Project Manager, prepare final offer letter, and mail the documents of conveyance by CMRRR.
 - 1.3.11 Appear and provide Expert Witness testimony as a Provider when requested.
 - 1.3.12 Issue Property Owner's Survey to the property owner.
 - 1.3.13 Securing a Right of Entry or Possession and Use Agreement is part of general Negotiation Services.
- 1.4 Real Estate Appraisal Service
- 1.4.1 Appraisers must provide advance notice of the date and time of their appraisal inspections of the subject property to the Provider's Project Manager.
 - 1.4.2 Secure written permission from the owner to enter the property from which real estate is to be acquired. The Appraiser, if after diligent effort, is unable to secure the necessary letter of permission from the property owner, a waiver must be obtained in writing. Maintain permission letters with appraisal reports.
 - 1.4.3 Prepare and conduct personal pre-appraisal contact with interest owners for each parcel using acceptable forms.
 - 1.4.4 Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
 - 1.4.5 For an initial appraisal assignment, prepare appraisal report for each parcel to be acquired utilizing appropriate appraisal forms. These reports shall conform to policies and procedures along with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Foundation.
 - 1.4.6 For an updated appraisal, prepare appraisal update for the parcel to be acquired utilizing appropriate forms. These reports shall conform to Department policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
 - 1.4.7 As necessary, prepare written notification to City of any environmental concerns associated with the right of way to be acquired, which could require environmental re-mediation.
 - 1.4.8 All completed appraisals will be administratively reviewed and recommended for approval by the City Staff or assigns.
 - 1.4.9 Processing monthly invoices for appraisal services will not be delayed for the purpose of the completion of City Administrative Review.
 - 1.4.10 As an initial and update appraisal are two separate and distinct appraisal assignments, the fees must consider the complexity of each separate assignment as shown in the Appraiser's Fee Schedule.
 - 1.4.11 Beyond delivery of the appraisal assignments, the appraiser can be called to provide preparation and testimony for a Special Commissioners Hearing. For this appraisal assignment, the fee for the preparation time and testimony must be based on the hourly rate shown in the Appraiser's Fee Schedule.

Appraisal Fee Schedule

ROW/ Esmt #	Location	Taking/Easement	Fee
2	S/S of Glade, just W of Bransford	Temp. Workspace	\$2,500
4	SWC of Glade and Bransford	Temp. Workspace	\$3,100
5	N/S of Glade, just W of Bransford	Temp. Workspace	\$2,500
10	NEC of Glade and Bransford	Sidewalk	\$3,300
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
13	S/S of Glade, just E of Bransford	Temp. Workspace	\$2,900
14 and 69	NEC of Glade and Shadowood Rd.	Temp. Workspace and Sidewalk	\$2,900
15, 16 and 17	N/S of Glade, just W of SH 26	(2) Temp. Workspace and Sidewalk	\$3,300
15, 16 and 18	Wraps NWC of Glade and SH 26	(2) Temp. Workspace and Sidewalk	\$3,300
23	N/S of Glade, just E of SH 26	Temp. Workspace	\$3,100
25 and 26	NWC of Glade and Thompson Ter.	ROW and Temp.	\$3,300
29, 30, 31 and 32	S/S of Glade, just W of Bedford Rd.	(2) Temp. Workspace	\$3,750
33 and 34	SEC of Glade and Bedford Rd.	ROW and Temp.	\$3,300
35	NWC of Glade Road and Oak Timber Court	ROW	\$2,900
37 and 38	N/S of Glade, just E of Bedford rd.	ROW and Temp.	\$3,300
40	SWC of Glade and Garry Lynne Dr.	Temp. Workspace	\$2,900
41	SEC of Glade and Garry Lynne Dr.	Temp. Workspace	\$2,900
43	NWC of Glade and Riverwalk Dr.	ROW	\$3,100

Appraisal Fee Schedule

ROW/ Esmt #	Location	Taking/Easement	Fee
45, 49	SWC of Glade and Carmel Dr.	ROW and (2) Temp. Workspace	\$3,300
47	NEC of Glade and Riverwalk Dr.	ROW	\$3,300
47	N/S of Glade, just E of Riverwalk Dr.	ROW	\$3,100
47	N/S of Glade, just E of Riverwalk Dr.	ROW	\$3,100
54	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
55	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
56	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
61 and 62	SWC of Glade and Stafford Dr.	(2) Temp. Workspace	\$3,750
63 and 64	N/S of Glade, just E of Bluebonnet	ROW and Temp. Workspace	\$2,900
63 and 64	N/S of Glade Road, between Bluebonnet and Rose	ROW and Temp. Workspace	\$3,100
66	NWC of Glade and Rose St.	Temp. Workspace	\$2,900
68	NEC of Glade and Rose St.	Temp. Workspace	\$2,900
70	NWC of Glade Road and Bransford Road	ROW	\$3,300
			Total \$107,200

SERVICES BY THE CITY:

- 2.1 Provide available criteria and full information as to the City's requirements for the project;
- 2.2 Assist the Engineer by placing at its disposal all available data pertinent to the project;
- 2.3 Examine documents submitted by the Engineer and render a decision pertaining thereto promptly, to avoid unreasonable delay in the progress of the Engineer's services; and
- 2.4 The Project Manager for the City shall appoint, in writing, a representative that the Engineer shall be entitled to rely upon regarding decisions made by the City.
- 2.5 City shall pay all title company invoices directly which will include fees for title commitments, title policies and all other fees related to the closing with the title company.
- 2.6 City shall pay for appraisal services when invoices are reviewed and approved by Engineer for payment.

STANDARD RATE SCHEDULE
Standard Rate Schedule for Time and Expense Contracts
Effective January 1, 2016 to December 31, 2016*

<u>Engineering /Landscape Architecture/ROW</u>	<u>From</u>	<u>-</u>	<u>To</u>	
Principal	\$190	-	\$240	Per Hour
Team Leader	\$155	-	\$220	Per Hour
Senior Project Manager	\$160	-	\$225	Per Hour
Project Manager	\$110	-	\$175	Per Hour
Senior Engineer	\$180	-	\$225	Per Hour
Project Engineer	\$95	-	\$160	Per Hour
Engineer III/IV	\$105	-	\$125	Per Hour
Engineer I/II	\$85	-	\$105	Per Hour
Landscape Architect / Planner	\$110	-	\$190	Per Hour
Landscape Designer	\$70	-	\$100	Per Hour
Senior Designer	\$105	-	\$130	Per Hour
Designer	\$100	-	\$120	Per Hour
Senior CAD Technician	\$85	-	\$110	Per Hour
CAD Technician	\$60	-	\$100	Per Hour
IT Consultant	\$95	-	\$155	Per Hour
Environmental Planner	\$80	-	\$100	Per Hour
Clerical	\$50	-	\$80	Per Hour
Resident Project Representative	\$75	-	\$120	Per Hour
ROW Manager	\$95	-	\$130	Per Hour
Senior ROW Agent	\$90	-	\$125	Per Hour
ROW Agent	\$75	-	\$100	Per Hour
Relocation Agent	\$85	-	\$110	Per Hour
Senior Utility Coordinator	\$85	-	\$115	Per Hour
Utility Coordinator	\$70	-	\$95	Per Hour
Intern	\$40	-	\$60	Per Hour
<u>Surveying</u>				
Survey Manager	\$150	-	\$200	Per Hour
Registered Professional Land Surveyor (RPLS)	\$130	-	\$160	Per Hour
Field Coordinator	\$90	-	\$110	Per Hour
S.I.T. or Senior Survey Technician	\$65	-	\$110	Per Hour
Survey Technician	\$65	-	\$100	Per Hour
1-Person Field Crew w/Equipment**	\$120			Per Hour
2-Person Field Crew w/Equipment**	\$145			Per Hour
3-Person Field Crew w/Equipment**	\$165			Per Hour
4-Person Field Crew w/Equipment**	\$190			Per Hour
Flagger	\$40			Per Hour
Abstractor (Property Deed Research)	\$85			Per Hour

Subsurface Utility Engineering (SUE) Hourly Rate

SUE Project Manager	\$185
SUE Engineer	\$160
Sr. Utility Location Specialist	\$ 95
Utility Location Specialist	\$ 75
1-Person Designator Crew w/Equipment	\$115
2-Person Designator Crew w/Equipment	\$135
2-Person Vacuum Excavator Crew w/Equipment	\$220 (Travel and Stand-by)
SUE QL-A Test Hole ($0 \leq 4$ ft)***	\$900 per hole
SUE QL-A Test Hole ($>4 \leq 6$ ft)***	\$1,100 per hole
SUE QL-A Test Hole ($>6 \leq 8$ ft)***	\$1,310 per hole
SUE QL-A Test Hole ($>8 \leq 10$ ft)***	\$1,530 per hole
SUE QL-A Test Hole ($>10 \leq 12$ ft)***	\$1,770 per hole
SUE QL-A Test Hole ($>12 \leq 14$ ft)***	\$2,000 per hole

All subcontracted and outsourced services shall be billed at rates comparable to TNP's billing rates above or cost times a multiplier of 1.10.

** Rates shown are for calendar year 2016 and are subject to change in subsequent years.*

*** Equipment may include Truck, ATV, Robotic Total Station, GPS Units and Digital Level.*

**** Pricing includes 2-Person crew, designating for excavation, vehicle costs, and field supplies.*

Direct Cost Reimbursables

Photocopies:	\$0.154/sf	letter, legal and 11" x 17" size bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
Prints:	\$0.154/sf	letter, legal and 11" x 17" bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
Plots:	\$0.154/sf	letter, legal and 11" x 17" bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
	\$0.50/sf	22" x 34" and larger bond paper or vellum, B&W
	\$1.00/sf	22" x 34" and larger mylar or acetate, B&W
Mileage	\$0.54/mile	
Plans on CD	\$20/each	

ATTACHMENT 'C'

PROJECT SCHEDULE

**City of Colleyville - Glade Road
From: Bransford Road To: Manning Drive**

<u>Task</u>	<u>Start</u>	<u>Finish</u>
1. Project Release	May 30, 2016	N/A
2. Project Administration	May 30, 2016	April 30, 2017
3. Parcel Appraisal	April 15, 2016	July 31, 2016
a. Appraise Priority Parcels	April 15, 2016	June 1, 2016
b. Appraise Remainder of Parcels	June 1, 2016	July 31, 2016
4. Parcel Negotiations	June 1, 2016	December 30,
a. Negotiate Priority Parcels	June 1, 2016	August 31, 2016
b. Negotiate Remainder of Parcels	July 31, 2016	October 30, 2016
5. Title & Closings	September 15, 2016	January 31, 2017

RESOLUTION R-14-3772

**A RESOLUTION APPROVING COUNCIL ACTION
REGARDING EXECUTIVE SESSION ITEMS AT THE REGULAR
CITY COUNCIL MEETING OF
AUGUST 19, 2014**

WHEREAS, following discussion in Executive Session, and in full accordance with the requirements of the Open Meetings Act, the City Council determines that the following action is in the best interests of the health, safety and welfare of the public.

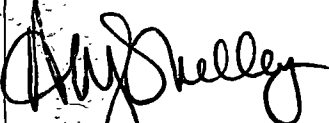
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEYVILLE, TEXAS:

Sec. 1. THAT the City Council hereby authorizes and approves a real estate acquisition, in the amount of \$449,000, plus associated closing costs, for property located at 1209 Glade Road.

AND IT IS SO RESOLVED.

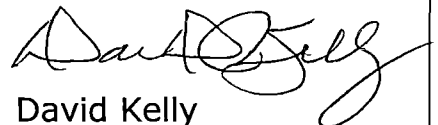
APPROVED BY A VOTE OF 5 AYES, 0 NAYS AND 0 ABSTENTIONS ON THIS THE 19TH DAY OF AUGUST 2014.

ATTEST:



Amy Shelley, TRMC
City Secretary

CITY OF COLLEYVILLE



David Kelly
Mayor

Glade Road Phase 1 Update

**Pre Council Meeting
April 19, 2016**

Outline of Presentation



Glade Road Phase 1 overview of the 90 % design including:

- Estimated right-of-ways
- Estimated sidewalk easements
- Estimated drainage easements
- Estimated temporary construction easements
- Impacted trees along the project area

Update on the tree conservation and mitigation efforts

Update on construction contract strategies

Glade Road Phase 1 - Next Steps

Phases of Glade Road Corridor



Phases of Glade Road Corridor



Phase 1 (Recent History)



October 20, 2015 Pre Council Meeting - 60 % Plans were presented and discussed

- City Council provided direction to find ways to minimize the various impacts of the project
- City staff and the design consultant have since evaluated the design and the associated impacts on a parcel by parcel basis
- The roundabout at the intersection of Glade Road and Bransford Road was also a major discussion point

December 15, 2015 Pre Council Meeting

- Staff and the design consultant provided a follow-up presentation and discussion specifically on the Bransford Road and Glade Road Intersection
- City Council provided clear direction to the design consultant to eliminate the roundabout from the scope of the Phase 1 for the following reasons:
 - The less-than-ideal roundabout configuration
 - Concerns associated with the rights-of-way needs
 - The impacts to existing mature trees at the southwest corner

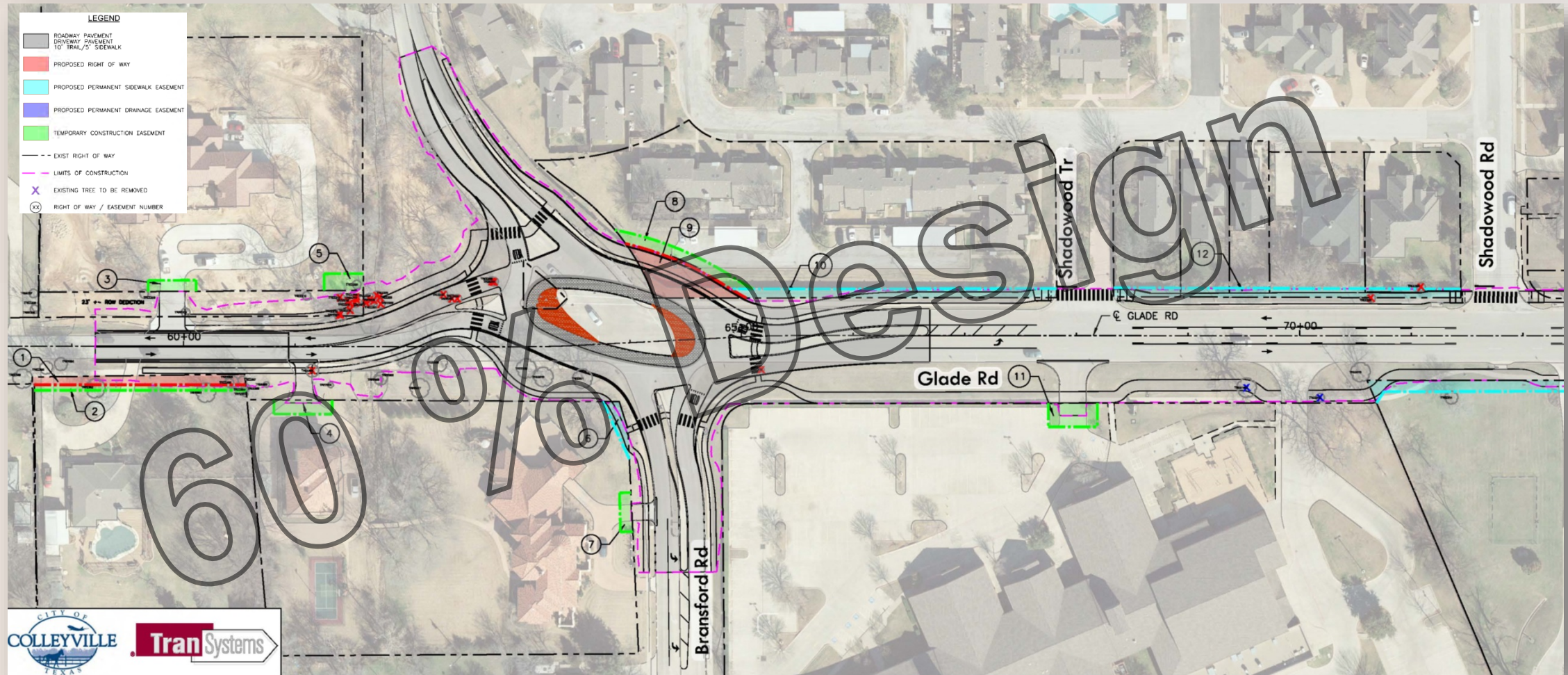
Phase 1 (Summary Statistics)



Comparison of Statistics from 60 % to 90 % design

	60 % Design	90 % Design
Estimated right-of-way parcels (Total Square Footage)	14 (29,000)	11 (19,800)
Estimated Sidewalk Easements (Total Square Footage)	18 (14,900)	11 (10,000)
Estimated Drainage Easements (Total Square Footage)	1 (575)	0 (0)
Estimated Temporary Construction Easements (Total Square Footage)	48 (47,900)	29 (26,200)
Total Estimated Transactions	81	51
Affected Parcels	48	33

Phase 1 (Section 1A - 60 % Design)



Proposed R-O-W

2 Parcels

Proposed drainage easements

0 Parcels

Proposed sidewalk easements

7 Parcels

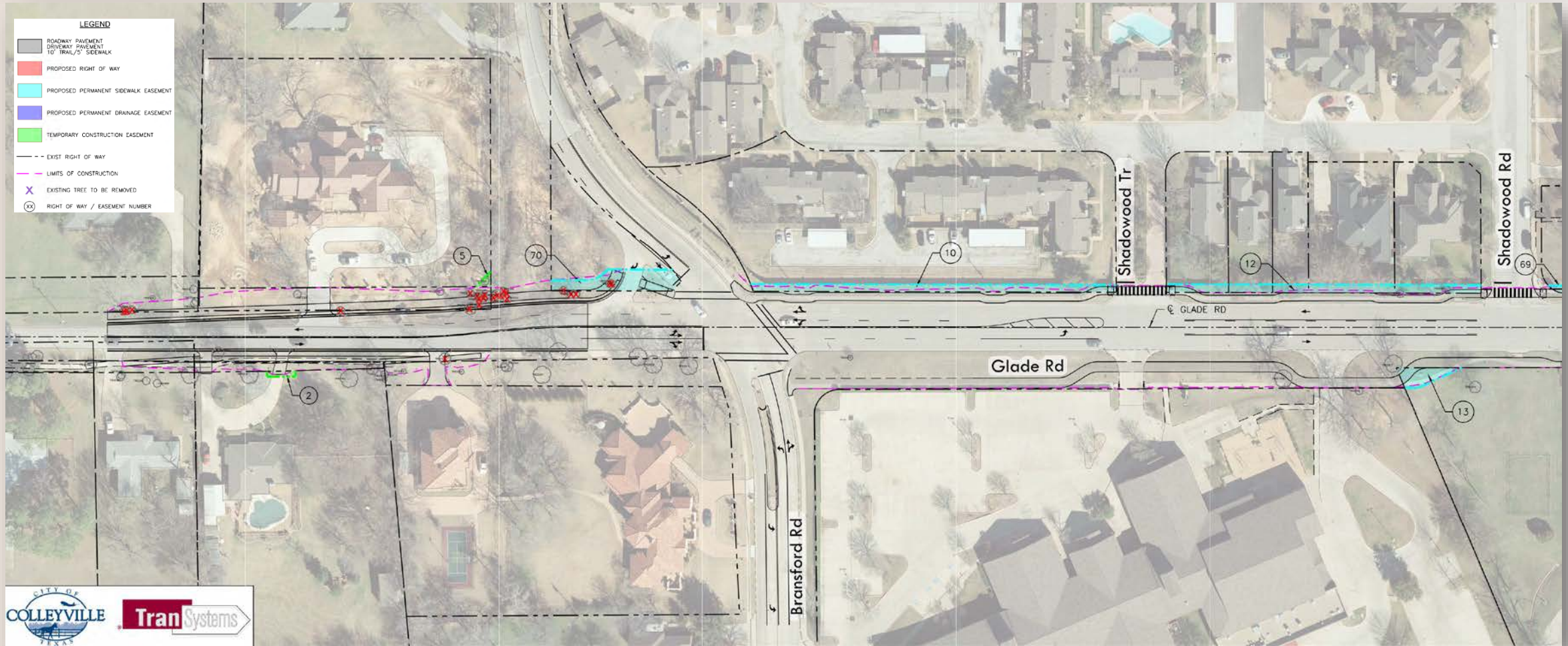
Temporary construction easements

7 Parcels

Total number of trees impacted

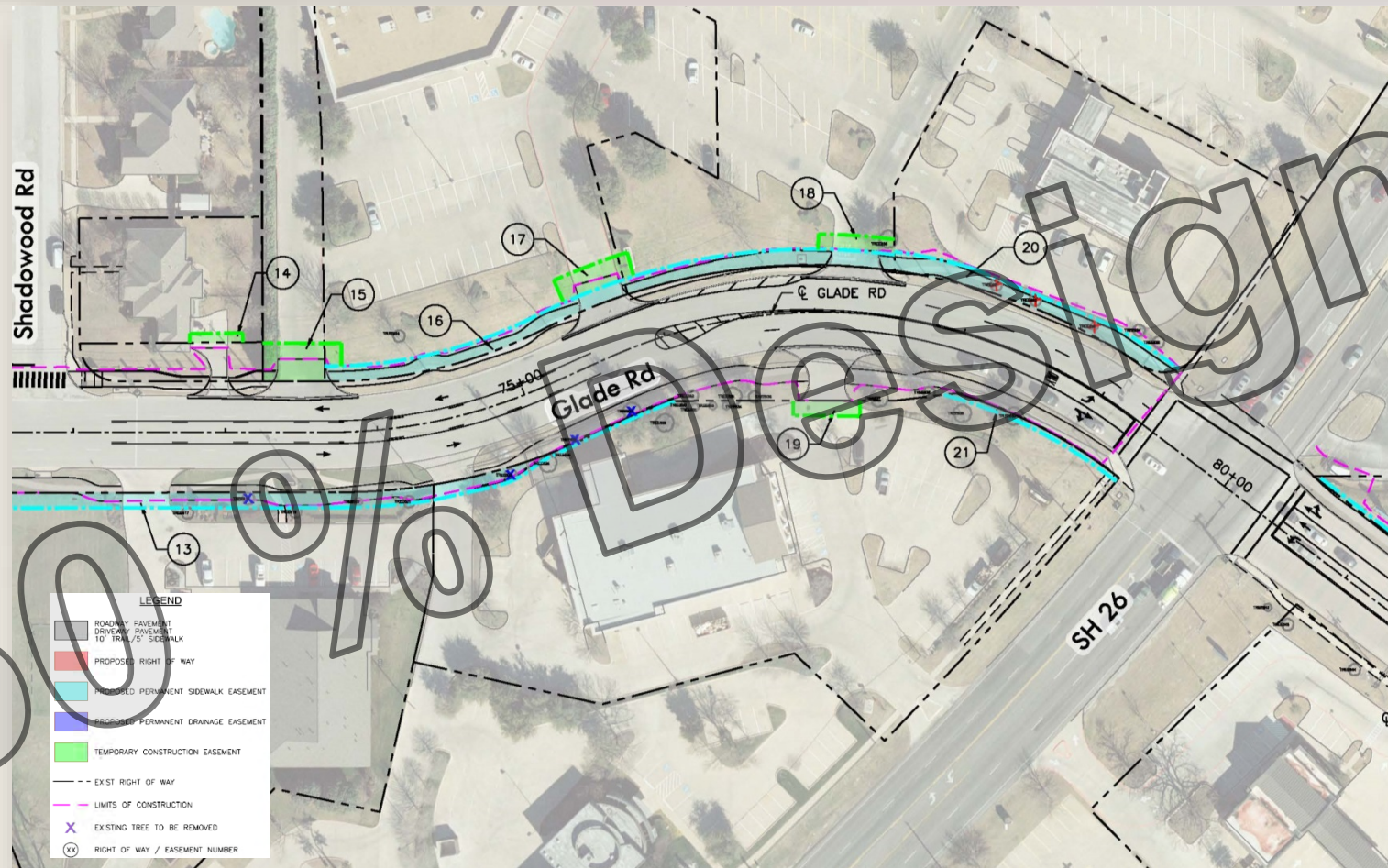
28

Phase 1 (Section 1A – 90 % Design)



Proposed R-O-W	0 (2) Parcels	Proposed drainage easements	0 (0) Parcels
Proposed sidewalk easements	8 (7) Parcels	Temporary construction easements	4 (7) Parcels
Total number of trees impacted	24 (28)		

Phase 1 (Section 1B – 60 % Design)



Proposed R-O-W

0 Parcels

Proposed drainage easements

0 Parcels

Proposed sidewalk easements

6 Parcels

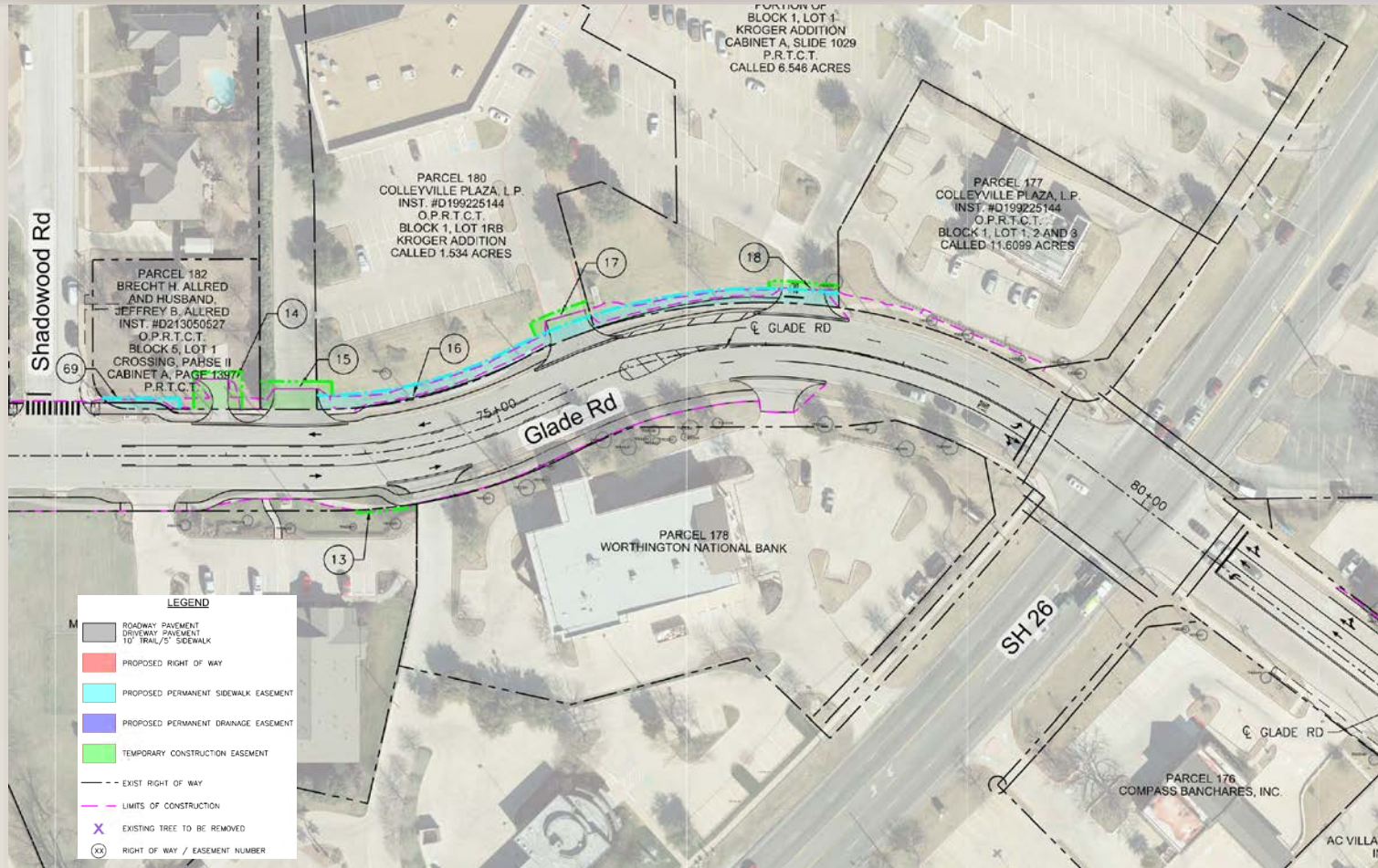
Temporary construction easements

6 Parcels

Total number of trees to be impacted

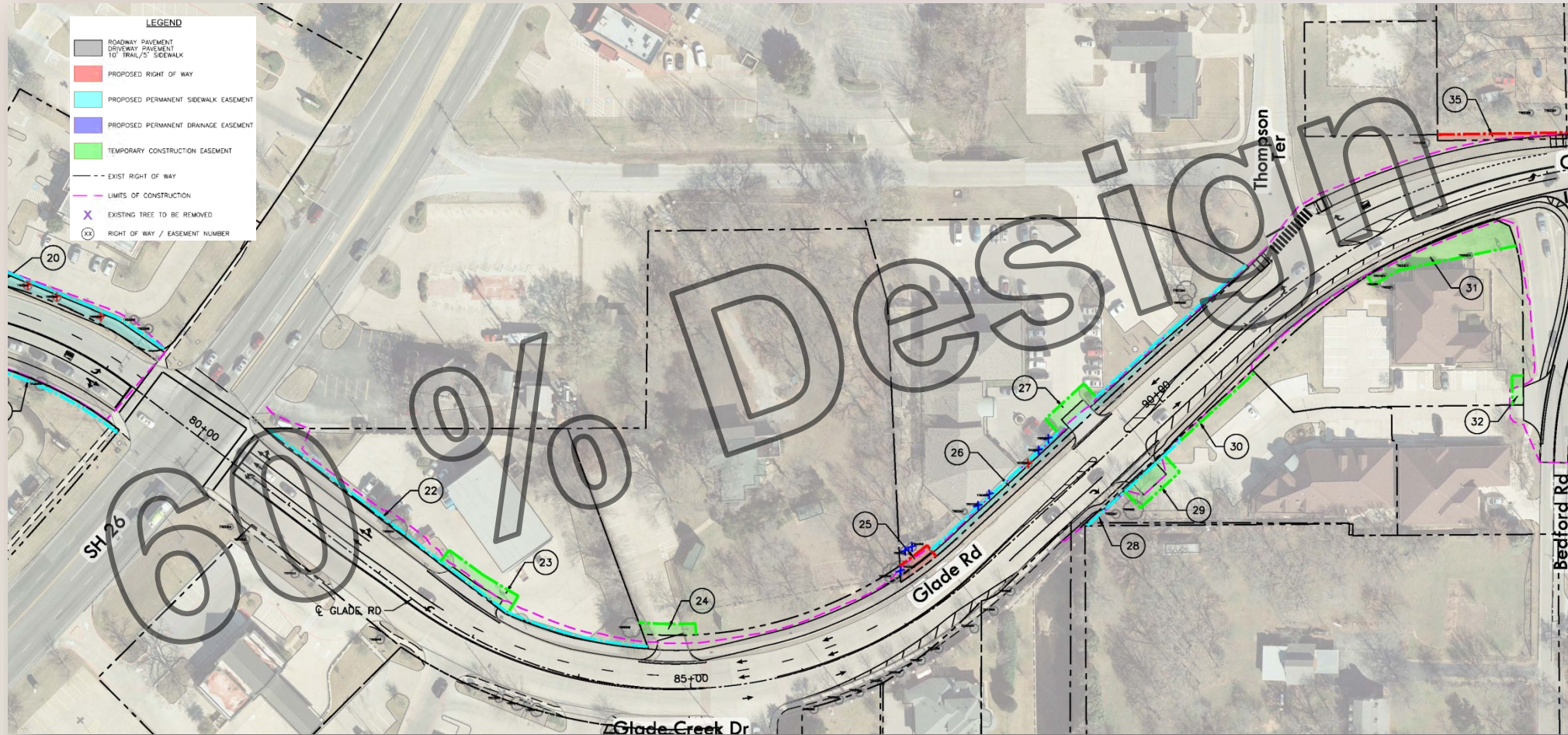
11

Phase 1 (Section 1B – 90 % Design)



Proposed R-O-W	0 (0) Parcels	Proposed drainage easements	0 (0) Parcels
Proposed sidewalk easements	3 (6) Parcels	Temporary construction easements	5 (6) Parcels
Total number of trees impacted	0 (11)		

Phase 1 (Section 1C – 60 % Design)



Proposed R-O-W

2 Parcels

Proposed drainage easements

0 Parcels

Proposed sidewalk easements

3 Parcels

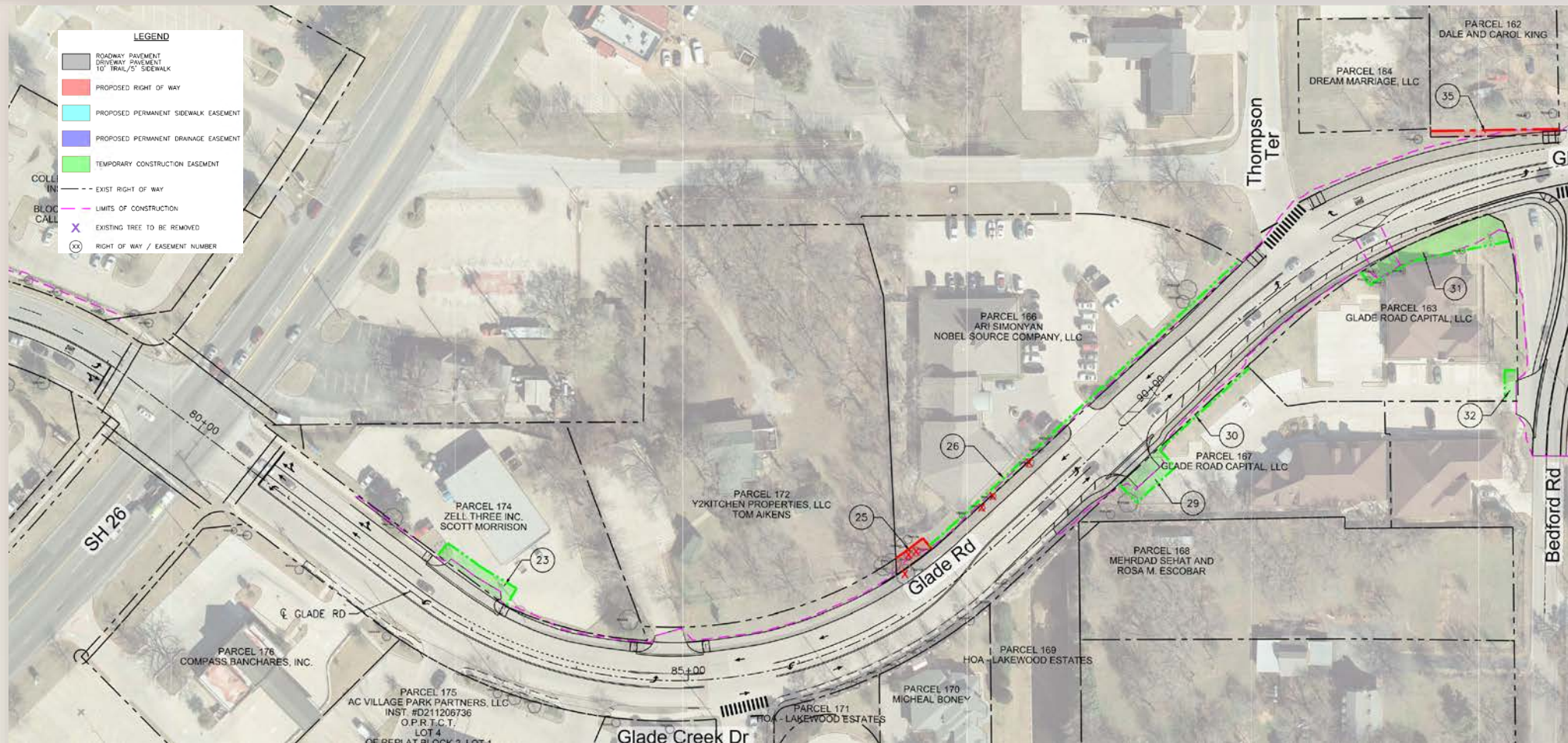
Temporary construction easements

6 Parcels

Total number of trees impacted

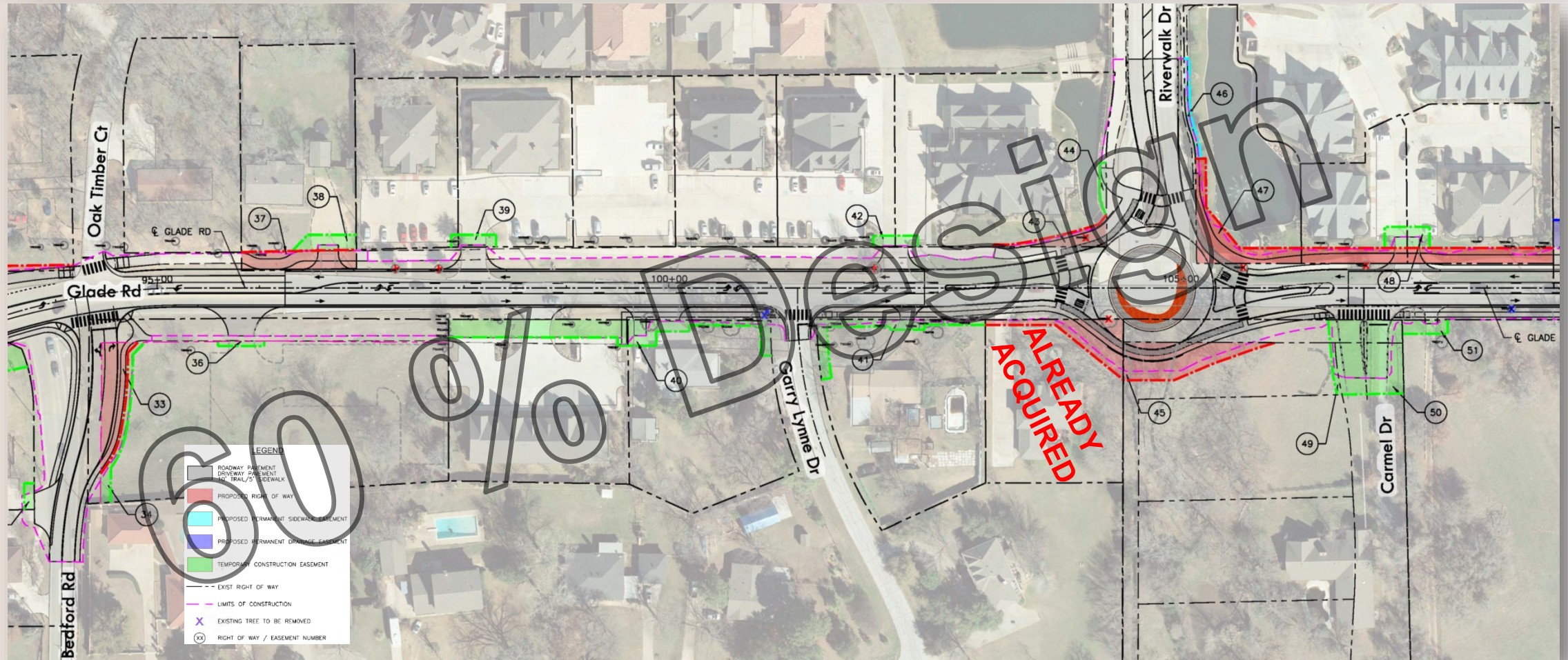
15

Phase 1 (Section 1C – 90 % Design)



Proposed R-O-W	2 (2) Parcels	Proposed drainage easements	0 (0) Parcels
Proposed sidewalk easements	0 (3) Parcels	Temporary construction easements	5 (6) Parcels
Total number of trees impacted	6 (15)		

Phase 1 (Section 1D – 60 % Design)



Proposed R-O-W

7 Parcels

Proposed drainage easements

0 Parcels

Proposed sidewalk easements

1 Parcels

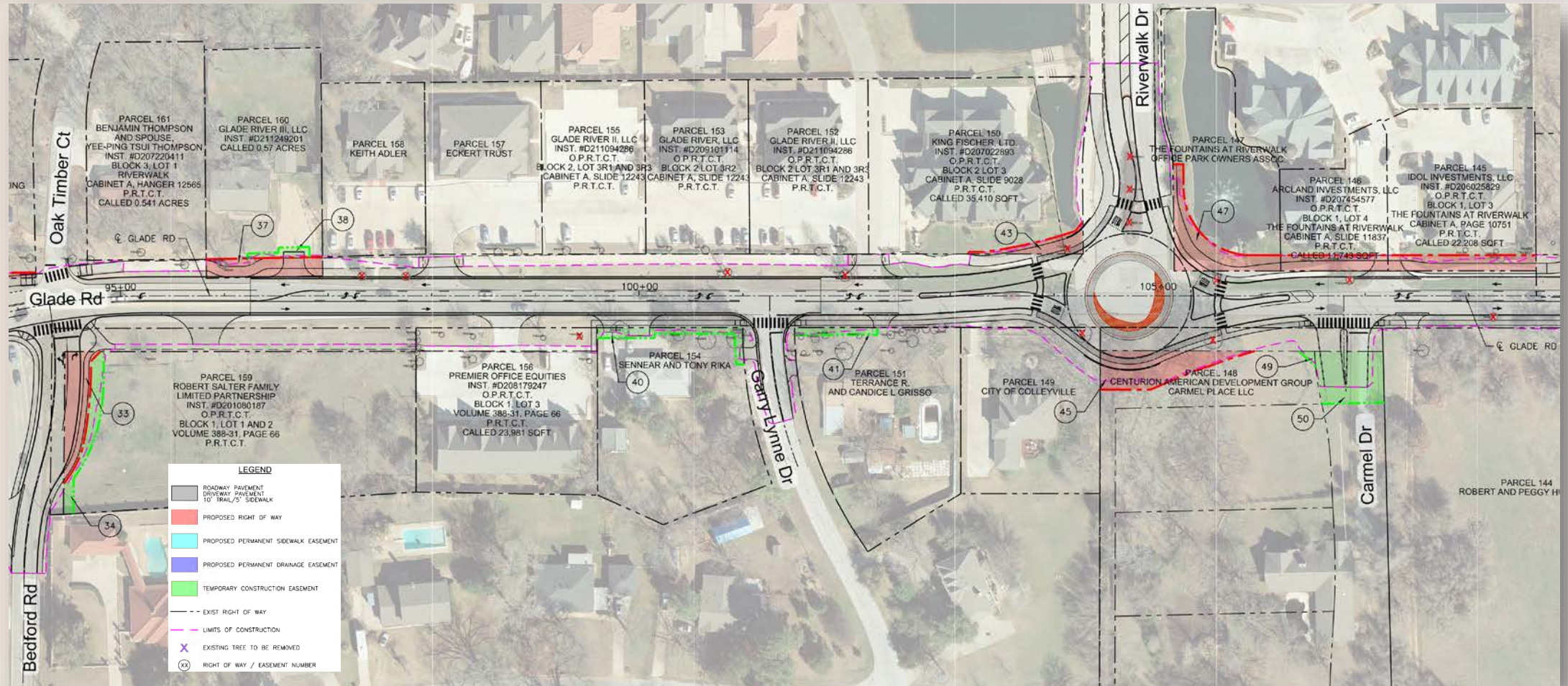
Temporary construction easements

15 Parcels

Total number of trees impacted

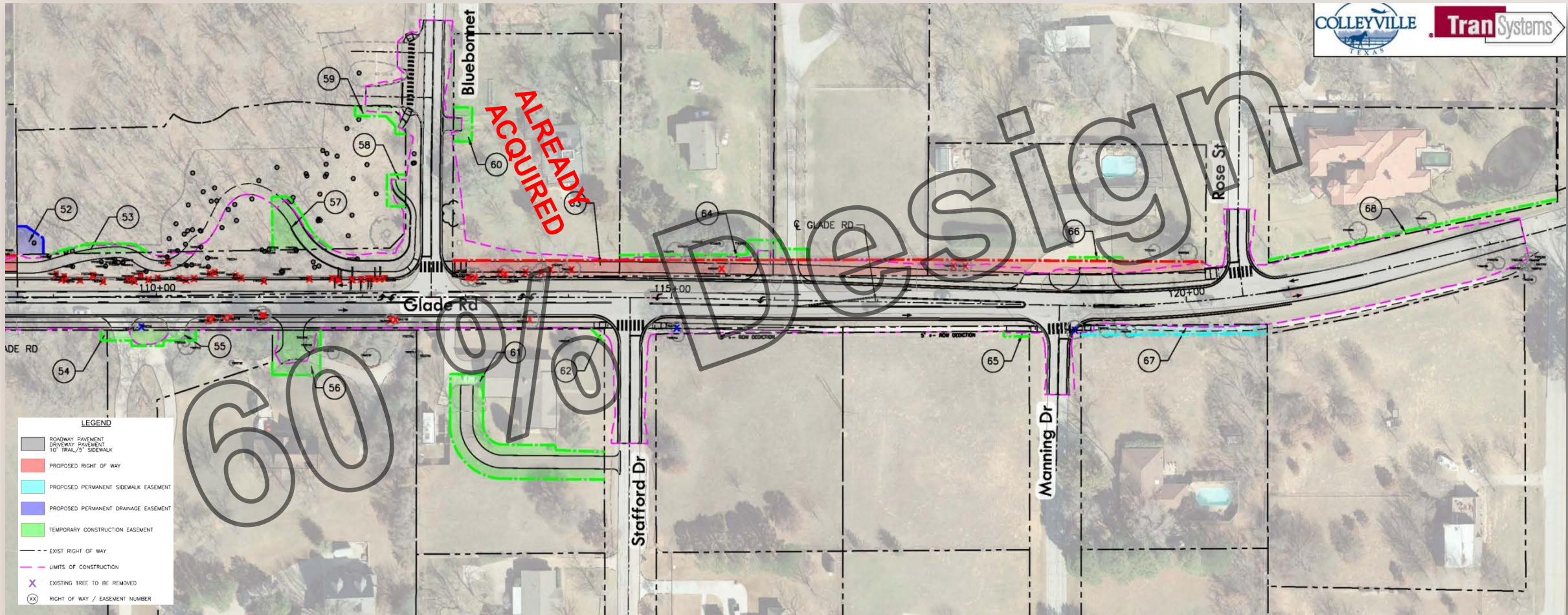
13

Phase 1 (Section 1D - 90 % Design)



Proposed R-O-W	7 (7) Parcels	Proposed drainage easements	0 (0) Parcels
Proposed sidewalk easements	0 (1) Parcels	Temporary construction easements	6 (15) Parcels
Total number of trees impacted	10 (13)		

Phase 1 (Section 1E – 60 % Design)



Proposed R-O-W

3 Parcels

Proposed drainage easements

1 Parcels

Proposed sidewalk easements

1 Parcels

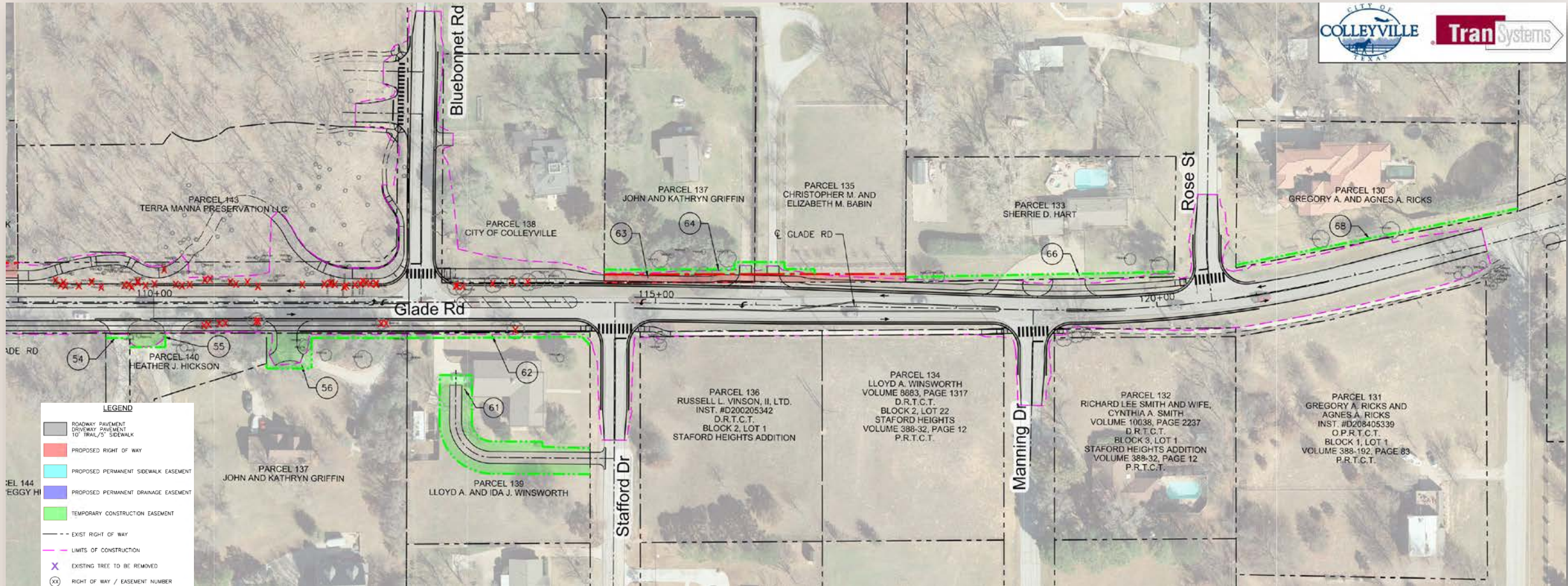
Temporary construction easements

14 Parcels

Total number of trees impacted

64

Phase 1 (Section 1E – 90 % Design)



Proposed R-O-W

2 (3) Parcels Proposed drainage easements

0 (1) Parcels

Proposed sidewalk easements

0 (1) Parcels Temporary construction easements

9 (14) Parcels

Total number of trees impacted

57 (64)

Phase 1 (Summary Statistics)



Comparison of Statistics from 60 % to 90 % design

	60 % Design	90 % Design
Estimated right-of-way parcels (Total Square Footage)	14 (29,000)	11 (19,800)
Estimated Sidewalk Easements (Total Square Footage)	18 (14,900)	11 (10,000)
Estimated Drainage Easements (Total Square Footage)	1 (575)	0 (0)
Estimated Temporary Construction Easements (Total Square Footage)	48 (47,900)	29 (26,200)
Total Estimated Transactions	81	51
Affected Parcels	48	33

Phase 1 (Summary Statistics)



Comparison of Statistics

	Conceptual Design	60 % Design	90 % Design
Design Costs	\$664,365	\$664,365	\$664,365
Estimated Rights-of-Way and Easement Costs	\$925,000	\$814,340 *	\$480,820 *
Estimated Construction Costs	\$3,755,000	\$5,061,684	\$4,467,631
Total	\$5,344,365	\$6,540,389	\$5,612,816

* August 2014, R-14-3772 - \$449,000 spent to acquire 1209 Glade Road in its entirety. The value shown in the chart is the remaining parcels estimated value

Notes: Costs have been adjusted for inflation and market conditions
Costs have been adjusted and refined as the engineering design progressed
Costs have been adjusted as needs for additional storm drainage, traffic control, and utility infrastructure have been identified

Phase 1 (Tree Conservation and Mitigation Efforts)



Stages of Preservation

- Tree Inventory
- Identification of trees impacted by the project
- Alteration of design plans to lessen impact on trees
- Identifying trees that require protection measures
- Identification of trees requiring special protection measures
- Arboricultural practices to assist with tree health
- Tree replacement program for those impacted

Phase 1 (Tree Conservation and Mitigation Efforts)



Protective Measure Process

- Identification of trees that impact our citizens directly
- Inspect trees and identify the trees with better survivability
- Implement additional protective measures during construction*
- Arboricultural practices that will improve conditions for impacted trees prior, during, and after construction*

****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



Additional Protective Measures*

- This adds an additional step to protecting our trees.
- The temporary 6' chain link fence is installed around the tree, to incorporate as much of the critical root zone possible.
- This prevents damage to the roots within the fenced area during construction.



****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



Additional Signage



Multiple Languages



Phase 1 (Tree Conservation and Mitigation Efforts)



Additional Protective Measure Options

- Heavy Mulching*
- Root Pruning*
- Protective Chain Link Fencing*
- Additional Signage*
- Aeration*
- Vertical Mulching*
- Organic Root Stimulators/Fertilizers*

****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



Vertical Mulching



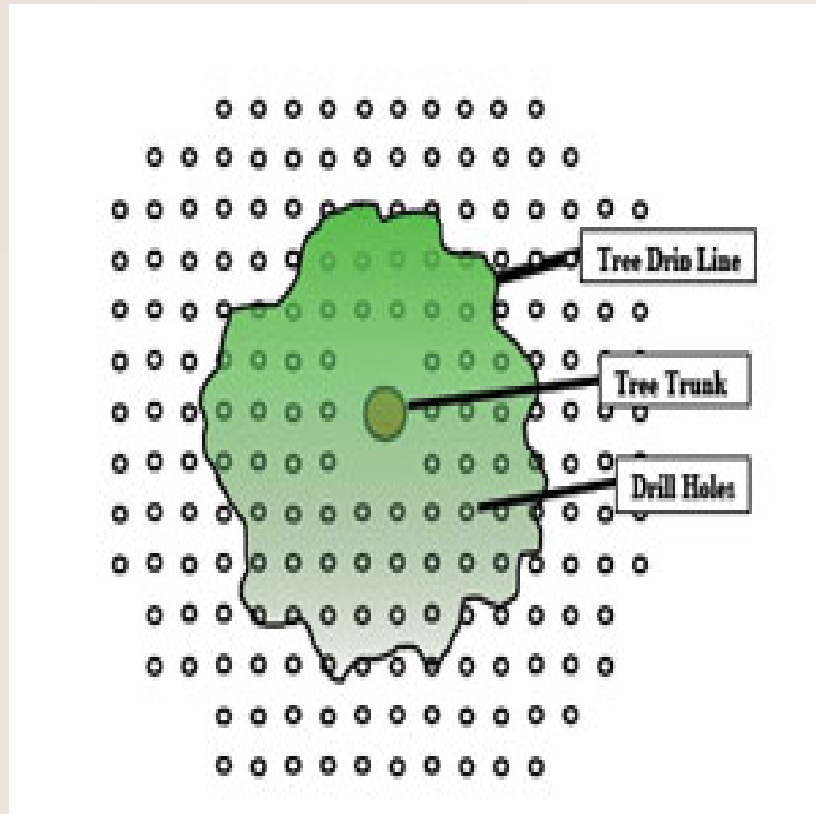
Before Backfill



Phase 1 (Tree Conservation and Mitigation Efforts)



Vertical Mulching Area



Process Complete



Phase 1 (Tree Conservation and Mitigation Efforts)



Aerating



Typical Small Machine



Phase 1 (Tree Conservation and Mitigation Efforts)



Aeration Pattern



Airspace Created



Phase 1 (Tree Conservation and Mitigation Efforts)



Airspade to Expose Roots



Trenching to Expose Roots



Phase 1 (Tree Conservation and Mitigation Efforts)



Large Root Pruner



Proper Pruning Tools



Phase 1 (Tree Conservation and Mitigation Efforts)



Pre-Construction Efforts

- Carefully install protective fencing
- Educate contractors on the importance of trees and proper protection
- Selective root pruning*
- Heavy mulching to reduce compaction during construction*
- Trim branches that will be impacted by construction equipment
- Educate citizens that will be impacted on the process and how to improve the health of their trees before construction

****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



During Construction Efforts

- Monitor trees and construction activity
- Continue to inform contractor of tree importance
- Selective root pruning during excavation on specified trees*
- Trim branches in conflict with construction equipment
- Add heavy mulch to additional areas if necessary*

****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



Post Construction Efforts (if necessary)

- Carefully remove protective fencing
- Thin/remove mulch*
- Aerate around the root zones*
- Vertical mulch around root zones*
- Organic fertilization*
- Educate citizens on what they can do to improve tree health
- Plant trees*

****If funding is allocated***

Phase 1 (Tree Conservation and Mitigation Efforts)



Tree Voucher Program *

- Offer tree vouchers for citizens impacted
- Establish the right tree, right place philosophy
- 30 gallon trees will be planted on the property
- The tree will be the private property owner's responsibility
- Educate citizens on proper tree maintenance
- This will re-establish the tree canopy along the corridor

****If funding is allocated***

Phase 1 (Construction Contract Strategies)



Best Value Contract

- Contract Experience
- Proposed Project Price
- Project Team Resume
- Schedule and Timelines
- Written description of the contractor's strategies to keep the project on schedule

Incentives and Disincentives

Key Components

- Bluebonnet Drive and Glade Road Intersection (vertical adjustment)
- Riverwalk Drive and Glade Road Roundabout

Phase 1 (Next Steps)



Right-of-way Acquisition

- A contract for professional services for the right-of-way acquisition will be presented for City Council consideration on May 3rd

Utility Relocations

- Utility meetings are held monthly and the utility work will progress as the right-of-way is acquired
- The City cannot control the schedules of the respective franchise utilities

Construction Bidding and Award

- Once right-of-way acquisition is complete and franchise utilities are clear the project can be advertised for bid
- Construction is estimated to take approximately 13 months to complete once started

Questions and Discussion

RESOLUTION R-16-3988

**APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH
TEAGUE NALL AND PERKINS, INC., IN AN AMOUNT NOT TO EXCEED
\$253,055 FOR NEGOTIATION AND CLOSING SERVICES FOR THE
PROPERTY ACQUISITION ASSOCIATED WITH THE
GLADE ROAD PHASE 1 PROJECT**

WHEREAS, the Colleyville City Council is committed to the best interests of the health, safety, and welfare of the citizens of Colleyville; and

WHEREAS, the Glade Road Phase 1 Project requires acquisition of a total of 33 separate parcels, with a total of 51 easements/rights-of-way; and the acquisitions must comply with City of Colleyville standards and the requirements of Texas Senate Bill 18; and

WHEREAS, all legal prerequisites for the approval of this Resolution have been met, including but not limited to the Open Meetings Act.

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

- Sec. 1. THAT all of the above findings are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Sec. 2. THAT the Colleyville City Council authorizes the city manager to execute the Professional Services Agreement with Teague Nall and Perkins, Inc., attached as Exhibit "A", in an amount not to exceed \$253,055.
- Sec. 3. THAT this resolution shall become effective immediately from and after its passage.

AND IT IS SO RESOLVED.

PASSED BY A VOTE OF ___ AYES, ___ NAYS, AND ___ ABSTENTIONS ON THIS
THE 3RD DAY OF MAY 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TMRC
City Secretary

David Kelly
Mayor



AUTHORIZATION FOR PROFESSIONAL SERVICES

PROJECT NAME: Glade Road – Phase 1

TNP PROJECT NUMBER:

CLIENT: City of Colleyville

ADDRESS: 100 Main Street
Colleyville, TX 76034

City of Colleyville (the CLIENT) hereby requests and authorizes Teague Nall and Perkins, Inc., (the ENGINEER) to perform the following services:

Article I

SCOPE: Provide negotiating and closing services for the City of Colleyville's intent to acquire property to support the expansion of Glade Road Phase 1.

The project includes the following:

Phase 1 includes a total of 33 separate parcels with a total of 51 easements/rights of way. Services will comply with City of Colleyville standards and the requirements of Texas Senate Bill 18.

A detailed scope of services is included as Attachment 'A' and is made a part hereto.

Article II

COMPENSATION to be on a basis of the following:

The total fee is not to exceed \$253,055.00 without prior permission by CLIENT.

- A. Negotiation and Closing Services: The ENGINEER shall be compensated on an hourly basis at ENGINEER's standard hourly rates for personnel working on the project. A schedule of ENGINEER's hourly rates is provided as Attachment 'B' Services shall be billed monthly based on actual time spent working on the project by ENGINEER's staff.
- B. Appraisal Services: The ENGINEER will engage an appraisal firm and shall be compensated based on the rates provided in the itemized scope (Attachment 'A') plus 10%.
- C. Direct Cost Reimbursable: Mileage, Printing, copies, plots and reproduction work done in-house shall be compensated per the ENGINEER's most current rate schedule for such work (Attachment 'B'). These fees are included in the total not to exceed amount.
- D. Work Outsourced to Others: For work done by others, at the actual cost to the ENGINEER of such services plus 10%.

E. Additional Services: Any service provided by the ENGINEER which is not specifically described in the scope of work for this contract as defined above or delineated in an attachment shall be considered additional services. Additional services shall include, but shall not be limited to:

- 1.) Addition of parcels for acquisition caused by change in design, parcel splits, additional requirements for either enlarged or additional parcels, settlement negotiations after City accepts eminent domain recommendation or other valid causes approved or required by the City.
- 2.) In the event of eminent domain proceedings against any parcel, the City may require the Provider to be an expert witness for pretrial conferences, depositions, special commissioner hearing, court appearances and any other consultation with City directly related to preparations of court testimony.

Additional services shall be considered additional work and shall be reimbursed at ENGINEER'S current standard rates. The standard rates effective for 2015-2016 are included as Attachment 'B'.

F. Payment Terms: CLIENT shall be billed monthly for services rendered and pay promptly upon receipt of invoice. Delays of transmitting payments to ENGINEER more than 30 days from invoice date may result in cessation of services until payment is received.

Article III

SCHEDULE: The proposed services shall begin within 10 working days of authorization to proceed. A schedule is included as Attachment 'C', and made a part hereto.

Article IV

CONTRACT PROVISIONS: Contract provisions are attached hereto and made a part hereof.

Please execute and return a signed copy for our files. Receipt of an executed copy of this contract will serve as notice to proceed. No work shall commence on the project until ENGINEER receives an executed copy of this contract. By signing below, the signer warrants that he or she is authorized to execute binding contracts for the CLIENT.

Approved by CLIENT:

City of Colleyville

By: _____
 Title: _____
 Date: _____

Accepted by ENGINEER:

Teague Nall and Perkins, Inc.

By: _____
 Title: _____
 Date: _____

PROVISIONS

1. **AUTHORIZATION TO PROCEED**
Signing this agreement shall be construed as authorization by CLIENT for TNP, Inc. to proceed with the work, unless otherwise provided for in this agreement.
2. **LABOR COSTS**
TNP, Inc.'s Labor Costs shall be the amount of salaries paid TNP, Inc.'s employees for work performed on CLIENTS Project plus a stipulated percentage of such salaries to cover all payroll-related taxes, payments, premiums, and benefits.
3. **DIRECT EXPENSES**
TNP, Inc.'s Direct Expenses shall be those costs incurred on or directly for the CLIENT's Project, including but not limited to necessary transportation costs including mileage at TNP, Inc.'s current rate when its, or its employee's, automobiles are used, meals and lodging, laboratory tests and analyses, computer services, word processing services, telephone, printing and binding charges. Reimbursement for these expenses shall be on the basis of actual charges when furnished by commercial sources and on the basis of usual commercial charges when furnished by TNP, Inc.
4. **OUTSIDE SERVICES**
When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount shall be added to the cost of these services for TNP, Inc.'s administrative costs, as provided herein.
5. **OPINION OF PROBABLE COST**
In providing opinions of probable cost, the CLIENT understands that TNP, Inc. has no control over costs or the price of labor, equipment, or materials, or over the Contractor's method of pricing, and that the opinions of probable cost provided to CLIENT are to be made on the basis of the design professional's qualifications and experience. TNP, Inc. makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.
6. **PROFESSIONAL STANDARDS**
TNP, Inc. shall be responsible, to the level of competency presently maintained by other practicing professional engineers in the same type of work in the State of Texas, for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Authorization. TNP, Inc. makes no other warranty, expressed or implied.
7. **TERMINATION**
Either CLIENT or TNP, Inc. may terminate this authorization by giving 10 days written notice to the other party. In such event CLIENT shall forthwith pay TNP, Inc. in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
8. **MEDIATION**
In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and the ENGINEER agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbonding mediation unless the parties mutually agree otherwise.

The CLIENT and the ENGINEER further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants retained also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.
9. **LEGAL EXPENSES**
In the event legal action is brought by CLIENT or TNP, Inc. against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.
10. **PAYMENT TO TNP, INC.**
Monthly invoices will be issued by TNP, Inc. for all work performed under the terms of this agreement. Invoices are due and payable on receipt. If payment is not received within 30 days of invoice date, all work on CLIENT's project shall cease and all work products and documents shall be withheld until payment is received by TNP. Time shall be added to the project schedule for any work stoppages resulting from CLIENT's failure to render payment within 30 days of invoice date. Interest at the rate of 1½% per month will be charged on all past-due amounts, unless not permitted by law, in which case, interest will be charged at the highest amount permitted by law.
11. **LIMITATION OF LIABILITY**
TNP, Inc.'s liability to the CLIENT for any cause or combination of causes is in the aggregate, limited to an amount no greater than the fee earned under this agreement.
12. **ADDITIONAL SERVICES**
Services not specified as Basic Services in Scope and Attachment 'A' will be provided by TNP, Inc. as Additional Services when required. The CLIENT agrees upon execution of this contract that no additional authorization is required. Additional services will be paid for by CLIENT as indicated in Article II, Compensation.
13. **SALES TAX**
In accordance with the State Sales Tax Codes, certain surveying services are taxable. Applicable sales tax is not included in the fee set forth and will be added on and collected when required by state law. Sales tax at the applicable rate will be indicated on invoice statements.
14. **SURVEYING SERVICES**
In accordance with the Professional Land Surveying Practices Act of 1989, the CLIENT is informed that any complaints about surveying services may be forwarded to the Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Building A, Suite 156, MC-230, Austin, Texas 78753, (512) 239-5263.
15. **LANDSCAPE ARCHITECT SERVICES**
The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as landscape architects in Texas. The CLIENT is informed that any complaints about landscape architecture services be forwarded to the Texas Board of Architectural Examiners, Hobby Building: 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Telephone (512) 305-9000, Fax (512) 305-8900.
16. **INVALIDITY CLAUSE**
In case any one or more of the provisions contained in this Agreement shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.
17. **PROJECT SITE SAFETY**
TNP, Inc. has no duty or responsibility for project site safety.
18. **CONSTRUCTION MEANS AND METHODS AND JOBSITE SAFETY**
Means and methods of construction and jobsite safety are the sole responsibility of the contractor.

ATTACHMENT 'A' ITEMIZED SCOPE OF SERVICES

Teague Nall and Perkins, Inc., (TNP) shall render the following professional services (**BASIC SERVICES**) necessary for the development of the project.

GENERAL SCOPE:

TNP will provide appraisal, negotiation and closing services with respect to the City of Colleyville's intent to acquire property to support the expansion of Glade Road Phase 1. Phase 1 includes a total of 33 separate parcels with a total of 51 easements/rights of way. Services will comply with City of Colleyville Standards and the requirements of Texas Senate Bill 18.

SPECIFIC SCOPE:

1.1 Project Administration

1.1.1 Communication

1.1.1.1 Prepare and deliver monthly invoice for each active Work Authorization to City Staff. Prepare invoices utilizing City standard payment submissions forms with supporting documentation.

1.1.1.2 Attend status meetings with appropriate City Staff. Date, time and location are determined by City Staff.

1.1.1.3 Provide bi-monthly written report to City Staff on the status of service tasks completed and service tasks remaining in order to bring the parcel into possession of the City. The reporting format will be determined by the City Staff.

1.1.2 File Management

1.1.2.1 Primary project and parcel files will be kept in the TNP Office with permanent records transferred to the City as Office of Permanent Record. The format for type of file folders and document order and placement are determined by City Staff.

1.1.2.2 Maintain records of all payments including, but not limited to, warrant number, amount, date paid, etc.

1.1.2.3 Maintain copies of all correspondence and contacts with property owners.

1.2 Title and Closing Services (combined)

1.2.1 Secure preliminary title commitment or preliminary title search, and 5-year sales data from Title Company that will be providing title insurance. The charges from the Title Company for the preliminary title commitments will be paid for by the City.

1.2.2 Secure title commitment updates in accordance with insurance rules and requirements for parcel payment submissions

1.2.3 Secure title insurance for all parcels acquired, insuring acceptable title to the City. Written approval by the City required for any exception.

1.2.4 The curative services necessary to provide clear title to the City is the responsibility of the Engineer.

1.2.4.1 Cost of curative services must be included in the negotiated fee schedule for this service.

1.2.4.2 Curative services do not include costs/expenses that qualify as payment of incidental expenses to transfer real property to the City.

1.2.5 The Engineer has the responsibility of direct contact with the Title Company to obtain an updated title commitment along with other forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from City Staff.

1.2.6 The Engineer provides closing services in conjunction with the Title Company and will be required to attend closings.

1.2.7 Any fee related to obtaining certified court documents and fees for recording same which are not collected at the closing of the parcel shall be direct pass through fees at the exact cost supported by the county court house receipts.

1.2.8 Engineer shall cause the recordation all original instruments immediately after closing at the respective County Clerk's Office. The cost of the recording fees and filing fees are paid by City and must not be included in the Engineer's negotiated fee schedule.

1.3 Negotiation Services

1.3.1 Analyze preliminary title report to determine potential title problems, propose and inform City Office of methods to cure title deficiencies. This includes analysis of access easements.

1.3.2 Analyze appraisal and appraisal review reports and confirm the City's approved value prior to making offer for each parcel.

1.3.3 Prepare and send the letter transmitting the Landowners' Bill of Rights by Certified Mail-Return Receipt Requested (CMRRR).

1.3.4 Prepare the initial offer letter, memorandum of agreement, instruments of conveyance, and any other documents required or requested by the City on applicable City forms.

1.3.5 The written offer, appraisal report and required brochures must be sent to each property owner or the property owner's designated representative through CMRRR. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing. Retain copies of the unsigned CMRRR receipt and the appraisal as support for billing purposes.

1.3.6 Make at least four (4) diligent attempts to negotiate with each property owner after which negotiations will be considered exhausted.

1.3.7 Prepare a separate negotiator contact report for each parcel, per contact.

1.3.8. Copies or working and final file documents may be kept by the Provider. Parcel files of original documentation related to the purchase of the real property or property interests will be maintained.

1.3.9 Receive any counteroffers from the property owner. Evaluate all counters and submit and discuss them with the City's Project Manager.

- 1.3.10 After concurrence of City Project Manager, prepare final offer letter, and mail the documents of conveyance by CMRRR.
- 1.3.11 Appear and provide Expert Witness testimony as a Provider when requested.
- 1.3.12 Issue Property Owner's Survey to the property owner.
- 1.3.13 Securing a Right of Entry or Possession and Use Agreement is part of general Negotiation Services.

1.4 Real Estate Appraisal Service

- 1.4.1 Appraisers must provide advance notice of the date and time of their appraisal inspections of the subject property to the Provider's Project Manager.
- 1.4.2 Secure written permission from the owner to enter the property from which real estate is to be acquired. The Appraiser, if after diligent effort, is unable to secure the necessary letter of permission from the property owner, a waiver must be obtained in writing. Maintain permission letters with appraisal reports.
- 1.4.3 Prepare and conduct personal pre-appraisal contact with interest owners for each parcel using acceptable forms.
- 1.4.4 Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
- 1.4.5 For an initial appraisal assignment, prepare appraisal report for each parcel to be acquired utilizing appropriate appraisal forms. These reports shall conform to policies and procedures along with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Foundation.
- 1.4.6 For an updated appraisal, prepare appraisal update for the parcel to be acquired utilizing appropriate forms. These reports shall conform to Department policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- 1.4.7 As necessary, prepare written notification to City of any environmental concerns associated with the right of way to be acquired, which could require environmental re-mediation.
- 1.4.8 All completed appraisals will be administratively reviewed and recommended for approval by the City Staff or assigns.
- 1.4.9 Processing monthly invoices for appraisal services will not be delayed for the purpose of the completion of City Administrative Review.
- 1.4.10 As an initial and update appraisal are two separate and distinct appraisal assignments, the fees must consider the complexity of each separate assignment as shown in the Appraiser's Fee Schedule.
- 1.4.11 Beyond delivery of the appraisal assignments, the appraiser can be called to provide preparation and testimony for a Special Commissioners Hearing. For this appraisal assignment, the fee for the preparation time and testimony must be based on the hourly rate shown in the Appraiser's Fee Schedule.

Appraisal Fee Schedule

ROW/ Esmt #	Location	Taking/Easement	Fee
2	S/S of Glade, just W of Bransford	Temp. Workspace	\$2,500
4	SWC of Glade and Bransford	Temp. Workspace	\$3,100
5	N/S of Glade, just W of Bransford	Temp. Workspace	\$2,500
10	NEC of Glade and Bransford	Sidewalk	\$3,300
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
12	N/S of Glade, just E of Shadowood Trl.	Sidewalk	\$2,900
13	S/S of Glade, just E of Bransford	Temp. Workspace	\$2,900
14 and 69	NEC of Glade and Shadowood Rd.	Temp. Workspace and Sidewalk	\$2,900
15, 16 and 17	N/S of Glade, just W of SH 26	(2) Temp. Workspace and Sidewalk	\$3,300
15, 16 and 18	Wraps NWC of Glade and SH 26	(2) Temp. Workspace and Sidewalk	\$3,300
23	N/S of Glade, just E of SH 26	Temp. Workspace	\$3,100
25 and 26	NWC of Glade and Thompson Ter.	ROW and Temp.	\$3,300
29, 30, 31 and 32	S/S of Glade, just W of Bedford Rd.	(2) Temp. Workspace	\$3,750
33 and 34	SEC of Glade and Bedford Rd.	ROW and Temp.	\$3,300
35	NWC of Glade Road and Oak Timber Court	ROW	\$2,900
37 and 38	N/S of Glade, just E of Bedford rd.	ROW and Temp.	\$3,300
40	SWC of Glade and Garry Lynne Dr.	Temp. Workspace	\$2,900
41	SEC of Glade and Garry Lynne Dr.	Temp. Workspace	\$2,900
43	NWC of Glade and Riverwalk Dr.	ROW	\$3,100

Appraisal Fee Schedule

ROW/ Esmt #	Location	Taking/Easement	Fee
45, 49	SWC of Glade and Carmel Dr.	ROW and (2) Temp. Workspace	\$3,300
47	NEC of Glade and Riverwalk Dr.	ROW	\$3,300
47	N/S of Glade, just E of Riverwalk Dr.	ROW	\$3,100
47	N/S of Glade, just E of Riverwalk Dr.	ROW	\$3,100
54	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
55	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
56	S/S of Glade, just W of Bluebonnet	Temp. Workspace	\$2,900
61 and 62	SWC of Glade and Stafford Dr.	(2) Temp. Workspace	\$3,750
63 and 64	N/S of Glade, just E of Bluebonnet	ROW and Temp. Workspace	\$2,900
63 and 64	N/S of Glade Road, between Bluebonnet and Rose	ROW and Temp. Workspace	\$3,100
66	NWC of Glade and Rose St.	Temp. Workspace	\$2,900
68	NEC of Glade and Rose St.	Temp. Workspace	\$2,900
70	NWC of Glade Road and Bransford Road	ROW	\$3,300
			Total \$107,200

SERVICES BY THE CITY:

- 2.1 Provide available criteria and full information as to the City's requirements for the project;
- 2.2 Assist the Engineer by placing at its disposal all available data pertinent to the project;
- 2.3 Examine documents submitted by the Engineer and render a decision pertaining thereto promptly, to avoid unreasonable delay in the progress of the Engineer's services; and
- 2.4 The Project Manager for the City shall appoint, in writing, a representative that the Engineer shall be entitled to rely upon regarding decisions made by the City.
- 2.5 City shall pay all title company invoices directly which will include fees for title commitments, title policies and all other fees related to the closing with the title company.
- 2.6 City shall pay for appraisal services when invoices are reviewed and approved by Engineer for payment.

STANDARD RATE SCHEDULE
Standard Rate Schedule for Time and Expense Contracts
Effective January 1, 2016 to December 31, 2016*

<u>Engineering /Landscape Architecture/ROW</u>	<u>From</u>	<u>-</u>	<u>To</u>	
Principal	\$190	-	\$240	Per Hour
Team Leader	\$155	-	\$220	Per Hour
Senior Project Manager	\$160	-	\$225	Per Hour
Project Manager	\$110	-	\$175	Per Hour
Senior Engineer	\$180	-	\$225	Per Hour
Project Engineer	\$95	-	\$160	Per Hour
Engineer III/IV	\$105	-	\$125	Per Hour
Engineer I/II	\$85	-	\$105	Per Hour
Landscape Architect / Planner	\$110	-	\$190	Per Hour
Landscape Designer	\$70	-	\$100	Per Hour
Senior Designer	\$105	-	\$130	Per Hour
Designer	\$100	-	\$120	Per Hour
Senior CAD Technician	\$85	-	\$110	Per Hour
CAD Technician	\$60	-	\$100	Per Hour
IT Consultant	\$95	-	\$155	Per Hour
Environmental Planner	\$80	-	\$100	Per Hour
Clerical	\$50	-	\$80	Per Hour
Resident Project Representative	\$75	-	\$120	Per Hour
ROW Manager	\$95	-	\$130	Per Hour
Senior ROW Agent	\$90	-	\$125	Per Hour
ROW Agent	\$75	-	\$100	Per Hour
Relocation Agent	\$85	-	\$110	Per Hour
Senior Utility Coordinator	\$85	-	\$115	Per Hour
Utility Coordinator	\$70	-	\$95	Per Hour
Intern	\$40	-	\$60	Per Hour
<u>Surveying</u>				
Survey Manager	\$150	-	\$200	Per Hour
Registered Professional Land Surveyor (RPLS)	\$130	-	\$160	Per Hour
Field Coordinator	\$90	-	\$110	Per Hour
S.I.T. or Senior Survey Technician	\$65	-	\$110	Per Hour
Survey Technician	\$65	-	\$100	Per Hour
1-Person Field Crew w/Equipment**	\$120			Per Hour
2-Person Field Crew w/Equipment**	\$145			Per Hour
3-Person Field Crew w/Equipment**	\$165			Per Hour
4-Person Field Crew w/Equipment**	\$190			Per Hour
Flagger	\$40			Per Hour
Abstractor (Property Deed Research)	\$85			Per Hour

Subsurface Utility Engineering (SUE) Hourly Rate

SUE Project Manager	\$185
SUE Engineer	\$160
Sr. Utility Location Specialist	\$ 95
Utility Location Specialist	\$ 75
1-Person Designator Crew w/Equipment	\$115
2-Person Designator Crew w/Equipment	\$135
2-Person Vacuum Excavator Crew w/Equipment	\$220 (Travel and Stand-by)
SUE QL-A Test Hole ($0 \leq 4$ ft)***	\$900 per hole
SUE QL-A Test Hole ($>4 \leq 6$ ft)***	\$1,100 per hole
SUE QL-A Test Hole ($>6 \leq 8$ ft)***	\$1,310 per hole
SUE QL-A Test Hole ($>8 \leq 10$ ft)***	\$1,530 per hole
SUE QL-A Test Hole ($>10 \leq 12$ ft)***	\$1,770 per hole
SUE QL-A Test Hole ($>12 \leq 14$ ft)***	\$2,000 per hole

All subcontracted and outsourced services shall be billed at rates comparable to TNP's billing rates above or cost times a multiplier of 1.10.

** Rates shown are for calendar year 2016 and are subject to change in subsequent years.*

*** Equipment may include Truck, ATV, Robotic Total Station, GPS Units and Digital Level.*

**** Pricing includes 2-Person crew, designating for excavation, vehicle costs, and field supplies.*

Direct Cost Reimbursables

Photocopies:	\$0.154/sf	letter, legal and 11" x 17" size bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
Prints:	\$0.154/sf	letter, legal and 11" x 17" bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
Plots:	\$0.154/sf	letter, legal and 11" x 17" bond paper, B&W
	\$0.7701/sf	letter, legal and 11" x 17" bond paper, color
	\$0.50/sf	22" x 34" and larger bond paper or vellum, B&W
	\$1.00/sf	22" x 34" and larger mylar or acetate, B&W
Mileage	\$0.54/mile	
Plans on CD	\$20/each	

ATTACHMENT 'C'

PROJECT SCHEDULE

**City of Colleyville - Glade Road
From: Bransford Road To: Manning Drive**

<u>Task</u>	<u>Start</u>	<u>Finish</u>
1. Project Release	May 30, 2016	N/A
2. Project Administration	May 30, 2016	April 30, 2017
3. Parcel Appraisal	April 15, 2016	July 31, 2016
a. Appraise Priority Parcels	April 15, 2016	June 1, 2016
b. Appraise Remainder of Parcels	June 1, 2016	July 31, 2016
4. Parcel Negotiations	June 1, 2016	December 30,
a. Negotiate Priority Parcels	June 1, 2016	August 31, 2016
b. Negotiate Remainder of Parcels	July 31, 2016	October 30, 2016
5. Title & Closings	September 15, 2016	January 31, 2017



City of Colleyville City Council Agenda Briefing

City Hall
100 Main Street
Colleyville, Texas 76034
www.colleyville.com

Agenda Number 7

Agenda Date 05/03/2016

Type Report

Department City Secretary

Title

Colleyville Library Board Meeting Minutes - January 18, 2016

Colleyville Library Board Meeting Minutes - March 22, 2016

Attachments

1. Colleyville Library Board Meeting Minutes - January 18, 2016
2. Colleyville Library Board Meeting Minutes - March 22, 2016



City of Colleyville

Colleyville Library Board

MINUTES

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Monday, January 18, 2016
6:00 p.m.

Colleyville Public Library
110 Main Street

1. CALL TO ORDER

Chair Vernon Noronha called the meeting of the Colleyville Public Library Board to order at 6:01 p.m.

Roll Call

Present Board members: Chairperson Vernon Noronha, Vice Chair Victoria Kennedy-Ziegler, Molly Skinner, Billie Tuttle, Kay Newton, Seanna Billinger, Joan Roberts, Ex Officio Nancy Tuuling; Staff: Library and Recreation Director Mary Rodne, Administrative Assistant Kristi Isbell

Absent Member Nancy Andrews, Ex Officio member Cecilia Monacelli

2. APPROVAL OF MINUTES

October 12, 2015

A motion was made by Molly Skinner and seconded by Kay Newton to approve the October 12, 2015 minutes as presented. **The motion carried with a unanimous vote.**

3. REGULAR AGENDA ITEMS

3a Legislative Update

Colleyville Police Detective Jeremiah Filion presented an update and explained the application of Texas' new open carry law that became effective on January 1, 2016. Detective Filion explained differences between previous concealed carry law and requirements regarding visibility and holsters. Filion explained that open carry is not prohibited in government buildings (local or federal) with a few exceptions. Filion stated that cities can decide whether or not to allow or prohibit open and/or concealed carry at public meetings, but must provide specific signage indicating prohibition. Filion stated that Colleyville City Council approved a resolution to prohibit open carry at public meetings, but allow concealed carry at public meetings, with proper licensing. Detective Filion explained further exceptions to the new open carry law.

3b Review Colleyville Library Board Bylaws

Director Mary Rodne stated that Library Board Bylaws were included, annually, for member review. Rodne reminded the Board of the importance of adhering to meeting attendance guidelines outlined in Section 2.6.

3c Update on the Colleyville Public Library Long-Range Plan

Director Mary Rodne stated that the plan is still being reviewed and that the goal is to complete the plan in late spring. Rodne explained that there were over 1,300 respondents to the survey. Molly Skinner requested, and board members discussed, merit of knowing the number of households represented in the respondent total.

3d Discussion of Items for Future Agendas

The next regularly scheduled meeting was tentatively set for Monday, February 8, 2016.

4. REPORTS**4a Librarian's Report****A. Monthly Statistics:**

Director Mary Rodne provided an overview of the statistics for the months of October through December 2015.

B. Donations

Rodne stated that the Library had received a total of \$350.00 in donations for the months of October through December 2015. In October, the Library received \$50.00 from Saddlebrook Homeowners Association, for the purchase of books, in memory of one of its residents, Richard Stites. In December, the Library received \$100.00 from William and Nancy Bowen for the purchase of e-books, \$100.00 from David and Pam Brandt for the purchase of business books, and \$100.00 from Ann Maddux for the purchase of e-audio books.

C. Library Programs

Rodne explained that the spring brochure had been released and the session started on January 18. Rodne described youth programs new to this session, such as STEAM Adventures (Science, Technology, Engineering, Art, and Math) and the addition of monthly family programs. Rodne stated that the family programs would be themed and would include a How to Be a Princess party in February, How to Be a Ninja party in March, and a Spring Party in April. Director Rodne explained that the Whole Foods of Colleyville approached the Library about providing a story time in their restaurant

seating area and that this off-site story time would be held on Tuesdays at 11:00 a.m. Rodne stated that the New Year, New You program for adults started on January 9 and featured three programs on Organization, Nutrition, and Fitness. Rodne stated that the Master Gardener Series program began in January and would continue through May 14. Rodne added that the Library is offering a new language learning service called Transparent Languages. Rodne explained that planning has begun on the Summer Reading Program and the themes vary from *On Your Mark, Get Set, Read* and *Exercise Your Mind* and may include a sports or Olympic related theme.

4b Friends of the Colleyville Public Library Report

Nancy Tuuling reported that local author Mark Fadden spoke at the Friends meeting on November 19 about the history of Colleyville. Tuuling added that Fadden donated \$75.00 to the Friends, which was a percentage of the evening's sales of his new book, *Images of America: Colleyville*. Tuuling stated that the Friends also participated in the City's Tree Lighting Celebration in December and had \$218.00 in popcorn sales during the event. Tuuling stated that a tentative date of May 7 had been set for the annual Friends' Used Book Sale and that book donations are accepted in the Library. Kay Newton added that the Friends sponsored one of the Community Decorated Trees, during the holidays, and it was themed *Angels Among Us*.

4c Colleyville Public Library Foundation Report

Director Rodne reported on behalf of the Library Foundation that, due to scheduling conflicts, the Foundation had not met. Rodne added, however, that the Glaser Family Foundation has donated \$10,000.00 to the Foundation, in support of the Summer Reading Program and the purchase of summer reading materials. Rodne stated that the Glaser Foundation has donated \$10,000.00 each year since the Library opened.

5. CITIZEN COMMENTS/PRESENTATIONS REGARDING ITEMS NOT ON THE AGENDA

There were no citizen comments/presentations regarding items not on the agenda.

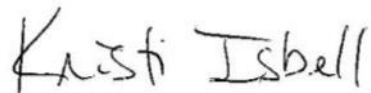
6. ADJOURNMENT

A motion was made by Billie Tuttle and seconded by Victoria Kennedy-Ziegler to adjourn the meeting of the Colleyville Library Board at 6:45 p.m. **The motion was approved unanimously.**

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 18th DAY OF April, 2016.

Minutes taken and prepared by:

Kristi Isbell

A handwritten signature in dark ink that reads "Kristi Isbell". The signature is written in a cursive, slightly informal style.

Administrative Assistant



City of Colleyville

Colleyville Library Board MINUTES

City Hall
100 Main Street
Colleyville, Texas 76034
817. 503.1000
www.colleyville.com

Tuesday, March 22, 2016
6:00 p.m.

Colleyville Public Library
110 Main Street

1. CALL TO ORDER

Chair Vernon Noronha called the special meeting of the Colleyville Public Library board to order at 6:09 p.m.

Roll Call: Present Board members: Kay Newton, Vice Chair Victoria Kennedy-Ziegler, Molly Skinner, Billie Tuttle, Chair Vernon Noronha, Seanna Billinger, Alternate 1 Joan Roberts, Alternate 2 Shanthi Kannan, Ex Officio Nancy Tuuling, Library Director Mary Rodne, Administrative Assistant Kristi Isbell, Hidell and Associates Architect Aaron Babcock, Foundation representative Ginny Tighe, Friends and Foundation representative Pat Jones

Absent: Board member Nancy Andrews, Ex-Officio member Cecilia Monacelli

2. REGULAR AGENDA ITEMS

2a Approval of the Colleyville Public Library Long-Range Plan 2016-2021

A motion was made by Billie Tuttle and seconded by Molly Skinner to approve the Colleyville Library Long-Range Plan as presented, by Aaron Babcock of Hidell Associates Architects, in the March 22, 2016 Joint Work Session with City Council.

3. ADJOURNMENT

A motion was made by Vernon Noronha and seconded by Kay Newton to adjourn the special meeting of the Colleyville Library Board at 6:20 p.m. **The motion was approved unanimously.**

APPROVED BY A VOTE OF 7 AYES, 0 NAYS, AND 0 ABSTENTIONS ON THIS THE 18th DAY OF April, 2016.

Minutes taken and prepared by:

Kristi Isbell
Administrative Assistant

RESOLUTION R-16-3989

**A RESOLUTION APPROVING CITY COUNCIL ACTION
UNDER BUSINESS AT THE REGULAR CITY COUNCIL MEETING OF
MAY 3, 2016**

WHEREAS, City Council has taken action on certain items on the agenda under Business.

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

Sec. 1. THAT

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF ____ AYES, ____ NAYS, AND ____ ABSTENTIONS ON
THIS THE 3RD DAY OF MAY 2016.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC
City Secretary

David Kelly
Mayor