



**AGENDA
CITY OF ALLEN
CITY COUNCIL REGULAR MEETING
AUGUST 13, 2019 - 7:00 PM
CITY COUNCIL CHAMBERS
ALLEN CITY HALL
305 CENTURY PARKWAY
ALLEN, TX 75013**

Call to Order and Announce a Quorum is Present.

Pledge of Allegiance.

Public Recognition.

1. Citizen's Comments.

[The City Council invites citizens to speak to the Council on any topic not on the agenda or not already scheduled for Public Hearing. Prior to the meeting, please complete a "Public Meeting Appearance Card" and present it to the City Secretary. The time limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers.]

2. Presentation of Proclamations by the Office of the Mayor:

- Present a Proclamation to Representatives of the U.S. Census Bureau Proclaiming the 2020 Census as a Top Priority for the City of Allen.

Consent Agenda.

[Routine Council business. Consent Agenda is approved by a single majority vote. Items may be removed for open discussion by a request from a Councilmember or member of staff.]

3. Approve Minutes of the July 23, 2019, Regular City Council Meeting.
4. Adopt an Ordinance Declaring a 10.62± Acre Tract of Land Out of the William Snyder Survey, Abstract No. 821, as Being a Part of the City.
5. Adopt a Resolution Approving the Terms and Conditions of a Local Project Advance Funding Agreement (LPAFA) with The State of Texas Acting by and through The Texas Department of Transportation for Funding Traffic Signal Detection Improvement.
6. Adopt a Resolution Authorizing the City Manager to Apply for, Accept, Reject, Alter or Terminate a Grant Through the Texas Department of Transportation for Design and Construction of Sidewalks along Pebblebrook Drive and Sycamore

Creek Road to Provide a Safe Route to School.

7. Adopt a Resolution Authorizing the City Manager to Execute This and Future Interlocal Agreements with the North Central Texas Emergency Communications District For Regional 9-1-1 Service.
8. Authorize the City Manager to Purchase Three (3) Chevrolet Tahoes from Freedom Chevrolet and Police Package Equipment from Priority Public Safety for the Replacement of Three Police Department Vehicles in the Total Amount of \$125,754.
9. Authorize the City Manager to Execute a Contract with Duro-Last, Inc. through The Interlocal Purchasing System (TIPS) in the Amount of \$1,500,000 for the Allen Event Center Roof Replacement.

Regular Agenda.

10. Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Central Business District and Adopt Development Regulations, Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections for a Property Generally Located at the Northeast Quadrant of U.S. Highway 75 and W. Main Street and Bounded by Anna Drive, Main Street, U.S. Highway 75, and the Southern Boundary of Block A and C of Whisenant Estates Addition. [Allen City Center - Urban Residential and Office Uses]
11. Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 56 Shopping Center By Adding "Banquet Hall" as a Permitted Use and Adopt a Concept Plan and Building Elevations for a Property Generally Located East of Custer Road and South of McDermott Drive. [McDermott Banquet Hall]
12. Conduct a Public Hearing on the Fiscal Year 2019-2020 Budget as Required by Article IV, Section 4.04 of the Allen City Charter.
13. Conduct a Public Hearing Regarding the Fiscal Year 2019-2020 City Tax Rate.

Other Business.

14. Calendar.
 - August 16-18 - City Council Budget Workshop, Tanglewood Resort and Conference Center
 - August 27 - Second Public Hearing Date Regarding the Fiscal Year 2019-20 City Tax Rate and FY 2019-20 City Budget
15. Items of Interest. [*Council announcements regarding local civic and charitable events, meetings, fundraisers, and awards.*]

Executive Session. (As needed)

Legal, Section 551.071.

As authorized by Section 551.071(2) of the Texas Government Code, the Workshop Meeting and/or the Regular Agenda may be Convened into Closed Executive Session for the Purpose of Seeking Confidential Legal Advice from the

City Attorney on any Agenda Item Listed Herein.

(Closed to Public as Provided in the Texas Government Code.)

16. Reconvene and Consider Action on Items Resulting from Executive Session.

Adjournment.

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, August 9, 2019 at 5:00 p.m.

Shelley B. George, City Secretary

Allen City Hall is wheelchair accessible. Access to the building and special parking are available at the entrance facing Century Parkway. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 214.509.4105.

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE:

August 13, 2019

SUBJECT:

Approve Minutes of the July 23, 2019, Regular City Council Meeting.

STAFF RESOURCE:

Shelley B. George, City Secretary

ATTACHMENTS:

Minutes

ALLEN CITY COUNCIL

REGULAR MEETING

JULY 23, 2019

Present:

Stephen Terrell, Mayor

Councilmembers:

Gary L. Caplinger, Mayor Pro Tem

Kurt Kizer

Carl Clemencich

Lauren Doherty

Chris Schulmeister

Baine Brooks

City Staff:

Eric Ellwanger, City Manager

Rebecca Vice, Acting Assistant City Manager

Shelley B. George, City Secretary

Teresa Warren, Director, Public and Media Relations Office

Lauren Field, Deputy City Secretary

Pete Smith, City Attorney

Workshop Session

With a quorum of the Councilmembers present, the Workshop Session of the Allen City Council was called to order by Mayor Terrell at 6:24 p.m. on Tuesday, July 23, 2019, in the City Council Conference Room of the Allen City Hall, 305 Century Parkway, Allen, Texas.

- 1. Update Regarding Collin County Rides Program with DART.**
- 2. Committee Updates from City Council Liaisons.**
- 3. Questions on Current Agenda.**

With no further discussion, the Workshop Session of the Allen City Council was adjourned at 6:46 p.m. on Tuesday, July 23, 2019.

Call to Order and Announce a Quorum is Present

With a quorum of the Councilmembers present, the Regular Meeting of the Allen City Council was called to order by Mayor Terrell at 7:01 p.m. on Tuesday, July 23, 2019, in the Council Chambers of the Allen City Hall, 305 Century Parkway, Allen, Texas.

Pledge of Allegiance

Mayor Terrell moved to Agenda Item 8.

8. **Authorize the Acceptance of the Conveyance of 104.8511 Acres of Land from the Margaret M. McDermott Revocable Trust to the City of Allen, to be Known and Operated Forever as “The Eugene McDermott Park.”**

MOTION: Upon a motion made by Councilmember Schulmeister and a second by Councilmember Doherty, the Council voted seven (7) for and none (0) opposed to authorize the acceptance of the conveyance of 104.8511 acres of land from the Margaret M. McDermott Revocable Trust to the City of Allen, to be known and operated forever as “The Eugene McDermott Park.” The motion carried.

Mrs. Mary McDermott Cook presented a \$1,000,000 endowment check from the Margaret M. McDermott Revocable Trust to the Allen Parks Foundation to be used for the maintenance of the Eugene McDermott Park.

Public Recognition

1. **Citizen Comments.**

Melanie Hughes, 920 Rush Creek Drive, Allen, Texas, spoke regarding the Central Business District Design Review Committee regarding Allen City Center.

Consent Agenda

MOTION: Upon a motion made by Councilmember Clemencich and a second by Mayor Pro Tem Caplinger, the Council voted seven (7) for and none (0) opposed to adopt all items on the Consent Agenda as follows:

2. **Approve Minutes of the July 9, 2019, Regular City Council Meeting.**
3. **Authorize the City Manager to Purchase Operational Supplies from Amazon through the US Communities National Cooperative Purchasing Program for an Annual Amount of \$250,000 for a Term of Five Years.**
4. **Receive the Capital Improvement Program (CIP) Status Report.**
5. **Receive the Financial Report for the Period Ending June 30, 2019.**
6. **Receive the Investment Report for the Period Ending June 30, 2019.**
7. **Transmit the Proposed 2019-2020 City Budget and the Proposed 2020-2024 Capital Improvement Program.**

The motion carried.

Regular Agenda

9. **Conduct a Public Hearing and Adopt a Resolution Approving the 2019-2020 Community Development Block Grant (CDBG) Annual Action Plan.**

Mayor Terrell opened the public hearing and asked anyone wishing to speak for or against this item to do so at this time.

With no one speaking, Mayor Terrell closed the public hearing.

RESOLUTION NO. 3686-7-19(R): A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE 2019-2020 ANNUAL ACTION PLAN; AUTHORIZING ITS SUBMISSION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD); REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Upon a motion made by Mayor Pro Tem Caplinger and a second by Councilmember Brooks, the Council voted seven (7) for and none (0) opposed to adopt Resolution No. 3686-7-19(R), as previously captioned, approving the 2019-2020 Community Development Block Grant (CDBG) Annual Action Plan. The motion carried.

10. Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 21 Garden Office and Adopt a Sign Location Map and Sign Elevation for a Property Generally Located at the Southeastern Corner of the Intersection of U.S. Highway 75 and Exchange Parkway. [The Dentist of Allen – Sign Plan]

Mayor Terrell opened the public hearing and asked anyone wishing to speak for or against this item to do so at this time.

The following individuals spoke in favor of the item:

David Shafer, 351 Chaparral #104, Allen, Texas;
James Watson, 4610 Mint Way, Dallas, Texas;
Amie Wilson, 1052 Savannah, Nevada, Texas; and
Tom Wright, 859 Vine Street, Euless, Texas.

The following individuals spoke in opposition to the item:

Robert Acker, 216 Glenwick Place, Allen, Texas;
Judy Adams, 409 W. Coats Drive, Allen, Texas;
Julie Anschutz, 1104 Larkspur Drive, Allen, Texas;
Dave Cornette, 310 Willow Brook Drive, Allen, Texas;
Kelly Cunningham, 727 Fairlawn Street, Allen, Texas;
Doug Gallagher, 204 Glenwick Place, Allen, Texas;
Kevin Handy, 1858 Villa Drive, Allen, Texas; and
Jim Longely, 209 Exchange Place, Allen, Texas.

The following individuals did not speak, but wished to record their support of the item:

Timothy Durkin, 2024 Frontier Trail, Lewisville, Texas;
Kris Koelker, 955 Byron Street, Allen, Texas; and
Kevin Pierce, 604 Sandy Creek Drive, Allen, Texas.

The following individuals did not speak, but wished to record their opposition of the item:

Debbie McFadin, 218 Glenwick Place, Allen, Texas;
Adelia Scaife, 403 W. Coats Drive, Allen, Texas;
Marianna Sennour, 880 Clear Water Drive, Allen, Texas;
Misty Strebeck, 302 N. Bonham Drive, Allen, Texas;

David Winter, 202 Glenwick Place, Allen, Texas; and
Meika Zack, 606 N. Allen Drive, Allen, Texas.

With no one else speaking, Mayor Terrell closed the public hearing.

The applicant requested to withdraw his request.

No action was taken on this agenda item.

11. Set August 13, 2019, as the First Public Hearing Date and August 27, 2019, as the Second Public Hearing Date Regarding the Fiscal Year 2019-2020 City Budget.

MOTION: Upon a motion made by Councilmember Brooks and a second by Councilmember Clemencich, the Council voted seven (7) for and none (0) opposed to set Tuesday, August 13, 2019, at 7:00 P.M. and Tuesday, August 27, 2019, at 7:00 P.M. at Allen City Hall, 305 Century Parkway, Allen, Texas as the dates, times, and place for the first and second Public Hearings on the City's Proposed Fiscal Year 2019-2020 Budget in accordance with Article IV, Section 4.04 of the City Charter. The motion carried.

12. Set August 13, 2019, as the First Public Hearing Date and August 27, 2019, as the Second Public Hearing Date Regarding the Fiscal Year 2019-2020 City Tax Rate.

MOTION: Upon a motion made by Councilmember Doherty and a second by Mayor Pro Tem Caplinger, the Council voted seven (7) for and none (0) opposed to set Tuesday, August 13, 2019, at 7:00 P.M. and Tuesday, August 27, 2019, at 7:00 P.M. at Allen City Hall, 305 Century Parkway, Allen, Texas as the dates, times, and place for the first and second Public Hearings on the proposed City Tax Rate of 49.8 cents per \$100 appraised value for the Fiscal Year 2019-2020. The motion carried.

13. Motion to Confirm City Council Appointments to the Council Nominating Committee as Recommended by Mayor Terrell.

MOTION: Upon a motion by Mayor Pro Tem Caplinger and a second by Councilmember Doherty, the Council voted seven (7) for and none (0) opposed to confirm the appointments of Councilmembers Kizer, Clemencich, Schulmeister, and Doherty to the Council Nominating Committee as recommended by Mayor Terrell. The motion carried.

Other Business

14. Calendar.

- July 28 – National Buffalo Soldier Day, Allen Public Library, 3 p.m.

15. Items of Interest.

Executive Session

The Executive Session was not held.

Adjournment

MOTION: Upon a motion made by Councilmember Doherty and a second by Mayor Pro Tem Caplinger, the Council voted seven (7) for and none (0) opposed to adjourn the Regular Meeting of the Allen City Council at 8:35 p.m. on Tuesday, July 23, 2019. The motion carried.

These minutes approved on the 13th day of August 2019.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: August 13, 2019

SUBJECT: Adopt an Ordinance Declaring a 10.62± Acre Tract of Land Out of the William Snyder Survey, Abstract No. 821, as Being a Part of the City.

STAFF RESOURCE: Lee Battle, Assistant Director of Community Development

ACTION PROPOSED: Adopt an Ordinance Declaring a 10.62± Acre Tract of Land Out of the William Snyder Survey, Abstract No. 821, as Being a Part of the City.

BACKGROUND

In 1985, the City adopted an ordinance annexing 583.39 acres, including property that was described as a tract known as High Point Estates. A recent review of City records indicates that 10.62± acres of land, shown on the map in Exhibit "A" attached, was not at the time of the annexation part of the High Point Estates Subdivision. Records indicate that the 10.62± acre property was intended to be included within the area to be annexed, however, the property descriptions in the annexation ordinance failed to include it.

As far as can be determined, this property has been presumed to be within the City limits since 1985. Collin County shows this property to be in the City, and the property owners have received all available City services and paid all applicable City taxes since 1985.

The Texas Local Government Code, Section 41.003 Inclusion of Area Receiving Longstanding Treatment as Part of Municipality, provides a process for declaring such a property to be part of the City. It states that property that has been presumed to be in the City for at least 20 years can be declared as part of the City by adoption of an ordinance by the City Council. Adopting this ordinance will correct the error of the original annexation ordinance. It will have no impact on how the properties are treated, since the property was already presumed to be in the City.

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ to declare a 10.62± acre tract of land out of the William Snyder Survey, Abstract No. 821, as being a part of the city.

ATTACHMENTS:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, DECLARING A 10.62± ACRE TRACT OF LAND OUT OF THE WILLIAM SNYDER SURVEY, ABSTRACT NO. 821, COLLIN COUNTY, TEXAS, IDENTIFIED IN EXHIBIT “A” HERETO AND ADJACENT TO THE CITY AS BEING A PART OF THE CITY PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 41.003; MAKING CERTAIN FINDINGS IN SUPPORT OF SUCH DECLARATION; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about June 20, 1985, the City Council of the City of Allen, Texas, approved Ordinance No. 614-6-85 annexing property into the City of Allen’s corporate limits described only as the “High Point Estates Subdivision”; and,

WHEREAS, a recent review of City records indicates that the 10.62± acre tract of land out of the William Snyder Survey, Abstract No. 821, Collin County, Texas, located within the boundaries of the map set forth in Exhibit “A,” along with all adjacent street rights-of-way (collectively “the Property”) was not, at the time of the adoption of Ordinance No. 614-6-85 a portion of the High Point Estates Subdivision; and,

WHEREAS, a review of the City’s records relating to the adoption of Ordinance No. 614-6-85 indicates the Property was intended to be included within the area to be annexed by Ordinance No. 614-6-85; and,

WHEREAS, notwithstanding the failure to expressly describe the Property as part of the area annexed pursuant to Ordinance No. 614-6-85, the Property has been considered to be and has been treated as being located within the corporate limits of the City; and,

WHEREAS, pursuant to and as authorized by Texas Local Government Code Section 41.003, the City Council of the City of Allen, Texas, finds it to be in the public interest to declare the Property as being part of and located within the corporate limits of the City of Allen, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Property, the boundaries of which are depicted on the map set forth in Exhibit “A,” attached hereto, is hereby declared to be a part of and located within the corporate limits of the City of Allen, Texas.

SECTION 2. In support of the declaration made in Section 1 of this Ordinance, the City Council of the City of Allen, Texas, makes the following findings:

- A.** The records of the City indicate the Property has been a part of the City of Allen for more the twenty (20) years preceding the date of adoption of this Ordinance;
- B.** The City has provided City services, including police protection, to the Property and has otherwise treated the Property as being a part of the City for the twenty (20) years preceding the date of adoption of this Ordinance;
- C.** There has been no judicial determination during the twenty (20) years preceding the date of adoption of this Ordinance that the Property is located outside the boundaries of the City;
- D.** There is no pending lawsuit that challenges the inclusion of the Property as part of the City; and

E. The Property has been continuously treated as being a part of the City since June 20, 1985, the date of adoption of Ordinance No. 614-6-85.

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

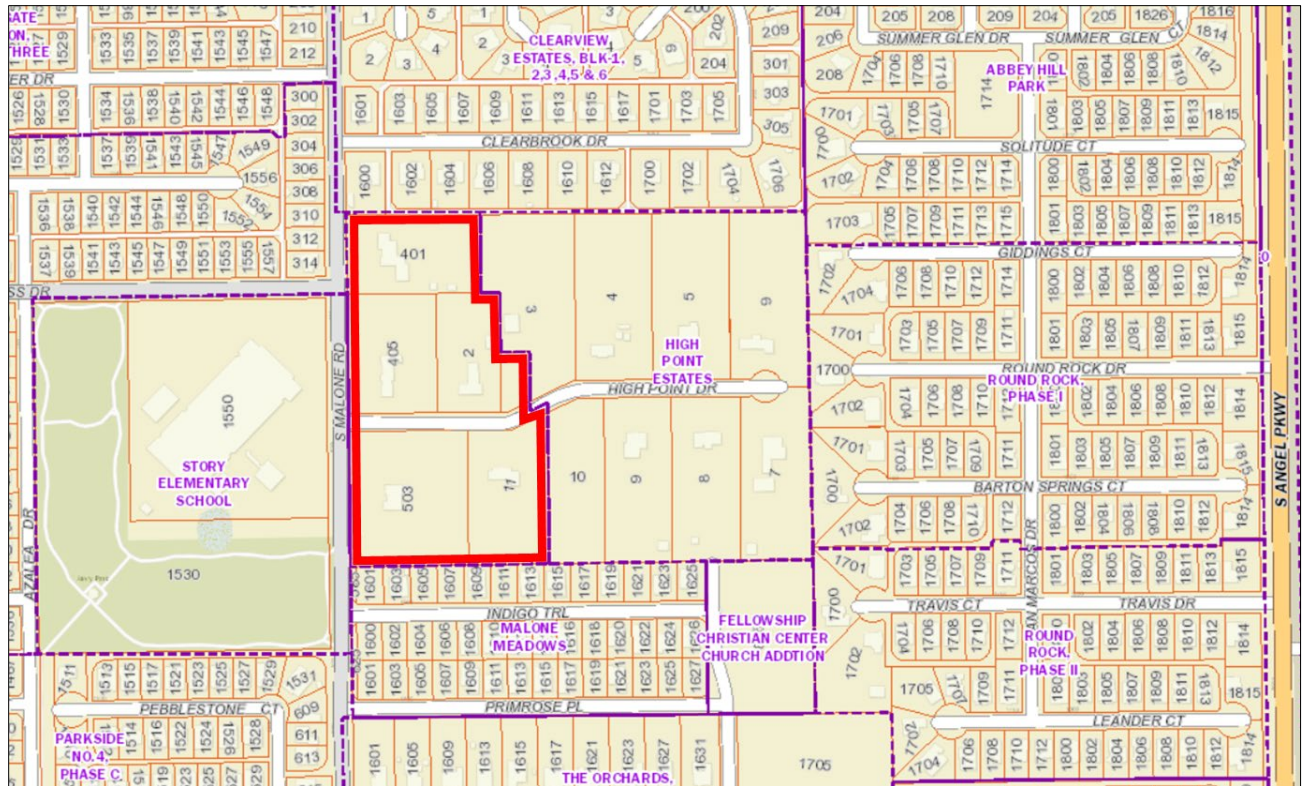
ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:8/6/19:109884)

Shelley B. George, TRMC, CITY SECRETARY

EXHIBIT “A”
BOUNDARY MAP OF PROPERTY DECLARED PART OF THE CITY
PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 41.003

The property shown within the boundaries of the map below are declared to be a part of and located within the corporate boundaries of the City of Allen, Collin County, Texas, pursuant to this Ordinance and include the parcels identified in this Exhibit A:



Parcel 1: 1.93 Acres out of the William Snider Survey, Abst. No. 821, City of Allen, Collin County, Texas, more particularly described in Warranty Deed with Vendor's Lien dated June 12, 2008, and recorded June 13, 2008, as Instrument No. 20080613000718700 in the Official Public Records, Collin County, Texas, and also known as 401 S. Malone Road.

Parcel 2: 1.885 Acres out of the William Snider Survey, Abst. No. 821, City of Allen, Collin County, Texas, and more particularly described in Corrected General Warranty Deed dated March 22, 2017, and recorded May 10, 2017, as Instrument No. 20170510000599750 in the Official Public Records, Collin County, Texas, and also known as 405 S. Malone Road.

Parcel 3: 1.2228 Acres out of the William Snider Survey, Abst. No. 821, City of Allen, Collin County, Texas, and more particularly described in Warranty Deed dated December 21, 1973, recorded January 7, 1974, in Volume 897, Page 645, Deed Records, Collin County, Texas, and in Warranty Deed dated April 4, 1974, and recorded April 10, 1974, in Volume. 909, Page 556, Deed Records, Collin County, Texas, and known as 2 Highpoint Drive.

Parcel 4: 0.229 Acres out of the William Snider Survey, Abst. No. 821, Collin County, Texas, and more particularly described in Special Warranty Deed dated November 8, 2003, and recorded November 10, 2003, in Volume 5542, Page 3485, Deed Records, Collin County, Texas.

Parcel 5: 2.86 Acres out of the William Snider Survey, Abst. No. 821 Collin County, Texas, and more particularly described in General Warranty Deed dated June 15, 1998, and recorded June 19, 1998, in Volume. 4190, Page 303, Deed Records, Collin County, Texas, and, known as 503 S. Malone Road.

Parcel 6: 1.8723 Acres out of the William Snider Survey, Abst. 821, Collin County, Texas, and more particularly described in an Executor's Special Warranty Deed dated May 24, 2016, and recorded June 1, 2016, as Instrument No. 20160601000679330 in the Official Public Records, Collin County, Texas, and known as 11 Highpoint Drive.

And including approximately 0.627 acres of public Right-of-Way known as Highpoint Drive.

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE:

August 13, 2019

SUBJECT:

Adopt a Resolution Approving the Terms and Conditions of a Local Project Advance Funding Agreement (LPAFA) with The State of Texas Acting by and through The Texas Department of Transportation for Funding Traffic Signal Detection Improvement.

STAFF RESOURCE:

Chris Flanigan, Director of Engineering

ACTION PROPOSED:

Adopt a Resolution Approving the Terms and Conditions of a Local Project Advance Funding Agreement (LPAFA) with The State of Texas Acting by and through The Texas Department of Transportation for Funding Traffic Signal Detection Improvement.

BACKGROUND

The City of Allen is a recipient of a Highway Safety Improvement Program (HSIP) grant through the Texas Department of Transportation. The purpose of this program is to reduce instances of traffic fatalities and serious injuries. Ten (10) intersections were selected, based on crash occurrences at traffic signals in the City of Allen to receive new and improved detection cameras.

In this application, advance detection cameras are only used in real time for signal operation (video is not stored) and can enhance the safety at signalized intersections by modifying traffic signal timing. Modifications can be extensions of green time and/or queue detection during peak times allowing vehicles needed time to clear the intersection safely, based on traffic demand. As a result, this technology will facilitate efficient traffic signal timing to improve safety and mobility.

The following is a list of the ten (10) awarded intersections in the City of Allen.

Locations
EXCHANGE PARKWAY & ALLEN HEIGHTS
EXCHANGE PARKWAY & GREENVILLE AVE
EXCHANGE PARKWAY & RIVERCREST DR
GREENVILLE AVE & RIVERCREST DR
GREENVILLE AVE & MAIN DR
GREENVILLE AVE & BETHANY DR

GREENVILLE AVE & HIGHTRAIL Dr
MCDERMOTT DRIVE @ WATTERS
MCDERMOTT DRIVE & TWIN CREEKS DR/ SUNCREEK DR
EXCHANGE PARKWAY & ALMA RD

BUDGETARY IMPACT

The project is estimated to cost \$421,026 for the new traffic signal detection project. Of this, 10% of the construction cost and all TxDOT direct project costs will be the responsibility of the City to fund. Funding for this project will utilize GO bonds only.

In summary, the city's responsible project expenses associated with HSIP funding project are as follows:

ST1908 - Traffic Signal Detection Improvement Project Budget	
Description	Costs
City Design & Construction Cost (10%)	\$ 35,791.61
TxDOT Design Direct Project Cost	\$ 22,500.00
TxDOT Construction Direct Project Cost	\$ 20,336.00
TOTAL	\$ 78,627.61

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a Resolution approving the terms and conditions of a Local Project Advance Funding Agreement (LPAFA) with The State of Texas acting by and through The Texas Department of Transportation for funding Traffic Signal Detection Improvement.

MOTION

I make a motion to adopt Resolution No. _____ approving the terms and conditions of the Local Project Advance Funding Agreement (LPAFA) with The State of Texas acting by and through The Texas Department of Transportation for funding Traffic Signal Detection Improvement.

ATTACHMENTS:

Resolution
Agreement
Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE LOCAL PROJECT ADVANCE FUNDING AGREEMENT (LPAFA) WITH THE STATE OF TEXAS ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR FUNDING TRAFFIC SIGNAL DETECTION EQUIPMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Local Project Advance Funding Agreement by and between the City of Allen, Texas and the State of Texas acting by and through the Texas Department of Transportation which provides for funding Stacy Road Improvements, attached as Exhibit “A”; and,

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the City Manager should be authorized to execute the Agreement on behalf of the City of Allen, Collin County, Texas.

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

SECTION 1. The Local Project Advance Funding Agreement for funding Traffic Signal Detection Improvement., attached hereto and incorporated herein by reference for all purposes, having been reviewed by the City Council of the City of Allen, Texas, and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, in all things approved, and the City Manager is hereby authorized to execute the Agreement on behalf of the City of Allen, Collin County, Texas.

SECTION 2. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CSJ # 0918-24-243, 0918-24-244, 0918-24-245
0918-24-246, 0918-24-247, 0918-24-248
District # DAL/18
Code Chart 64 # 00650
Project: E. Exchange Pkwy. at Rivercrest Blvd.,
Greenville Ave. from Hightrail Dr. to E.
Exchange Pkwy., McDermott Dr. at S. Watters
St., McDermott Dr. at Twin creek Dr./Suncreek
Dr., E. Exchange Pkwy. at N Alma Dr., E.
Exchange Pkwy. at N. Allen Heights
Federal Highway Administration
CFDA Title: Highway Planning and Construction
CFDA No.:20.205
Not Research and Development

STATE OF TEXAS §

COUNTY OF TRAVIS §

**LOCAL TRANSPORTATION PROJECT
ADVANCE FUNDING AGREEMENT
For A
Highway Safety Improvement Project
Off-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 Allen**, 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 115291 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.

CSJ # 0918-24-243, 0918-24-244, 0918-24-245
0918-24-246, 0918-24-247, 0918-24-248
District # DAL/18
Code Chart 64 # 00650
Project: E. Exchange Pkwy. at Rivercrest Blvd.,
Greenville Ave. from Hightrail Dr. to E.
Exchange Pkwy., McDermott Dr. at S. Watters
St., McDermott Dr. at Twincreek Dr./Suncreek
Dr., E. Exchange Pkwy. at N Alma Dr., E.
Exchange Pkwy. at N. Allen Heights
Federal Highway Administration
CFDA Title: Highway Planning and Construction
CFDA No.:20.205
Not Research and Development

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 traffic signal improvements at E. Exchange Pkwy at Rivercrest Blvd (0918-24-243), Greenville Ave. From Hightrail Dr. to E. Exchange Pkwy. (0918-24-244), McDermott Dr. at S. Watters St. (0918-24-245), McDermott Dr. at Twincreek Dr./Suncreek Dr. (0918-24-246), E. Exchange Pkwy. at N. Alma Dr. (0918-24-247) and E. Exchange Pkwy. at N. Allen Heights (0918-24-248).

5. Right of Way and Real Property

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

6. Utilities

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

7. Environmental Assessment and Mitigation

Environmental assessment and mitigation will be carried out as stated in the Master Agreement. 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. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

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 and 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 Special Approval has been granted 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 Special Approval has been granted 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:

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 0918-24-246, 0918-24-247, 0918-24-248
 District # DAL/18
 Code Chart 64 # 00650
 Project: E. Exchange Pkwy. at Rivercrest Blvd.,
 Greenville Ave. from Hightrail Dr. to E.
 Exchange Pkwy., McDermott Dr. at S. Watters
 St., McDermott Dr. at Twin creek Dr./Suncreek
 Dr., E. Exchange Pkwy. at N Alma Dr., E.
 Exchange Pkwy. at N. Allen Heights
 Federal Highway Administration
 CFDA Title: Highway Planning and Construction
 CFDA No.:20.205
 Not Research and Development

Local Government:	State:
City of Allen Allen City Hall 305 Century Pkwy Allen, TX 75013	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

- A. Compliance with Regulations: The Local Government will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- E. Sanctions for Noncompliance:** In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this contract, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- a. withholding of payments to the Local Government under the contract until the Local Government complies and/or
 - b. cancelling, terminating, or suspending of the contract, in whole or in part.
- F. Incorporation of Provisions:** The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

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://sam.gov/SAM/pages/public/index.jsf>
 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 of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at singleaudits@txdot.gov.
- 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 Compliance Division 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. Pertinent Non-Discrimination Authorities

During the performance of this contract, the Local Government, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.

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District # DAL/18
Code Chart 64 # 00650
Project: E. Exchange Pkwy. at Rivercrest Blvd.,
Greenville Ave. from Hightrail Dr. to E.
Exchange Pkwy., McDermott Dr. at S. Watters
St., McDermott Dr. at Twin creek Dr./Suncreek
Dr., E. Exchange Pkwy. at N Alma Dr., E.
Exchange Pkwy. at N. Allen Heights
Federal Highway Administration
CFDA Title: Highway Planning and Construction
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Not Research and Development

- K.** Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L.** Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

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24. Signatory Warranty

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

Each party is signing this agreement on the date stated under that party's signature.

| THE LOCAL GOVERNMENT – THE CITY OF ALLEN

Signature

Typed or Printed Name

Title

Date

THE STATE OF TEXAS

Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

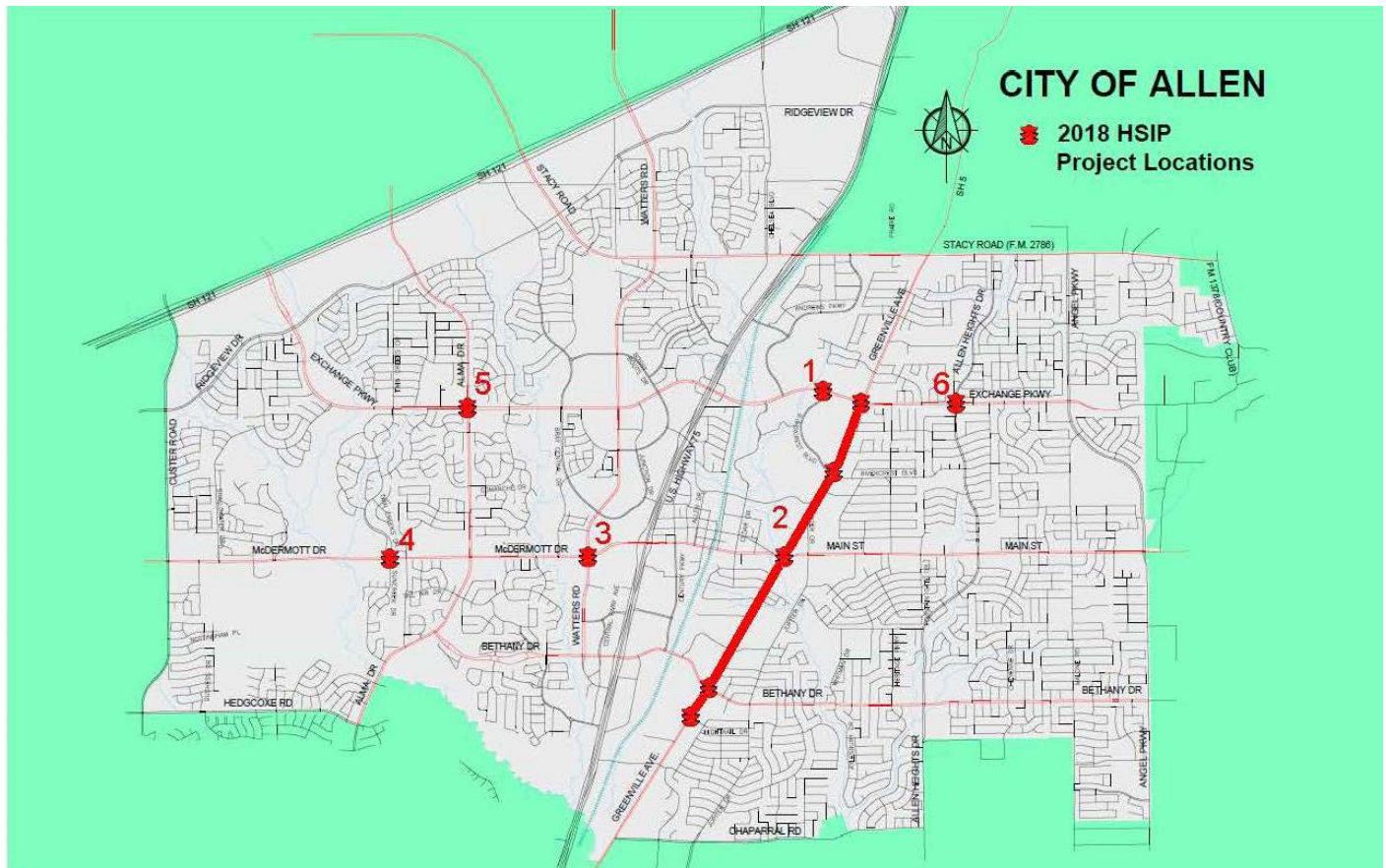
Date

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ATTACHMENT A
RESOLUTION OR ORDINANCE

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ATTACHMENT B PROJECT LOCATION MAP



- 1) E. Exchange Pkwy. at Rivercrest Blvd.
- 2) Greenville Ave. from Hightrail Dr. to E. Exchange Pkwy.
- 3) McDermott Dr. at S. Watters St.
- 4) McDermott Dr. at Twincreek Dr./Suncreek Dr.
- 5) E. Exchange Pkwy. at N Alma Dr.
- 6) E. Exchange Pkwy. at N. Allen Heights

CSJ # 0918-24-243, 0918-24-244, 0918-24-245
 0918-24-246, 0918-24-247, 0918-24-248
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ATTACHMENT C

PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

Costs will be allocated based on 90% Federal funding and 10% Local Government funding until the federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the costs.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Engineering (by Local)	\$22,500.00	0%	\$0	0%	\$0	100%	\$22,500.00
Construction (by State) 0918-24-243	\$22,366.00	90%	\$20,129.00	0%	\$0	10%	\$2,237.00
Construction (by State) 0918-24-244	\$178,930.00	90%	\$161,037.00	0%	\$0	10%	\$17,893.00
Construction (by State) 0918-24-245	\$44,733.00	90%	\$40,260.00	0%	\$0	10%	\$4,473.00
Construction (by State) 0918-24-246	\$22,366.00	90%	\$20,129.00	0%	\$0	10%	\$2,237.00
Construction (by State) 0918-24-247	\$44,733.00	90%	\$40,260.00	0%	\$0	10%	\$4,473.00
Construction (by State) 0918-24-248	\$44,733.00	90%	\$40,260.00	0%	\$0	10%	\$4,473.00
Subtotal	\$380,361.00		\$322,075.00				\$58,286.00
Direct State Costs – Environmental	\$18.74	0%	\$0.00	90%	\$16.87	10%	\$1.87
Direct State Costs – Engineering	\$9,600.00	0%	\$0.00	0%	\$0.00	100%	\$9,600.00
Direct State Costs – Right of Way	\$18.74	0%	\$0.00	90%	\$16.87	10%	\$1.87
Direct State Costs – Utility	\$18.74	0%	\$0.00	90%	\$16.87	10%	\$1.87
Direct State Costs – Construction	\$10,736.00	0%	\$0.00	0%	\$0.00	100%	\$10,736.00
Indirect Costs @ 5.33%	\$20,273.00	0%	\$0.00	100%	\$20,273.00	0%	\$0.00
Subtotal	\$40,665.00		\$0.00		\$20,324.00		\$20,342.00
Total	\$421,026.00		\$322,075.00		\$20,324.00		\$78,627.00

Initial payment by the Local Government to the State: \$9,606.00

Payment by the Local Government to the State before construction: \$10,736.00

Total payment by the Local Government to the State: \$20,342.00

This is an estimate. The final amount of Local Government participation will be based on actual costs.

CITY OF ALLEN

 **2018 HSIP
Project Locations**



SH 5

STACY ROAD (F.M. 2786)

FM 1378 (COUNTRY CLUB)

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE:

August 13, 2019

SUBJECT:

Adopt a Resolution Authorizing the City Manager to Apply for, Accept, Reject, Alter or Terminate a Grant Through the Texas Department of Transportation for Design and Construction of Sidewalks along Pebblebrook Drive and Sycamore Creek Road to Provide a Safe Route to School.

STAFF RESOURCE:

Chris Flanigan, Director of Engineering

ACTION PROPOSED:

Adopt a Resolution Authorizing the City Manager to Apply for, Accept, Reject, Alter or Terminate a Grant Through the Texas Department of Transportation for Design and Construction of Sidewalks along Pebblebrook Drive and Sycamore Creek Road to Provide a Safe Route to School.

BACKGROUND

In 2017, conversations arising out of the new Lowery Freshman Center zoning case led to the idea of installing sidewalks along Pebblebrook Drive and Sycamore Creek Road to provide sidewalks for the school children to use traveling to and from school. The sidewalk project was submitted for funding assistance in 2017 to the North Central Texas Council of Governments (NCTCOG); however, the project was not selected for funding at the time by NCTCOG.

In February 2019, TxDOT announced a call for both Safe Routes To School and Transportation Alternative projects. Staff prepared a preliminary Safe Routes To School application for this same project, and it was selected for inclusion in the detailed application round. Detailed applications are due August 15, 2019. A resolution of support is required to complete the application process. The City has not yet been selected as a recipient nor has the project been selected for funding at this time.

BUDGETARY IMPACT

TxDOT's Safe Routes To School program will reimburse up to 100% of projects selected, excluding any cost overruns. The program funds are reimbursable, requiring the City to first expend the design costs and request reimbursement of funds granted. Design and construction of sidewalks along Pebblebrook and Sycamore Creek Road are estimated to be \$534,735, and includes TxDOT's 15% administrative cost.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a Resolution authorizing the City Manager to apply for, accept,

reject, alter, or terminate a grant through the TxDOT's Safe Routes To School Program for the Design and Construction of sidewalks along Pebblebrook Drive and Sycamore Creek Road in the Fountain Park subdivision.

MOTION

I make a motion to adopt Resolution No. _____ (R) authorizing the City Manager to apply for, accept, reject, alter, or terminate a grant through TxDOT's Safe Routes To School Program for design and construction of sidewalks along Pebblebrook Drive and Sycamore Creek Road.

ATTACHMENTS:

Resolution

Location Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE SUBMITTAL OF AN APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION SAFE ROUTES TO SCHOOL PROGRAM FOR A PROJECT NOMINATION PROVIDED BY THE SAFE, ACCOUNTABLE, FLEXIBLE AND EFFICIENT - TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA – LU); AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE APPLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation (TxDOT) issued a call for projects in February 2019 for communities to apply for funding assistance through the Transportation Alternatives Set-Aside (TASA) and/or Safe Routes To School-Infrastructure (SRTS) Program; and,

WHEREAS, the SRTS funds may be used for development of plans, specifications, and estimates; environmental documentation; and construction of pedestrian and/or bicycle infrastructure. The SRTS funds do not require a local match. As the Project Sponsor, the Local Government would be responsible for all non-reimbursable costs and 100% of overruns, if any, for SRTS funds; and,

WHEREAS, the City of Allen, Texas desires to submit an application for sidewalk facilities design and construction along Pebblebrook Drive and Sycamore Creek Drive; and,

WHEREAS, the City commits to the project's development, implementation, construction, maintenance and financing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen City Council supports funding the project. City of Allen Sidewalk Project SRTS, as described in the City of Allen's 2019 SRTS Detailed Application (including the construction budget, TxDOT's administrative cost, and the required local match, if any) and is willing to commit to the project's development, implementation, construction, maintenance, management and financing. The Allen City Council is willing and able to authorize, by resolution or ordinance, the City of Allen to enter into an agreement with TxDOT should the project be selected for funding; and

SECTION 2. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

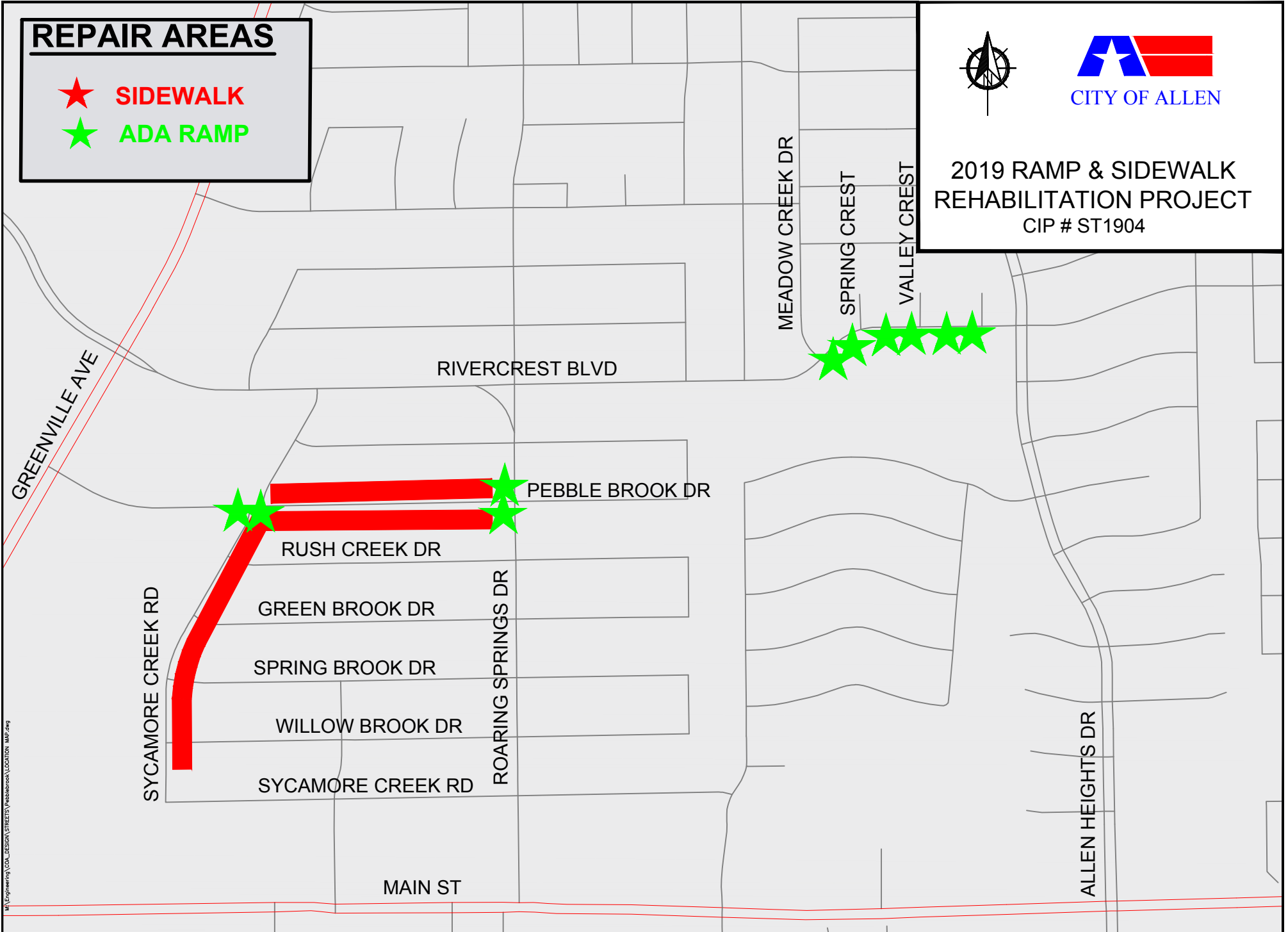
Shelley B. George, TRMC, CITY SECRETARY

REPAIR AREAS

- ★ SIDEWALK
- ★ ADA RAMP



2019 RAMP & SIDEWALK REHABILITATION PROJECT CIP # ST1904



CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: August 13, 2019

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute This and Future Interlocal Agreements with the North Central Texas Emergency Communications District For Regional 9-1-1 Service.

STAFF RESOURCE: Brian E. Harvey, Chief of Police
Shellie Taylor, Public Safety Communications Manager

ACTION PROPOSED: Adopt a Resolution Authorizing the City Manager to Execute This and Future Interlocal Agreements with the North Central Texas Emergency Communications District For Regional 9-1-1 Service.

BACKGROUND

The North Central Texas Emergency Communications District (NCT9-1-1) is a newly formed emergency communications district. The North Central Texas Emergency Communications District is responsible for 43 Public Safety Answering Points (PSAPs) in 13 counties surrounding the Dallas/Fort Worth Metroplex.

The North Central Texas Emergency Communications District (NCT9-1-1) was created pursuant to Chapter 772, Subchapter H, of the Texas Health and Safety Code. NCT9-1-1 is engaged in the planning, implementation, and maintenance of the emergency 9-1-1 system for these 43 PSAPs. The NCT9-1-1 serves a population of 1.6 million and 10,800+ square miles. Previously, this was the responsibility of the North Central Texas Council of Government 9-1-1 program, but on December 3, 2018, the North Central Texas Emergency Communications District was established. The North Central Texas Emergency Communications District will continue to provide all 9-1-1 communications services for the City and other PSAPs in the North Central Texas Council of Governments.

This ILA is valid for two years.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a Resolution authorizing the City Manager to execute this and future Interlocal Agreements with the North Central Texas Emergency Communications District for Regional 9-1-1 Service.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute this and future Interlocal Agreements with the North Central Texas Emergency Communications District for

Regional 9-1-1 Service.

ATTACHMENTS:

Resolution

Proposed ILA for Regional 9-1-1 Service

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE ATTACHED INTERLOCAL AGREEMENT FOR REGIONAL 9-1-1 SERVICES; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENT FOR REGIONAL 9-1-1 SERVICES BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The North Central Texas Emergency Communications District (hereinafter "NCT9-1-1") is the regional provider for 9-1-1 emergency communications; and,

WHEREAS, the City of Allen desires to be part of the regional 9-1-1 services provided by the NCT9-1-1; and,

WHEREAS, the Interlocal Cooperation Act, Chapter 791, of the Texas Government Code, authorizes units of local government to contract with one or more units of local government to perform governmental functions and services.

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

SECTION 1. The terms and conditions of the attached Interlocal Agreement has been reviewed by the City Council of the City of Allen, Texas, and are hereby in all things approved.

SECTION 2. The City Manager is hereby authorized to execute the attached Interlocal Agreement for regional 9-1-1 services, and all future Interlocal Agreements for 9-1-1 emergency communications through the NCT9-1-1.

SECTION 3. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY



**INTERLOCAL AGREEMENT BETWEEN THE
NORTH CENTRAL TEXAS EMERGENCY COMMUNICATIONS DISTRICT AND
City of Allen
FOR REGIONAL 9-1-1 SERVICE**

Section 1: Parties and Purpose

- 1.1.** The North Central Texas Emergency Communications District (hereinafter “NCT9-1-1”) is a regional emergency communications district and a political subdivision of the State of Texas organized under the Texas Health and Safety Code, Subchapter H, Chapter 772, as amended. NCT9-1-1 develops an annual budget to operate and maintain 9-1-1 service within the district.
- 1.2.** City of Allen (hereinafter “Public Agency”) is a local government that operates a Public Safety Answering Point (“PSAP”) that participates in NCT9-1-1 as authorized by Texas Health and Safety Code Chapter 772.
- 1.3.** This Interlocal Agreement is entered into between NCT9-1-1 and Public Agency pursuant to Texas Government Code Chapter 791 so that NCT9-1-1 can operate and maintain the systems utilized for the provision of 9-1-1 emergency communications services. For purposes of carrying out NCT9-1-1’s duties and obligations under this agreement, the parties understand and agree that references to NCT9-1-1 includes its employees, officers, directors, volunteers, agents (including North Central Texas Council of Governments, hereinafter “NCTCOG”), and their representatives individually, officially, and collectively.

Section 2: Rights and Duties of the Public Agency

The Public Agency will:

2. 1 Financial/Insurance

- 2.1.1 Return or reimburse NCT9-1-1 any 9-1-1 funds used in noncompliance with applicable laws and/or rules within 60 days after the discovery of noncompliance and notice to the Public Agency of such noncompliance, unless an alternative repayment plan is approved, in writing, by both parties.
- 2.1.2 Reimburse NCT9-1-1 for damage to 9-1-1 equipment caused by intentional misconduct, abuse, misuse, or negligence by Public Agency employees or other persons granted access to the PSAP, as well as acts of force majeure. This provision does not include ordinary wear and tear or day-to-day use of the equipment.
- 2.1.3 Maintain accurate fiscal records and supporting documentation of all 9-1-1 funds distributed to Public Agency and all 9-1-1 funds spent by such Public Agency for 9-1-1 service, with specific detail for 9-1-1 funds received.
- 2.1.4 Purchase and maintain adequate insurance policies on all 9-1-1 equipment in amounts enough to provide for the full replacement of such equipment in cases of loss due to anything other than daily use and normal wear



and tear. Public Agency shall name NCT9-1-1 and NCTCOG, including their representatives and agents, as an additional insured or equivalent under the Public Agency's general liability insurance policy or membership agreement in any governmental risk pool or other similar entity with a duty to provide a defense, and which is provided by policy or membership agreement so that NCT9-1-1 and/or NCTCOG may seek coverage upon demand by NCT9-1-1 and/or NCTCOG in the event of a covered claim. Public Agency shall provide proof of coverage at the request of NCT9-1-1.

2.2 Equipment and Inventory

2.2.1 Report any lost, stolen, or nonfunctioning equipment in writing to NCT9-1-1 immediately upon discovery.

2.2.2 Notify NCT9-1-1 in writing 30 days in advance of disposition of equipment due to obsolescence, failure, or other planned replacement.

2.3 Security

2.3.1 Protect all NCT9-1-1 provided equipment by implementing measures that secure the premises (including equipment room) of its PSAP against unauthorized entrance or use.

2.3.2 Operate within local standard operating procedures and take appropriate security measures as may be necessary to ensure that non-approved third-party software applications cannot be integrated into the PSAP's Call Handling Equipment (CHE) or workstations.

2.3.3 Refrain from attaching or integrating any hardware device (i.e. external storage devices) or software application without prior written approval of NCT9-1-1. Further, no unauthorized person shall configure, manipulate, or modify any hardware device or software application. Such authority can only be granted by NCT9-1-1.

2.3.4 Adhere to Health and Safety Code, Section 772.002(C), Confidentiality of Information.

2.3.5 Ensure each person who is authorized to receive, store, process, and/or transmit CHE information has a unique identification login and be logged into such equipment identifying their legitimacy for use.

2.4 Maintenance

2.4.1 Ensure areas where NCT9-1-1 equipment is installed are clean and allows for unobstructed access by the NCT9-1-1 Technology Team.

2.4.2 Whenever possible, provide at least a two-week notice in writing to NCT9-1-1's Technology Team regarding any maintenance that could adversely affect 9-1-1 operations.



2.4.3 Provide at least a 48-hour notice in writing to NCT9-1-1's Technology Team prior to work commencing on any scheduled maintenance on commercial power backup generators.

2.4.4 Notify NCT9-1-1's Technology Team immediately of any power or generator outages greater than 15 minutes. If the outage affects the 9-1-1 system, trouble reporting procedures should be followed.

2.4.5 Notify NCT9-1-1's Technology Team of technical issues immediately upon discovery. The Public Agency will utilize one of the following methods:

- a. Via telephone by calling (888) 311-3911
- b. Via email to Support@NCT911.org
- c. Via the Trouble Ticket System (accessed by using the icon on the toolbar of the CHE)
- d. Via the website at <https://SSC.NCT911.org> (only works with issued credentials)

2.4.6 Test generators at least monthly and conduct a load test at least once a year, to ensure that all NCT9-1-1 equipment remains functional.

2.5 Training

2.5.1 Schedule telecommunicators to receive 9-1-1 equipment training within 120 days of his/her hire date.

2.5.2 Ensure that 9-1-1 PSAP Supervisors/Managers (or designee) attend the PSAP Supervisors' Meeting. NCT9-1-1 offers at least three PSAP Supervisors' meetings per year and a minimum attendance of two meetings per year is required for each PSAP.

2.5.3 Ensure PSAP Telecommunicators, Training Coordinators, Supervisors/Managers, and other essential personnel identified by the Supervisor/Manager attend mandatory training associated with the implementation of new technology. This training is generally scheduled for specific dates and times. Make up sessions can be scheduled if PSAP scheduling does not allow personnel to attend their designated time slot.

2.5.4 May request the use of training facilities by sending an email to 911OperationsTeam@NCT911.org specifying the date of request, time of request and type of resources needed.

2.5.5 Ensure that all telecommunicators attend a 9-1-1 equipment and technology training refresher course every two years.

2.6 Facilities

2.6.1 Meet prescribed equipment room requirements (Attachment A). Any expenses associated with this requirement are the responsibility of the Public Agency.

2.6.2 Ensure areas with 9-1-1 equipment maintain a temperature between 65-85 degrees Fahrenheit.



2.6.3 Ensure 9-1-1 equipment room and communications area complies with the Americans with Disabilities Act of 1990.

2.6.4 Provide access to NCT9-1-1 staff and contracted vendors that meet CJIS requirements on a 24/7/365 basis without prior notice.

2.7 Supplies

2.7.1 Purchase supplies such as printer paper, printer ink, cleaning materials, and other expendable items necessary for the continuous operation and maintenance of its PSAP.

2.8 Monitoring/Reporting

2.8.1 Maintain financial, statistical, and ANI/ALI records adequate to document performance, costs, and receipts under this Agreement in accordance with applicable records retention schedules. Public Agency agrees to maintain these records at Public Agency's offices and provide or make available for inspection upon request by NCT9-1-1.

2.8.2 Cooperate fully with all reasonable monitoring requests from NCT9-1-1 for the purposes of assessing and evaluating Public Agency's performance under this Agreement.

2.9 Media Relations

2.9.1 Make every effort to communicate complete and accurate information in social media posts and/or interaction with the media, specifically as it relates to NCT9-1-1. Public Agency should first coordinate with NCT9-1-1 before making comments on social media and/or speaking to the media regarding 9-1-1 technology and service or issues with the 9-1-1 service providers.

2.9.2 Not disclose PSAP correspondence that NCT9-1-1 has clearly noted as proprietary or confidential, unless required to do so by law.

2.9.3 Refer media directly to NCT9-1-1 for discussions related to NCT9-1-1 technology and other NCT9-1-1 service or program specific questions.

2.10 Operations

2.10.1 Sign the contingent PSAP agreement supplied by NCT9-1-1 and provide at NCT9-1-1's request. Changes to contingent PSAPs must be approved by NCT9-1-1.

2.10.2 Delegate PSAP supervisory personnel or a designee and provide related contact information (to include after hour contact information) as a single point of contact for NCT9-1-1.



2.10.3 Provide a minimum of 180 days' prior notice of any facility moves, adds, or changes that affect the 9-1-1 system.

2.10.4 Test all 9-1-1 CHE for proper operation and user familiarity at least once per week, including, but not limited to: tests for voice calls, texts to 9-1-1 and TTYs.

2.10.5 NCT9-1-1 recommends power cycles at each 9-1-1 position at least once each week.

2.10.6 NCT9-1-1 recommends logging all TDD/TTY calls and test calls.

2.10.7 Keep at least one 10-digit emergency telephone number that is not part of an automated system to be used for 9-1-1 transfer calls and default routing. These numbers will be answered by a telecommunicator 24/7/365 and should have the ability to be call forwarded. Any change in the 10-digit emergency telephone number must be reported to NCT9-1-1 in writing. The number shall be provided to the public during 9-1-1 service disruptions (via notification system, website, social media and/or emergency management).

2.10.8 Notify NCT9-1-1 in writing at least 90 days prior to changing emergency services providers including medical, law enforcement, and fire.

2.10.9 Submit a signed Manual ALI Request form (Attachment B) to NCT9-1-1 annually and agree to use ALI lookup feature only in handling and processing of an emergency telephone call.

2.10.10 Public Agency utilizing Text to 9-1-1 services must complete a Text to 9-1-1 Service Agreement (Attachment C).

2.10.11 Have an emergency plan for 9-1-1 communications that includes, at a minimum,

- a. Emergency generator information and how to operate said generator
- b. Documented procedures for the transfer of administrative lines when the call center is evacuated.

2.10.12 Comply with NCT9-1-1 policy and procedures for PSAP moves and changes.

2.10.13 Report discrepancies to NCT9-1-1 utilizing the tools in the dispatch mapping solution within 72 hours.

2.10.14 Ensure that all telecommunicators log into the 9-1-1 software at the beginning of his/her shift and logs out at the end of his/her shift.

2.10.15 In accordance with Texas Health and Safety Code 772.619 (c), the 9-1-1 database information is not available for public inspection and cannot be released to the public. If a Public Information Act request specifies 9-1-1 database information, NCT 9-1-1 must be notified within three (3) business days of the Public Agency receiving the request.



2.10.16 Be responsible for all furniture, administrative telephones, copier machines, and administrative desktop computers provided by NCT9-1-1 located within Public Agency's operating area.

2.10.17 If administrative telephone system is integrated with NCT9-1-1 equipment- Maintain a contingency plan identifying the back-up solution for the administrative telephone system. If a contingency plan is not provided to NCT9-1-1 within 30 days of contract execution, NCT9-1-1 reserves the right to remove the administrative phone lines from the 9-1-1 equipment. Administrative line integration is provided as a courtesy, not a requirement.

Section 3: Rights and Duties of NCT9-1-1

3.1 Financial

3.1.1 Develop a budget and strategic plan to meet Public Agency needs for the establishment and operation of 9-1-1 services throughout the NCT9-1-1 region, according to standards established and approved by the NCT9-1-1 Board of Managers.

3.1.2 Provide 9-1-1 service to include 9-1-1 equipment, software, services, and other items described in the current NCT9-1-1 Strategic Plan, throughout the region as funded by emergency service fees.

3.1.3 Maintain accurate fiscal records and supporting documentation of all 9-1-1 activities including specific details of funds distributed to Public Agency.

3.2 Equipment and Inventory

3.2.1 Allow Public Agency the opportunity to participate in the planning, implementation, and operation of 9-1-1 equipment.

3.2.2 Conduct a physical inventory of critical hardware annually and reconcile inventory periodically.

3.3 Training

3.3.1 Ensure telecommunicators have access to the NCT9-1-1 Training webpage.

3.3.2 Offer CHE training to all new telecommunicators and refresher training every two years.

3.3.3 Offer licensing training through the Regional Telecommunicator Academy that meets or exceeds Texas Commission on Law Enforcement (TCOLE) rules and regulations.

3.3.4 Offer continuing education training for Intermediate, Advanced, and Master Telecommunicator Certifications as budget allows.



3.4 Maintenance

3.4.1 Practice preventative maintenance on all NCT9-1-1 owned or leased CHE, software, and databases including, at a minimum, backing up data as necessary. NCT9-1-1 shall be responsible for any maintenance costs on NCT9-1-1 owned or leased equipment.

3.5 Operations

3.5.1 Inspect contingent PSAP agreements periodically.

3.5.2 Implement upgrades of PSAP equipment and software, as authorized in the current annual budget, through the appropriate NCT9-1-1 processes for the purchase of new equipment and software.

3.6 Crisis Communications

3.6.1 NCT9-1-1 will make every effort to communicate complete and accurate information to the Public Agency in a timely manner about 9-1-1 technology and services during 9-1-1 service interruptions.

3.6.2 NCT9-1-1 will post updates on its website and social media sites. NCT9-1-1 recommends the Public Agency use the wording provided through those avenues when providing updates to the public.

Section 4: Effective Date and Term of Agreement

4.1 This Agreement shall take effect October 1, 2019, and shall continue until September 30, 2021, unless earlier terminated under 8.1 Early Termination of Agreement.

Section 5: Ownership, Transference, and Disposition of Equipment

5.1 NCT9-1-1 may purchase, lease, or otherwise procure, on Public Agency's behalf, the 9-1-1 equipment, software, services, and other items as described in the NCT9-1-1 Strategic Plan.

5.2 NCT9-1-1 shall establish ownership of all 9-1-1 equipment procured with 9-1-1 funds as defined herein and located within the Public Agency's jurisdiction. NCT9-1-1 may maintain ownership, or it may transfer ownership to Public Agency. Before any such transfer of ownership, NCT9-1-1 will evaluate the adequacy of controls of Public Agency to ensure that sufficient controls and security exist by which to protect and safeguard the equipment procured with 9-1-1 funds for the purpose of delivery of 9-1-1 calls. It is understood that the equipment may or may not be procured by NCT9-1-1 on behalf of Public Agency, according to NCT9-1-1's Strategic Plan.

5.3 The basic 9-1-1 equipment categories are:



- Call Handling Equipment (CHE) – telephone equipment located at the PSAP which may include telephones, integrated workstations, servers, ANI controllers, software, monitors, gateways, routers, and any other equipment necessary for 9-1-1 call delivery to the PSAP
- Telecommunications Device for the Deaf (TDD)/Teletypewriter (TTY)
- Uninterruptable Power Supply (UPS)

5.4 Transfer-of-ownership documents shall be prepared by NCT9-1-1 and signed by both parties upon transference of ownership of any 9-1-1 provided equipment. NCT9-1-1 shall maintain ownership of 9-1-1 CHE.

Section 6: Relationship between the Parties, Assignment and Subcontracting

6.1 It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship between the parties.

6.2 This Agreement may not be assigned by either Party without the prior written consent of the other Party. An attempted assignment in violation of this agreement is void.

6.3 Public Agency may not subcontract its duties under this Agreement without the prior written consent of NCT9-1-1. Any subcontract shall be subject to all terms and conditions contained in this Agreement and Public Agency agrees to furnish a copy of this aAgreement to its subcontractor(s).

Section 7: Records and Monitoring

7.1 NCT9-1-1 is entitled to inspect and copy, on a 24/7/365 basis, at Public Agency's office, the records maintained under this Agreement for as long as they are maintained.

7.2 NCT9-1-1 is entitled to visit Public Agency's offices, talk to its personnel, and audit its applicable 9-1-1 records during normal business hours to assist in evaluating its performance under the Agreement.

Section 8: Early Termination of Agreement

8.1 NCT9-1-1 reserves the right to terminate this Agreement in whole or in part upon a default by Public Agency. Notice of termination shall be provided to Public Agency in writing, shall set forth the reason(s) for termination, and provide for a minimum of thirty (30) days to cure the defect(s). Termination is effective only in the event Public Agency fails to cure the defect(s) within the period stated in the notice subject to any written extensions. If the Agreement is terminated, Public Agency shall cooperate with NCT9-1-1 to ensure an orderly transition of services. Further, all equipment shall be returned to NCT9-1-1 in working condition and NCT9-1-1 shall only be liable for payment for services rendered before the effective date of termination. Either Party may terminate this Agreement for convenience upon 180 days written notice to the other Party. Certain reporting requirements in the Agreement shall survive termination.



Section 9: Notice to Parties

9.1 Notice under this contract must be in writing and received by the party or his/her representative or replacement, to which the notice is addressed. Notice is considered received by a party when it is:

- Delivered to the party personally;
- On the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address as specified in paragraph 9.2 and signed on behalf of the party; or
- Three business days after its deposit in the United States Mail, with first-class postage affixed, addressed to the party's address specified in paragraph 9.2.

9.2 Notices shall be sent to the following address for each party:

If to NCT9-1-1: PO Box 5888
Arlington, Texas 76005
Attn: Mike Eastland

If to Public Agency: 305 Century Pkwy
Allen, TX 75013
Att: Eric Ellwanger

Section 10: General Provisions

10.1 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, United States of America. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.

10.2 Liability. The Parties agree and acknowledge that each Party is not an agent of the other Party and that each Party is responsible for its acts, forbearances, negligence and deeds, and for those of its agents, contractors, officers and employees in conjunction with each Party's performance under this Agreement.

10.4 Limitation of Liability. In no event shall either party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Agreement, whether arising from a breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages, or expenses were reasonably foreseeable.

10.5 Procurement. Both parties agree to comply with all applicable federal, State and local laws, rules and regulations for purchases under this Agreement. Failure to do so may result in ineligibility and denial of reimbursement by NCT9-1-1.

10.6 Force Majeure. It is expressly understood and agreed by the Parties to this Agreement that if either party hereto is prevented from or delayed in the performance of any of its obligations hereunder by reason of force majeure, defined as acts of God, war, riots, storms, fires or any other cause whatsoever beyond the reasonable control of the party, the party so prevented or delayed shall be excused from the performance of any such obligation to the extent and during the period



of such prevention or delay. The period of time applicable to such requirement shall be extended for a period of time equal to the period of time such Party was delayed. Each Party must inform the other in writing within reasonable time of the existence of such force majeure.

10.7 Entire Agreement. This Agreement and any attachments/addendums, as provided herein, constitute the entire agreement of the parties and supersedes all other agreements, discussions, representations or understandings between the parties with respect to the subject matter hereof.

10.8 Availability of Funding. Public Agency acknowledges that NCT9-1-1's sole source of funding for this Agreement is the 9-1-1 fees collected by service providers and remitted to NCT9-1-1. If fees sufficient to pay Public Agency under this Agreement are not paid to NCT9-1-1, the suspension of services will be effective 10 calendar days after Public Agency's receipt of notice. Upon suspension of payment, Public Agency's obligations under this Agreement are also suspended until NCT9-1-1 resumes receipt of funding.

10.9 Amendments. This Agreement may be amended only by a written amendment executed by both Parties, except that any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in Federal and State law or regulations or required by the funding source, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. In the event of such occurrence, written notice of alterations, additions or deletions to the terms of this Agreement will be provided to Public Agency.

10.10 Nondiscrimination and Equal Opportunity. Public Agency shall not exclude anyone from participating under this Agreement, deny anyone benefits under this Agreement, or otherwise unlawfully discriminate against anyone in carrying out this Agreement because of race, color, religion, sex, age, disability, handicap, or national origin.

10.11 Immunity. It is expressly understood and agreed that, in the execution of this Agreement, no party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, including but not limited to sovereign and governmental immunity.

10.12 Attorney Fees. If any action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs in addition to any other relief to which that party may be entitled.

10.13 Dispute Resolution. The parties to this Agreement agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation or any other local dispute mediation process before resorting to litigation.

The parties agree to continue performing their duties under this contract, which are unaffected by the dispute during the negotiation and mediation process.



DocuSigned by:

Michael Eastland

A4E72C19EF0F426
**NORTH CENTRAL TEXAS EMERGENCY
COMMUNICATIONS DISTRICT**

By: _____
Name: Eric Ellwanger
Title: City Manager
Date: _____

By: _____
Name: Mike Eastland
Title: Executive Director
Date: 7/10/2019

Date of governing body approval: _____

Attachments:

Attachment A: Equipment Room and Electrical Requirement

Attachment B: Manual ALI Request Form

Attachment C: Text to 9-1-1 Service Agreement



Attachment A

Equipment Room and Electrical Requirements

Equipment Room:

- There should be enough space to remove equipment from the equipment room in the event of an upgrade or replacement of faulty equipment i.e. removal of the Uninterruptible Power Supply (UPS) battery system, or large rack mounted servers.
- Do not attach any equipment that is not provided by NCT9-1-1 into rack being utilized for 9-1-1 call delivery. Equipment racks should remain segregated to allow NCT9-1-1 the ability to add/remove/change any of their equipment when necessary.
- Do not stack anything on or around NCT9-1-1 equipment rack or UPS, UPS bypass switch, or electrical distribution panel.
- There should be elevator access to the equipment room, or 911 demarcation closets located upstairs.

Fire Protection:

- Dry pipe high temperature type systems are recommended if sprinkler heads are to be in the 9-1-1 equipment room.
- If possible, non-combustible material should be used for the room construction.

Security Precautions:

- Public Agency may need to extend and improve existing building security to provide adequate protection for the 9-1-1 equipment.
- Electric locks or push-button access code or card readers are not recommended unless you provide a battery backup system.

Temperature and Humidity Control:

- A stable ambient operating temperature of 72 degrees Fahrenheit is recommended. Maximum tolerances are from 65 to 85 degrees non-condensing.
- Air conditioning units must be able to handle the heat produced by the 9-1-1 equipment.
- For estimates on BTU output of the equipment, please consult with onsite installation personnel.

Static Electricity:

Static can damage circuitry permanently, interrupt system operation and cause lost data. To prevent static:

- The equipment room humidity must be constant.
- The room floor should not be carpeted, unless carpet is static free and grounded.
- The room floor should be sealed, (preferably tiled), but not waxed.

Lighting:

- Lighting must not be powered from the switch room service panel.
- Lighting should provide 50-75-foot candles measured 30" above the equipment room floor.



Grounding:

- A single point, isolated ground is required unless superseded by local code. The source should be XO of the transformer that feeds the phase conductors to the equipment room electrical service panel.
- Terminations must be accessible for inspection during the life of the installation.
- Conductors must be continuous with no splices or junctions.
- Conductors must be no load, non-current carrying.

Electrical:

- Voltage required is 208/120 V three phase; four wire “wye” service or 240/120 single phase 4 wire “delta” service.
- A dedicated transformer is preferred; however, a shared transformer or distribution is acceptable.
- IGL6-15, 20 or 30 receptacles are required, and the ground must terminate on the IG buss.
- All circuit breakers must be clearly labeled.
- Terminal devices located in the equipment room will require local power. These outlets must be wired and fused independently from all other receptacles. They must also be IG type receptacles.
- NCT9-1-1 equipment should be plugged into independent circuits, and segregated from other non-911 equipment, such as floor heaters, radio equipment, etc. This will ensure that a failure of non-911 equipment won’t adversely affect the performance of 9-1-1 call handling equipment.



Attachment B
Manual ALI Request Form

For reference only. To be sent as a separate agreement to Chief/Sheriff and Communications Manager/Supervisor.

Updated: June 6, 2019

PSAP Name: _____

Date: ____/____/____

This letter is to request that the "Manual ALI Query" feature be enabled at _____.
(PSAP NAME)

The 9-1-1 call handling equipment (CHE) provided by NCT9-1-1 has been configured to allow manual queries and is compatible with the manual ALI query protocol of NCT9-1-1. MANUAL ALI QUERY SERVICES WILL ONLY BE USED IN THE HANDLING OF EMERGENCY CALLS. All manual ALI queries must also be documented using the reason feature.

This PSAP and the Telecommunicators with access to 9-1-1 fully understand and agree to comply with the terms and conditions set forth under which this feature may be provided.

The NCT9-1-1 operations staff has access to a statistical report of Manual ALI Query per PSAP. Misuse of the proprietary ALI information may be cause for the termination of this feature for the PSAP.

Acknowledgement signatures by authorized representatives of contracting 9-1-1 agency:

Chief / Sheriff

Date

Communications Supervisor / Manager

Date



Attachment C

Text to 9-1-1 Service Agreement

For reference only. To be sent as a separate agreement to Chief/Sheriff and Communications Manager/Supervisor and signed only by those with Text to 9-1-1.

North Central Texas Emergency Communications District
Regional 9-1-1 Program
Text to 9-1-1 Service Agreement

Updated: June 6, 2019

PSAP Name: _____

Date: ____/____/____

The 9-1-1 call handling equipment (CHE) provided by NCT9-1-1 has been configured to allow Text to 9-1-1 service. The PSAP is required to conduct at least ten (10) test requests for help via text per month.

NCT9-1-1 shall provide training, best practice and implementation of this service. NCT9-1-1 shall also assist testing and public education when requested.

The PSAP has been advised that this is an interim solution with limitations and feature will evolve as the service does.

This PSAP and the Telecommunicators with access to 9-1-1 fully understand and agree to comply with the terms and conditions set forth under which this service provided.

North Central Texas Emergency Communications District
PO Box 5888
Arlington, Texas 76005-5888

or

Email: 911Projects@NCT911.org , Subject: Text to 9-1-1 Service Agreement

Acknowledgement signatures by authorized representatives of contracting 9-1-1 agency:

Chief / Sheriff

Date

Communications Supervisor / Manager

Date

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 13, 2019

SUBJECT: Authorize the City Manager to Purchase Three (3) Chevrolet Tahoes from Freedom Chevrolet and Police Package Equipment from Priority Public Safety for the Replacement of Three Police Department Vehicles in the Total Amount of \$125,754.

STAFF RESOURCE: Brian E. Harvey, Chief of Police
Kenneth A. Myers, Deputy Chief of Police
Debra Morris, Purchasing Manager

ACTION PROPOSED: Authorize the City Manager to Purchase Three (3) Chevrolet Tahoes from Freedom Chevrolet and Police Package Equipment from Priority Public Safety for the Replacement of Three Police Department Vehicles in the Total Amount of \$125,754.

BACKGROUND

On June 22, 2019, Allen Police Department vehicle #910 (a 2019 Chevrolet Tahoe marked police car) was involved in a major accident. The vehicle was stopped on Northbound US 75 on the shoulder on a traffic stop when it was struck by another vehicle driven by an elderly driver. The vehicle is a total loss due to the significant amount of damage.

On June 25 2019, Allen Police Department vehicle #713 (a 2017 Chevrolet Tahoe unmarked police car) was involved in a major accident. The vehicle was stopped on Northbound US 75 on the shoulder on a traffic stop when it was struck by another vehicle driven by a driver that was arrested for DWI. The vehicle is a total loss due to the significant amount of damage.

On July 21 2019, Allen Police Department vehicle #704 (a 2017 Chevrolet Tahoe marked police car) was involved in a major accident. The vehicle was on the 121 frontage road crossing Stacy road when it was struck in the intersection by a vehicle that ran the red light. The vehicle is a total loss due to the significant damage.

The police department is requesting to replace these vehicles with three Chevrolet Tahoes, two 2019 and one new 2018, through Tarrant County Contract Pricing for the vehicle replacements in the amount of \$96,785. Some of the equipment (light bars, etc.) was salvaged and will be re-used. The remainder will be purchased through City of Allen contracted vendor Priority Public Safety in the total amount of \$28,968.94. The total replacement cost for the three vehicles and equipment is \$125,753.94.

1. 2019 Tahoe \$33,105 + \$ 5,245.25 = \$38,350.25
2. 2019 Tahoe \$33,105 + \$13,319.89 = \$46,424.89
3. 2018 Tahoe \$30,575 + \$10,403.80 = \$40,978.80

Total \$125,753.94

BUDGETARY IMPACT

Funding for these purchases have been budgeted in the FY2019 Vehicle and Equipment Replacement Fund.

STAFF RECOMMENDATION

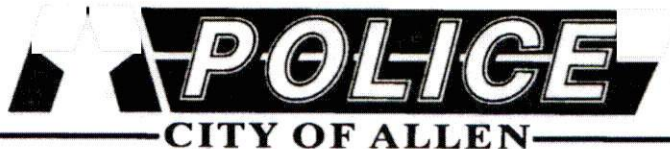
Staff recommends that the City Council authorize the City Manager to purchase three (3) Chevrolet Tahoes from Freedom Chevrolet and police package equipment from Priority Public Safety for the replacement of three Police Department vehicles in the total amount of \$125,754.

MOTION

I make a motion to authorize the City Manager to purchase three (3) Chevrolet Tahoes from Freedom Chevrolet and police package equipment from Priority Public Safety for the replacement of three Police Department vehicles in the total amount of \$125,754.

ATTACHMENTS:

Replacement Vehicle and Equipment Purchase Memo



TO: ERIC ELLWANGER
CITY MANAGER

FROM: LIEUTENANT DARRIN WHITMAN
SUPPORT SERVICES DIVISION

SUBJECT: REPLACEMENT VEHICLES

DATE: JULY 24, 2019

On June 22, 2019, Allen Police Department vehicle #910 (A 2019 Chevrolet Tahoe marked police car) was involved in a major accident. The vehicle was stopped on Northbound US 75 on the shoulder on a traffic stop when it was struck by another vehicle driven by an elderly driver. The vehicle is a total loss due to the significant amount of damage.

On June 25, 2019, Allen Police Department vehicle #713 (A 2017 Chevrolet Tahoe unmarked police car) was involved in a major accident. The vehicle was stopped on Northbound US 75 on the shoulder on a traffic stop when it was struck by another vehicle driven by a driver that was arrested for DWI. The vehicle is a total loss due to the significant amount of damage.

On July 21, 2019, Allen Police Department vehicle #704 (A 2017 Chevrolet Tahoe marked police car) was involved in a major accident. The vehicle was on 121 crossing Stacy road when it was struck in the intersection by a vehicle that ran the red light. The vehicle is a total loss due to the significant damage.

The police department is requesting to replace these vehicles with three Chevrolet Tahoes, two 2019 and one new 2018 (Tarrant County Contact pricing is 2019- \$33,105.00 and 2018- \$30,575.00). The cost for installation and new/replacement equipment is \$5,245.25/\$13,319.89 (2019) and \$10,403.80 (2018) per vehicle. Total costs \$125,753.94.

2019 Tahoe: $\$33,105 + \$5,245.25$ (#910) = $\$38,350.25$
2019 Tahoe: $\$33,105 + \$13,319.89$ (#704) = $\$46,424.89$
2018 Tahoe: $\$30,575 + \$10,403.80$ (#713) = $\$40,978.80$
Total = $\$125,753.94$

Respectfully,

Lieutenant Darrin Whitman

A handwritten signature in black ink, appearing to read "Darrin Whitman".

Support Services division

Approved:

Eric Ellwanger

A handwritten signature in black ink, appearing to read "Eric Ellwanger".

City Manager

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE:

August 13, 2019

SUBJECT:

Authorize the City Manager to Execute a Contract with Duro-Last, Inc. through The Interlocal Purchasing System (TIPS) in the Amount of \$1,500,000 for the Allen Event Center Roof Replacement.

STAFF RESOURCE:

Tim Dentler, Director, Parks and Recreation
David Angeles, Assistant Director, Parks and Recreation
Bill Herman, General Manager, Allen Event Center

ACTION PROPOSED:

Authorize the City Manager to Execute a Contract with Duro-Last, Inc. through The Interlocal Purchasing System (TIPS) in the Amount of \$1,500,000 for the Allen Event Center Roof Replacement.

BACKGROUND

In May of 2019 a hailstorm caused tens of thousands of hail hits to the City of Allen Event Center Roof. Working with our Risk Management Pool, Texas Municipal League (TML), and our assessor, 4T Partnership LLC. staff examined the roof and filed an insurance claim in regard to the damage, which was approved. To prevent further water damage, a triage team was dispatched at the expense of TML. They began patching and sealing the damage to prevent further water intrusion. In the interest of preventing further damage TML is upgrading the roof with a thicker PVC layer. These repairs are anticipated to last approximately 20 years or more with proper maintenance and are a cost-effective measure of restoration and preventing further damage.

On Wednesday July 1st, 2019 we received the proposal from TML's selected vendor Duro-Last for the upgraded roof. Duro-Last, Inc. has been selected based on the recommendation of TML and through The Interlocal Purchasing System (TIPS):

Contractor	Calendar Days	Bid Amount
Duro-Last, Inc	90	\$1,264,858.53

BUDGETARY IMPACT

The following are estimated project costs and funding:

City of Allen Event Center Roof Replacement

Description	Costs
Construction Costs	1,144,251

Bond and Administration	79,986.35
Lightning Protection and Life Safety	40,621.18
6 % Contingency*	235,141.47
TOTAL	1,500,000.00

*This project contingency is dependent of TML's approval of supplemental claims.

City of Allen Event Center Roof Replacement

Funding Source	Proposed
Transfer from TML	1,263,858.53
Fund 1480320-6601*	\$1,000.00
Supplemental from TML pending approval	\$235,141.47
TOTAL	\$1,500,000.00

*The City's deductible on the hail claim is \$1,000

STAFF RECOMMENDATION

Staff recommends that Council authorize the City Manager to execute a contract with Duro-Last, Inc. in the amount of \$1,500,000.00 for the City of Allen Event Center Roof Replacement.

MOTION

I make a motion to authorize the City Manager to execute a contract with Duro-Last, Inc. in the amount of \$1,500,000.00 for the City of Allen Event Center Roof Replacement.

ATTACHMENTS:

Agreement
Exhibit A
Exhibit B
Exhibit C
Duro-Last Certificate of Insurance
Duro-Last, Inc. Form 1295



CITY OF ALLEN, TEXAS

STANDARD FIXED PRICE CONTRACT

City of Allen
Purchasing Department
305 Century Parkway
Allen, Texas 75013

City of Allen, Texas

This Contract is made by and between the City of Allen, Texas, a home-rule municipality (hereinafter referred to as the "Owner") and Duro-Last Roofing, Inc., (hereinafter referred to as the "Contractor") for construction of the City of Allen Event Center roof replacement , (hereinafter referred to as the "Project"), the Owner and the Contractor hereby agreeing as follows:

ARTICLE I

THE CONTRACT AND THE CONTRACT DOCUMENTS

1.1 THE CONTRACT

1.1.1 The Contract between the Owner and the Contractor, of which this Contract is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it.

1.2 THE CONTRACT DOCUMENTS

1.2.1 The Contract Documents consist of this Agreement, the Specifications, the Drawings, all Change Orders and Field Orders issued hereafter, any other amendments hereto executed by the parties hereafter, together with the following (if any):

Documents not enumerated in this Paragraph 1.2.1 are not Contract Documents and do not form part of this Contract.

1.3 ENTIRE AGREEMENT

1.3.1 This Contract, together with the Contractor's performance and payment bonds for the Project, all General Conditions, Special Conditions, Plans and Specifications, and Addenda attached thereto, constitute the entire and exclusive agreement between the Owner and the Contractor regarding the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and

negotiations, if any, between the Owner and Contractor not expressly made a part hereof.

1.4 NO PRIVACY WITH OTHERS

1.4.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Owner and any person or entity other than the Contractor.

1.5 INTENT AND INTERPRETATION

1.5.1 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

1.5.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.5.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, per its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, per its common and customary usage.

1.5.4 The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation".

1.5.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.5.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.5.7 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings, the Product Data, and any Plans and Specifications, and shall give written notice to the Owner of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance, or the express or implied approval by the Owner or the Architect of the Contract Documents, Shop Drawings or Product Data shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested the Architect to only prepare documents for the Project, including the Drawings and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the Owner concerning such documents as no such

representation or warranties have been or are hereby made. Further, the Contractor represents and warrants that it has had a sufficient opportunity to inspect the Project site and assumes all responsibility for inadequacies or ambiguities in the plans, drawings or specifications as well as for latent conditions of the site where the work is to be performed.

1.5.8 As between numbers and scaled measurements on the Drawings and in the Design, the numbers shall govern, as between larger scale and smaller scale drawings, the larger scale shall govern.

1.5.9 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the Design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

1.6

OWNERSHIP OF

CONTRACT DOCUMENTS

1.6.1 The Contract Documents, and each of them, shall remain the property of the Owner. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all such Contract Documents on other projects without the Owner's prior written authorization.

ARTICLE II

THE WORK

2.1 The Contractor shall perform all the Work required, implied or reasonably inferable from, this Contract.

2.2 WORK

2.2.1 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Project; furnishing of any required surety bonds and insurance, and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described as follows:

Allen Event Center Roof

2.2.2 The Contractor shall be responsible for paying for and procuring all materials and labor and furnishing all services necessary or appropriate for the full performance of the Work and the for the full completion of the Project. All materials shall be new, and materials and workmanship shall be of good quality. Upon request, the Contractor shall furnish satisfactory proof of the type, kind, and quality of materials.

ARTICLE III

CONTRACT TIME

3.1 TIME AND LIQUIDATED DAMAGES

3.1.1 The Contractor shall commence the Work within 10 days of receipt of a written Notice to Proceed and shall achieve Substantial Completion of the Work no later than ninety (90) calendar days from the date specified in the Notice to Proceed. The parties acknowledge that time is of the essence in the performance of the terms of this Contract. The term "calendar days" shall mean all days of the week or month, no days being excepted. It is contemplated by the parties that the progress of the Work

may be delayed by certain conditions beyond the control of the parties; these delays have been contemplated by the parties and considered in the time allotted for performance specified herein and includes, but is not limited to delays occasioned on account of adverse weather, temporary unavailability of materials, shipment delays, and the presence and potential interference of other contractors who may be performing work at the Project site unrelated to this Contract.

The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the "Contract Time".

3.1.2 The Contractor shall pay the Owner the sum of \$500 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Substantial Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

3.1.3 No claim shall be made by the Contractor to the Owner, and no damages, costs or extra compensation shall be allowed or paid by the Owner to the Contractor for any delay or hindrance from

any cause in the progress or completion of the Work or this Contract. The Contractor's sole remedy in the event of any delay or hindrance shall be to request time extensions by written change orders as provided for hereinafter. Should the Contractor be delayed by an act of the Owner, or should the Owner order a stoppage of the Work for sufficient cause, an extension of time shall be granted by the Owner by written authorization upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

3.1.4 The Owner shall have the authority to suspend the Work wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable conditions considered unfavorable for the proper prosecution of the Work or for the failure of the Contractor to carry out instructions from the Owner or Owner's representative. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the site and the Work from damage, loss or harm.

3.2 SUBSTANTIAL COMPLETION

3.2.1 "Substantial Completion" shall mean that stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract that the Owner can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose, even though minor miscellaneous work and/or adjustment may be required.

3.3 TIME IS OF THE ESSENCE

3.3.1 All limitations of time set forth in the Contract Documents are of the essence of this Contract.

ARTICLE IV

CONTRACT PRICE

4.1 THE CONTRACT PRICE

4.1.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for all the Work required herein, the fixed sum of \$1,264,858.53.

The sum set forth in this Paragraph 4.1 shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Contract.

ARTICLE V

PAYMENT OF THE CONTRACT PRICE

5.1 SCHEDULE OF VALUES

5.1.1 Within ten (10) calendar days of the effective date hereof, the Contractor shall submit to the Owner and to the Architect a Schedule of Values allocating the Contract Price to the various portions of the Work. The Contractor's Schedule of Values shall be prepared in such form, with such detail, and supported by such data as the Architect or the Owner may require substantiating its accuracy. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged and accepted in writing by the Architect and the Owner.

5.2 PAYMENT PROCEDURE

5.2.1 The Owner shall pay the Contract Price to the Contractor as provided below.

5.2.2 **PROGRESS PAYMENTS** - Based upon the Contractor's Applications for Payment submitted to the Architect and upon Certificates for Payment subsequently issued to the Owner by the Architect, the Owner shall make progress payments to the Contractor on account of the Contract Price.

5.2.3 On or before the 25th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 15th day of the month to the Architect in such form and manner, and with such supporting data and content, as the Owner or the Architect may require. Therein, the Contractor may request payment for ninety percent (90%) of that portion of the Contract Price properly allocable to Contract requirements properly provided, labor, materials and equipment properly incorporated in the Work, less the total amount of previous payments received from the Owner. Such Application for Payment shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Architect will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. The Architect shall determine and certify to the Owner the amount properly owing to the Contractor. The Owner shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Architect's receipt and approval of each Application for Payment. The amount of each partial payment shall be the amount certified for payment by the Architect less such amounts, if any, otherwise owing by the Contractor to the

Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Architect's certification of the Contractor's Application for Payment shall not preclude the Owner from the exercise of any of its rights as set forth in Paragraph 5.3 hereinbelow.

5.2.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

5.2.5 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the Owner becomes informed that the Contractor has not paid a Subcontractor as herein provided, the Owner shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.

5.2.6 No progress payment, nor any use or occupancy of the Project by the owner, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

5.3 WITHHELD PAYMENT

5.3.1 The Owner may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the

Contractor, to protect the Owner from loss because of:

- (a) defective Work not remedied by the Contractor nor, in the opinion of the Owner, likely to be remedied by the Contractor;
- (b) claims of third parties against the Owner or the Owner's property;
- (c) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- (d) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price,
- (e) evidence that the Work will not be completed in the time required for substantial or final completion;
- (f) persistent failure to carry out the Work in accordance with the Contract;
- (g) damage to the Owner or a third party to whom the Owner is, or may be, liable.

In the event that the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand. The Owner shall have no duty to third parties to withhold payment to the Contractor and shall incur no liability for a failure to withhold funds.

5.4 UNEXCUSED FAILURE TO PAY

5.4.1 If within fifteen (15) days after the date established herein for payment to the Contractor by the Owner, the Owner, without cause or basis hereunder, fails to pay the Contractor any amount then due

and payable to the Contractor, then the Contractor may after ten (10) additional days' written notice to the Owner and the Architect, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the Owner have been received. Late payments shall not accrue interest or other late charges.

5.5 SUBSTANTIAL COMPLETION

5.5.1 When the Contractor believes that the Work is substantially complete, the Contractor shall submit to the Architect a list of items to be completed or corrected. When the Architect on the basis of an inspection determines that the Work is in fact substantially complete, it will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Guarantees required by the Contract shall commence on the date of Substantial Completion of the Work. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

Upon Substantial Completion of the Work, and execution by both the Owner and the Contractor of the Certificate of Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less three hundred percent (300%) of the reasonable cost as determined by the Owner and the Architect for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims.

5.6 COMPLETION AND FINAL PAYMENT

5.6.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the Owner and the Architect thereof in writing. Thereupon, the Architect will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Architect will promptly issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld (5% retainage) pursuant to this Contract. If the Architect is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s) which cost may be deducted by the Owner from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve final completion within the time fixed therefor by the Architect in its Certificate of Substantial Completion, the Contractor shall pay the Owner the sum set forth hereinabove as liquidated damages per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that final completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the Owner has withheld payment, the

Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Architect its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Architect or the Owner; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the Owner, the Contractor shall furnish a bond satisfactory to the Owner to discharge any such lien or indemnify the Owner from liability.

5.6.3 The Owner shall make final payment of all sums due the Contractor within ten (10) days of the Architect's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the Owner by the Contractor except for those claims previously made in writing against the Owner by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 Under no circumstance shall Contractor be entitled to receive interest on any payments or monies due Contractor by the Owner, whether the amount on which the interest may accrue is timely, late, wrongfully withheld, or an assessment of damages of any kind.

ARTICLE VI

THE OWNER

6.1 INFORMATION, SERVICES AND THINGS

REQUIRED FROM OWNER

6.1.1 The Owner shall furnish to the Contractor, at the time of executing this Contract, all written and tangible material in its possession concerning conditions below ground at the site of the Project.

Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The Owner shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor, the Owner shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

6.1.3 The Owner shall furnish the Contractor, free of charge, one copy of the Contract Documents for execution of the Work.

6.2 RIGHT TO STOP WORK

6.2.1 If the Contractor persistently fails or refuses to perform the Work in accordance with this Contract, or if the best interests of the public health, safety or welfare so require, the Owner may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the Owner orders that Work be

resumed. In such event, the Contractor shall immediately obey such order.

6.3 OWNER'S RIGHT TO PERFORM WORK

6.3.1 If the Contractor's Work is stopped by the Owner under Paragraph 6.2, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the Owner that the cause of such stoppage will be eliminated or corrected, then the Owner may, without prejudice to any other rights or remedies the Owner may have against the Contractor, proceed to carry out the subject Work. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies, plus compensation for the Architect's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Contract Price is insufficient to cover the amount due the Owner, the Contractor shall pay the difference to the Owner.

ARTICLE VII

THE CONTRACTOR

7.1 The Contractor is again reminded of its continuing duty set forth in Subparagraph 1.5.7. The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect, the Contractor shall bear responsibility for such performance and shall bear the cost of correction.

7.2 The Contractor shall perform the Work strictly in accordance with this Contract.

7.3 The Contractor shall supervise and direct the Work using the Contractor's

best skill, effort and attention. The Contractor shall be responsible to the Owner for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

7.3.1 The Contractor shall give adequate attention to the faithful prosecution of the Work and the timely completion of this Contract, with authority to determine the manner and means of performing such Work, so long as such methods insure timely completion and proper performance.

7.3.2 The Contractor shall exercise all appropriate means and measures to insure a safe and secure jobsite in order to avoid and prevent injury, damage or loss to persons or property.

7.4 WARRANTY

7.4.1 The Contractor warrants to the Owner that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective.

7.5 The Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

7.6 SUPERVISION

7.6.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Absent written

instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the Owner or the Architect.

7.6.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

NAME	FUNCTION
Nick Rangel	Duro-Last Representative
Brian Kimbrell	Merit Representative

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assume one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 7.6.2 as though such individuals had been listed above.

7.7 The Contractor, within fifteen (15) days of commencing the Work, shall submit to the Owner and the Architect for their information, the Contractor's schedule for completing the Work. The Contractor's schedule shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to the Owner and the Architect. Failure by the Contractor to strictly comply with the provisions of this Paragraph 7.7 shall constitute a material breach of this Contract.

7.8 The Contractor shall continuously maintain at the site, for the benefit of the owner and the Architect, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction.

Additionally, the Contractor shall maintain at the site for the Owner and Architect the approved Shop Drawings, Product Data, Samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the Owner.

7.9 SHOP DRAWINGS, PRODUCT

DATA AND SAMPLES

7.9.1 Shop Drawings, Product Data, Samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.9.2 The Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data or Samples unless and until such submittal shall have been approved by the Architect. Approval by the Architect, however, shall not be evidence that Work installed pursuant thereto conforms with the requirements of this Contract.

7.10 CLEANING THE SITE

AND THE PROJECT

7.10.1 The Contractor shall keep the site reasonably clean during performance of the Work. Upon final completion of the Work, the Contractor shall clean the site and the Project and remove all waste, rubbish, temporary structures, and other materials together with all of the Contractor's property therefrom. Contractor shall dispose of all refuse at a Texas Natural Resource Conservation Commission approved landfill. The Contractor shall further restore all property damaged during the prosecution of the Work and shall leave the site in a clean and presentable condition. No additional payment shall be made by the Owner for this work, the compensation having been

considered and included in the contract price.

7.11 ACCESS TO WORK AND INSPECTIONS

7.11.1 The Owner and the Architect shall have access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested. When reasonably requested by the Owner or the Architect, the Contractor shall perform or cause to be performed such testing as may be necessary or appropriate to insure suitability of the jobsite or the Work's compliance with the Contract requirements.

7.12 INDEMNITY AND DISCLAIMER

7.12.1 OWNER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES FOR INJURY OR DEATH TO ANY PERSON, OR INJURY OR LOSS TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF OWNER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. IT IS THE

EXPRESSED INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT OWNER FROM THE CONSEQUENCES OF THE CONTRACTOR'S AS WELL AS THE OWNER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

7.12.2 The Contractor will secure and maintain Contractual Liability insurance to cover this indemnification agreement that will be primary and non-contributory as to any insurance maintained by the Owner for its own benefit, including self-insurance. In addition, Contractor shall obtain and file with Owner a Certificate of Insurance and copies of policy endorsements evidencing the required coverage.

7.12.3 In claims against any person or entity indemnified under this Paragraph 7.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.13 NONDISCRIMINATION

7.13.1 The Contractor shall not discriminate in any way against any person, employee or job applicant on the basis of race, color, creed, national origin, religion, age, sex, or disability where reasonable accommodations can be effected to enable the person to perform the essential functions of the job. The Contractor shall further ensure that the foregoing nondiscrimination requirement shall be made a part and requirement of each subcontract on this Project.

7.14 PREVAILING WAGE RATES

7.14.1 The Contractor shall comply in all respects with all requirements imposed by any laws, ordinances or resolutions applicable to the Project with regard to the minimum prevailing wage rates for all classes of employees, laborers, subcontractors, mechanics, workmen and persons furnishing labor and services to the Project. The Owner has adopted a Prevailing Wage Rate Schedule, available to the Contractor by request, which specifies the classes and wage rates to be paid to all persons. The Contractor shall pay not less than the minimum wage rates established thereby for each class, craft or type of labor, workman, or mechanic employed in the execution of this Contract. The failure of the Contractor to comply with this requirement shall result in the forfeiture to the Owner of a sum of not less than Sixty Dollars (\$60.00) for each person per day, or portion thereof, that such person is paid less than the prevailing rate. Upon request by the Owner, Contractor shall make available for inspection and copying its books and records, including but not limited to its payroll records, account information and other documents as may be required by the Owner to ensure compliance with this provision.

7.15 JOB SITE SAFETY PRECAUTIONS

7.15.1 The Contractor shall at all times exercise reasonable precautions for the safety of its employees, laborers, subcontractors, mechanics, workmen and others on and near the jobsite and shall comply with all laws, ordinances, regulations, and standards of federal, state and local safety laws and regulations. The Contractor shall provide such machinery guards, safe walkways, ladders, bridges, and other safety devices as may be necessary or appropriate to ensure a safe and secure jobsite and shall require its subcontractors to comply with this requirement. The Contractor shall immediately comply with any and all safety requirements imposed by the Architect during the progress of the Work.

7.16 WARNING DEVICES AND BARRICADES

7.16.1 The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, pavement markings, and other devices as may be necessary or appropriate or required by the Architect to protect persons or property in, near or adjacent to the jobsite. No separate compensation shall be paid to the Contractor for such measures. Where the Work is being conducted in, upon or near streets, alleys, sidewalks, or other rights-of-way, the Contractor shall ensure the placement, maintenance and operation of any and all such warning devices as may be required by the Owner and shall do so until no longer required by the Owner. Such devices shall be in compliance with and conform to the manual and specifications for the uniform system of traffic control devices adopted by the Texas Department of Transportation.

7.17 PROTECTION OF UTILITIES

AND OTHER CONTRACTORS

7.17.1 The Contractor shall use best efforts to leave undisturbed and uninterrupted all utilities and utility services provided to the jobsite or which presently exists at, above or beneath the location where the Work is to be performed. In the event that any utility or utility service is disturbed or damaged during the progress of the Work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense.

7.17.2 The Contractor understands and acknowledges that other contractors of the Owner or of other entities may be present at the jobsite performing other work unrelated to the Project. The Contractor shall use best efforts to work around other contractors without impeding the work of others while still adhering to the completion date established herein. In the event that the Contractor's work is or may be delayed by any other person, the Contractor shall immediately give notice

thereof to the Architect and shall request a written Change Order in accordance with the procedures set forth by this Contract. The Contractor's failure to provide such notice and to request such Change Order shall constitute a waiver of any and all claims associated therewith.

ARTICLE VIII

CONTRACT ADMINISTRATION

8.1 THE ARCHITECT

8.1.1 When used in this Contract the term "Architect" does not necessarily denote a duly licensed, trained or certified architect; as used herein, the term shall be used interchangeably and shall mean a designated Architect, Engineer, or Contract Administrator (who may not be an architect or engineer) for the Owner, said person to be designated or redesignated by the Owner prior to or at any time during the Work hereunder. The Architect may be an employee of the Owner or may be retained by the Owner as an independent contractor but, in either event, the Architect's duties and authority shall be as set forth hereinafter. The Contractor understands and agrees that it shall abide by the decisions and instructions of the Architect notwithstanding the contractual relationship between the Owner and Architect. All the Owner's instructions to the Contractor shall be through the Architect.

In the event the Owner should find it necessary or convenient to replace the Architect, the Owner shall retain a replacement Architect and the status of the replacement Architect shall be that of the former Architect.

8.2 ARCHITECT'S ADMINISTRATION

8.2.1 The Architect, unless otherwise directed by the Owner in writing, will perform those duties and discharge those responsibilities allocated to the Architect as

set forth in this Contract. The Architect shall be the Owner's representative from the effective date of this Contract until final payment has been made.

8.2.2 The Owner and the Contractor shall communicate with each other in the first instance through the Architect.

8.2.3 The Architect shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Architect shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Architect will review the Contractor's Applications for Payment and will certify to the Owner for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Architect shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Architect deems it necessary or advisable, the Architect shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Architect will review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

8.2.7 The Architect will prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Architect shall, upon written request from the Contractor, conduct inspections to determine the date of Substantial Completion and the date of

final completion, will receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by this Contract and will issue a final Certificate for Payment upon compliance with the requirements of this Contract.

8.2.9 The Architect's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

8.3 CLAIMS BY THE CONTRACTOR

8.3.1 The Architect shall determine all claims and matters in dispute between the Contractor and Owner with regard to the execution, progress, or sufficiency of the Work or the interpretation of the Contract Documents, including but not limited to the plans and specifications. Any dispute shall be submitted in writing to the Architect within seven (7) days of the event or occurrence or the first appearance of the condition giving rise to the claim or dispute who shall render a written decision within a reasonable time thereafter. The Architect's decisions shall be final and binding on the parties. In the event that either party objects to the Architect's determination as to any submitted dispute, that party shall submit a written objection to the Architect and the opposing party within ten (10) days of receipt of the Architect's written determination in order to preserve the objection. Failure to so object shall constitute a waiver of the objection for all purposes.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the Owner shall continue to make payments to the Contractor in accordance with this Contract.

8.3.3 **CLAIMS FOR CONCEALED, LATENT OR UNKNOWN CONDITIONS** - The Contractor expressly represents that it has been provided with an adequate opportunity to inspect the Project site and thoroughly

review the Contract Documents and plans and specifications prior to submission of its bid and the Owner's acceptance of the bid. Subject to the conditions hereof, Contractor assumes full responsibility and risk for any concealed, latent or unknown condition which may affect the Work. No claims for extra work or additional compensation shall be made by Contractor in connection with concealed, latent or unknown conditions except as expressly provided herein. Should concealed, latent or unknown conditions encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the Owner having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the Owner and the Architect written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed, latent or unknown condition and the Contractor thereby assumes all risks and additional costs associated therewith.

8.3.4 CLAIMS FOR ADDITIONAL COSTS - If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefor, the Contractor shall give the Architect written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any

additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.

8.3.4.1 In connection with any claim by the Contractor against the Owner for compensation in excess of the Contract Price, any liability of the Owner for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The Owner shall not be liable to the Contractor for claims of third parties, including Subcontractors. The Owner shall not be liable to the Contractor for any claims based upon delay to the Contractor for any reason whatsoever including any act or neglect on the part of the Owner.

8.3.5 CLAIMS FOR ADDITIONAL TIME - If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the Owner or someone acting in the Owner's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the Owner and the Architect, for such reasonable time as the Architect may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived.

8.4 FIELD ORDERS

8.4.1 The Architect shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be affected by Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

8.5 MEDIATION

8.5.1 In the event that a dispute arises under the terms of this Contract, following an adverse determination by the Architect and proper preservation of the issue as required herein, the parties agree to submit to mediation. In such event, the parties shall agree to a designated person to serve as mediator and each party shall be responsible for payment of one-half of the total mediation fees. The parties shall submit the dispute to mediation as soon as practical and in no event later than one (1) year after the Architect's written decision on the matter. At least one designated representative of each party must attend and participate in good faith in an effort to resolve the matters in dispute. Mediation shall not be the exclusive remedy available to the Parties.

8.5.2 In no event shall the foregoing provision justify or authorize any delay in the progress of the Work; the parties shall abide by the decision of the Architect in accomplishing the timely completion of the Project.

ARTICLE IX SUBCONTRACTORS

9.1 DEFINITION

9.1.1 A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the

Work. No Subcontractor shall be in privity with the Owner.

9.2 AWARD OF SUBCONTRACTS

9.2.1 Upon execution of the Contract, the Contractor shall furnish the Owner, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The Owner shall promptly reply to the Contractor, in writing, stating any objections the Owner may have to such proposed Subcontractor. The Contractor shall not enter a subcontract with a proposed Subcontractor with reference to whom the Owner has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights afforded to the Owner by Subparagraph 12.2.1 below. All subcontracts shall incorporate by reference the provisions hereof and shall provide that no claims, causes or demands shall be made by any Subcontractor against the Owner.

9.2.3 The Contractor shall indemnify, defend and hold harmless the Owner from and against any and all claims, demands, causes of action, damage, and liability asserted or made against the Owner by or on behalf of any Subcontractor.

ARTICLE X CHANGES IN THE WORK

10.1 CHANGES PERMITTED

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered

without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

10.2 CHANGE ORDER DEFINED

10.2.1 Change Order shall mean a written order to the Contractor executed by the Owner and the Architect, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by written Change Order.

10.3 CHANGES IN THE CONTRACT PRICE

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the Owner and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the Owner and the Contractor, then, as provided in Subparagraph 10.3.2 below.

10.3.2 If no mutual agreement occurs between the Owner and the Contractor as contemplated in Subparagraph 10.3.1 above, the change in the Contract Price, if any, shall then be determined by the Architect on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the Owner

or the Architect requires, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In no event, shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the Owner, payments on account shall be made to the Contractor on the Architect's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or to the Contractor, the applicable unit prices shall be equitably adjusted.

10.4 MINOR CHANGES

10.4.1 The Architect shall have authority to order minor changes in the Work not involving a change in the Contract Price or an extension of the Contract Time and not inconsistent with the intent of this Contract. Such minor changes shall be made by written Field Order and shall be binding upon the owner and the Contractor. The Contractor shall

promptly carry out such written Field Orders.

10.5 EFFECT OF EXECUTED

CHANGE ORDER

10.5.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

10.6 NOTICE TO SURETY; CONSENT

10.6.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE XI

UNCOVERING AND CORRECTING WORK

11.1 UNCOVERING WORK

11.1.1 If any of the Work is covered contrary to the Architect's request or to any provisions of this Contract, it shall, if required by the Architect or the Owner, be uncovered for the Architect's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time.

11.1.2 If any of the Work is covered in a manner not inconsistent with Subparagraph 11.1.1 above, it shall, if required by the Architect or Owner, be uncovered for the Architect's inspection. If such Work conforms strictly with this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the Owner. If such Work does not strictly conform with this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

11.2 CORRECTING WORK

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Architect as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the Owner for the Architect's services and expenses made necessary thereby.

11.2.2 If within one (1) year after Substantial Completion of the Work any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the Owner. This obligation shall survive final payment by the Owner and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this one-year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the one-year time period in Subparagraph 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

11.3 OWNER MAY ACCEPT DEFECTIVE

OR NONCONFORMING WORK

11.3.1 If the Owner chooses to accept defective or nonconforming Work, the Owner may do so. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE XII

CONTRACT TERMINATION

12.1 TERMINATION BY THE CONTRACTOR

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon ten (10) days' written notice to the Owner and the Architect, terminate performance under this Contract and recover from the Owner payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the Owner shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of

fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Architect and the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

12.2 TERMINATION BY THE OWNER

12.2.1 FOR CONVENIENCE

12.2.1.1 The Owner may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 (a) The Contractor shall submit a termination claim to the Owner and the Architect specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Architect. If

the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with subparagraph (c) below.

- (b) The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.
- (c) Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:
 - (i) Contract prices for labor, materials, equipment and other services accepted under this Contract;
 - (ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages), provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
 - (iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph.

These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 FOR CAUSE

12.2.2.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, abandons the jobsite and fails to resume work within five (5) days of written notice thereof by the Owner, fails to grant or allow access to the jobsite by the Owner or Architect, fails to supply enough properly skilled workers, supervisory personnel or proper equipment or materials, fails to make prompt payment to Subcontractors or for materials or labor, persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a violation of a material provision of this Contract, then the Owner may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price does not exceed the cost of finishing the work, including compensation for the Architect's additional services and expenses made necessary thereby, such difference shall be paid by the Contractor to the Owner. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

ARTICLE XIII INSURANCE

13.1 CONTRACTOR SHALL MAINTAIN INSURANCE

13.1.1 The Contractor at his own expense shall purchase, maintain and keep in force during the life of this contract, adequate insurance that will protect the Contractor and/or any Additional Insured from claims which may arise out of or result from operations under this contract. The insurance required shall provide adequate protections from all claims, whether such operations be by the Contractor or by any Additional Insured or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone whose acts of any of them may be liable and from any special hazards, such as blasting, which may be encountered in the performance of this contract in the amounts as shown below in Paragraph 13.2.1.

13.1.2 The Contractor shall not commence work until the Contractor has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner.

13.2 TYPES AND AMOUNTS OF CONTRACTOR'S INSURANCE

13.2.1. The Contractor shall furnish and maintain during the term of the Contract Worker's Compensation and Commercial

General Liability (Public) Insurance in such amounts as follows:

<u>Type of Insurance</u>	<u>Amount</u>
Worker's Compensation	as set forth in the Worker's Compensation Act and shall include bodily injury, occupational illness or disease coverage with minimum Employer's Liability limits of not less than \$500,000/\$500,000/\$500,000.

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

Automobile Liability Policy covering all operations of the Contractor pursuant to this Contract involving the use of motor vehicles, including all owned, non-owned and hired vehicles with minimum limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability.

Excess Liability Insurance Policy with a limit of not less than \$2,000,000. Such insurance shall be excess of the commercial general liability insurance, business auto liability insurance and employer's liability insurance. This insurance will apply as primary insurance with respect to any other insurance or self-insurance programs maintained by the Owner and shall be provided on a "following form basis".

Contractor waives all rights against the Owner for recovery of damages pursuant to this Contract. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the Contractor's completed work, including its sub-contractors, consultants and employees.

Property/Builders Risk Insurance Policy with "all-risk" coverage on the entire Work with replacement cost basis to include the interest of the Owner, Contractor and sub-contractors in the Work and materials in transit and stored off the Project site destined for incorporation.

Contractor Professional Liability Insurance (if applicable) with limit of not less than \$2,000,000 for all negligent acts, errors, and omissions by the Contractor, its sub-contractors, consultants and employees, that arise out of the performance of this Agreement.

13.3 ADDITIONAL INSURED

The Owner shall be an additional insured on all insurance policies required under this Contract except for Workers Compensation and Professional Liability Insurance furnished by the Contractor.

13.4 WRITTEN NOTIFICATION

Each insurance policy shall be endorsed to contain a provision requiring that thirty (30) days prior to expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given by certified mail to the Division of Purchasing, City of Allen, 255 Parkway Blvd., Allen, Texas, 75019. In the event the insurance company providing insurance is unable to contain such endorsement Contractor shall provide written notice to Owner of any expiration, cancellation, non-renewal or any material change in coverage.

13.5 PREMIUMS AND ASSESSMENTS

Companies issuing the insurance policies shall have no recourse against the Owner for payment of any premiums or assessments for any deductibles which are at the sole responsibility and risk of the Contractor.

13.6 CERTIFICATE OF INSURANCE

Proof that the insurance is in force shall be furnished to the City on City of Allen Standard Certificate of Insurance Forms. In the event, any insurance policy shown on the Certificate of Insurance has an expiration date that is prior to the completion and final acceptance of the Project by the Owner, the Contractor shall furnish the Owner proof of identical continued coverage no later than thirty (30) days prior to the expiration date shown on the Certificate of Insurance.

13.7 PRIMARY COVERAGE

The coverages provided herein shall be primary and noncontributory with any other insurance maintained by the Owner for its benefit, including self insurance.

13.8 WORKER'S COMPENSATION INSURANCE COVERAGE

13.8.1 The Contractor shall:

- (1) provide coverage for its employees providing services on a project, for the duration of the project based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements;
- (2) provide a certificate of coverage showing workers' compensation coverage to the governmental entity prior to beginning work on the project;
- (3) provide the governmental entity prior to the end of the coverage period, a new certificate of coverage showing extension of

coverage, if the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project;

- (4) obtain from each person providing services on a Project, and provide to the governmental entity:

- (A) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (B) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project;

- (7) post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice does not satisfy other posting requirements imposed by the Act or other commission rules.

This notice must be printed with a title in at least 30-point bold type and text in at least 19-point normal type, and shall be in both English and Spanish and any other language common to the worker population. The text for the notices shall be the following text provided by the Texas Worker's Compensation Commission on the sample notice, without any additional words or changes:

REQUIRED WORKERS' COMPENSATION COVERAGE

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee."

"Call the Texas Workers' Compensation Commission at 512-440-3789 to receive information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

and

- (8) contractually require each person with whom it contracts to provide services on a project, to:

- (A) provide coverage based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements for all its employees providing services on the project, for the duration of the project;

- (B) provide a certificate of coverage to the contractor prior to that person beginning work on the project;
- (C) include in all contracts to provide services on the project the language in subsection (e)(3) of this rule;
- (D) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (E) obtain from each other person with whom it contracts, and provide to the Contractor:
 - (i) a certificate of coverage, prior to the other person beginning work on the project; and
 - (ii) prior to the end of the coverage period, a new certificate of coverage showing extension of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
- (F) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (G) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (H) contractually require each other person with whom it contracts, to perform as required by sub-paragraphs (A) - (H) of this paragraph, with the certificate of coverage to be provided to the person for whom they are providing services.

ARTICLE XIV

MISCELLANEOUS

14.1 LAWS AND ORDINANCES

14.1.1 The Contractor shall always and in all respects, observe and comply with all federal, state and local laws, ordinances, and regulations applicable to the Project and Work. The Contractor shall further ensure that all Subcontractors observe and comply with said laws, ordinances and regulations.

14.2 GOVERNING LAW

14.2.1 The Contract shall be governed by the laws of the State of Texas. Venue for any causes of action arising under the terms or provisions of this Contract or the Work to be performed hereunder shall be in the courts of Collin County, Texas.

14.3 SUCCESSORS AND ASSIGNS

14.3.1 The Owner and Contractor bind themselves, their respective successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants,

agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the Owner.

14.4 SURETY BONDS

14.4.1 If the Contract Price exceeds the sum of \$25,000.00, the Contractor shall furnish separate performance and payment bonds to the Owner, per the requirements set out in the bid documents and state statutes to guaranty full and faithful performance of the Contract and the full and final payment of all persons supplying labor or materials to the Project. Each bond required by the bid documents or state statute shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably suitable to the Owner and authorized to do business in the State of Texas by the State Board of Insurance.

14.4.2 If the Contract Price exceeds the sum of \$25,000.00, the Contractor, upon execution of the Contract and prior to commencement of the Work, shall furnish to the Owner a maintenance bond in the amount of one hundred percent (100%) of the Contract Price covering the guaranty and maintenance prescribed herein, written by an approved surety authorized and duly licensed to conduct business in the State of Texas. The cost of said maintenance bond shall be included in the Contractor's unit bid prices and shall be paid by the Contractor.

14.5 SEVERABILITY

14.5.1 The provisions of this Contract are herein declared to be severable; if any term, provision or part hereof is determined to be invalid, void or unenforceable, such determination shall not affect the validity or enforceability of the remaining terms, provisions and parts, and this Contract shall be read as if the invalid, void or unenforceable portion had not been included herein.

14.6 AMENDMENTS

14.6.1 This Contract may be amended by the parties only by a written agreement duly executed by both parties. The failure of the Owner to object to any nonperformance or nonconforming work or to enforce any provision hereof shall in no event be regarded as or construed to be a waiver, release or modification of any term or provision in this Contract, nor shall such failure to object or enforce estop the Owner from insisting on strict compliance with this Contract or from recovering damages, costs or expenses arising because of such nonperformance or nonconforming work.

14.7 NOTICES

14.6.1 All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party or Architect at the address set forth herein or set forth in a written designation of change of address delivered to all parties and the Architect.

14.8 Prohibition of Boycott Israel

Company verifies that it does not Boycott Israel, and agrees that during the term of this Contract will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. Effective September 1, 2019, this section does not apply if the Vendor is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i)

the Vendor has ten (10) or more fulltime employees and (ii) this Contract has a value of \$100,000.00 or more to be paid under the terms of this Contract.

endeavored to reduce / improve storm water quality per direction of the Texas Commission of Environmental Quality (TCEQ). The City of Allen has developed standard operating procedures (SOP's) for our Storm Water Management Program (SWMP). By signing this contract all vendors accept to follow our SOP's of our SWMP. Follow the link for our SOP's <http://www.cityofallen.org/933/Storm-Water-Management>

14.9 Storm Water Management

Under the Authority of Clean Water Act, the Environmental Protection Agency(EPA), the City of Allen has

Contracts in the Amount of \$0-\$100,000

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: a) Premises/Operations b) Products/Completed Operations c) Independent Contractors d) Personal Liability e) Contractual Liability	\$500,000 each occurrence, \$1,000,000 general aggregate; or \$1,000,000 combined single limits	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. City prefers that insurer be rated A or higher by A.M. Best or equivalent. Waiver of Subrogation to apply
2. Business Auto Liability	\$500,000 combined single limit	Owned, non-owned, and hired vehicles
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	Waiver of subrogation
4. a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

Contracts in the Amount of \$100,000-\$1,000,000

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: f) Premises/Operations g) Products/Completed Operations h) Independent Contractors i) Personal Liability j) Contractual Liability	\$1,000,000 each occurrence \$2,000,000 general aggregate \$2,000,000 Umbrella/ Excess Liability	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. City requires that insurer be rated A or higher by A.M. Best or equivalent. Waiver of subrogation
2. Business Auto Liability	<ul style="list-style-type: none"> \$1,000,000 per occurrence \$1,000,000 aggregate or; \$1,000,000 combined single limits 	City to be named as a additional insured
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	Waiver of subrogation
4. Builders Risk Policy	100% of construction total	If Applicable
5.a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

Contracts in the Amount of \$1,000,000-\$8,000,000

Type of Insurance	Amount of Insurance	Provisions
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1. Broad Form Commercial General Liability to include coverage for: k) Premises/Operations l) Products/Completed Operations m) Independent Contractors n) Personal Liability o) Contractual Liability	\$2,000,000 each occurrence, \$4,000,000 general aggregate; \$4,000,000 umbrella	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. City requires that insurer be rated A or higher by A.M. Best or equivalent. Waiver of Subrogation
2. Business Auto Liability	<ul style="list-style-type: none"> • \$1,000,000 per occurrence • \$2,000,000 aggregate or; • \$2,000,000 combined single limits 	City to be named as additional insured
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	City to be provided a waiver of subrogation
4. Builders Risk Policy	100% of construction total	If Applicable
5. a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

All Contracts over \$8,000,000 must contact Risk Management for insurance specifications

All Certificates of Insurance need to reference job or contract number in comments section.

EXECUTED in single or multiple originals, this ____ day of _____, 2019.

CITY OF ALLEN

DURO-LAST

APPROVED:

APPROVED:

Eric Ellwanger, City Manager

Steve Ruth, Vice President of Sales and Operations

305 Century Parkway

(Street Address) _____

Allen, TX 75013

(City/State/Zip) _____

ATTEST:

Shelley B. George, City Secretary

TIPS VENDOR AGREEMENT

Between Duro-Last, Inc. and
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS)

For

RCSP 170201 Trades, Labor and Materials (JOC)

General Information

The Vendor Agreement ("Agreement") made and entered into by and between The Interlocal Purchasing System (hereinafter referred to as "TIPS" respectfully) a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686. This Agreement consists of the provisions set forth below, including provisions of all Attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any Attachment, the provisions set forth shall control.

The vendor Agreement shall include and incorporate by reference this Agreement, the terms and conditions, special terms and conditions, any agreed upon amendments, as well as all of the sections of the solicitation as posted, including any addenda and the awarded vendor's proposal. Once signed, if an awarded vendor's proposal varies or is unclear in any way from the TIPS Agreement, TIPS, at its sole discretion, will decide which provision will prevail. Other documents to be included are the awarded vendor's proposals, task orders, purchase orders and any adjustments which have been issued. If deviations are submitted to TISP by the proposing vendor as provided by and within the solicitation process, this Agreement may be amended to incorporate any agreed deviations.

The following pages will constitute the Agreement between the successful vendors(s) and TIPS. Bidders shall state, in a separate writing, and include with their proposal response, any required exceptions or deviations from these terms, conditions, and specifications. If agreed to by TIPS, they will be incorporated into the final Agreement.

Definitions

PURCHASE ORDER is the TIPS member's approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed to between the vendor and TIPS member will be added as addendums to the PO. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some of the addendums possible.

Terms and Conditions

Freight

All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing.

Warranty Conditions

All supplies equipment and services shall include manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be an authorized dealer, distributor or manufacturer for all products. All equipment proposed shall be new unless clearly stated in writing.

Customer Support

The Vendor shall provide timely and accurate customer support to TIPS members. Vendors shall respond to such requests within one (1) working day after receipt of the request. Vendor shall provide training regarding products and services supplied by the Vendor unless otherwise clearly stated in writing at the time of purchase. (Unless training is a line item sold or packaged and must be purchased with product.)

Agreements

All Agreements and agreements between Vendors and TIPS Members shall strictly adhere to the statutes that are set forth in the Uniform Commercial Code as most recently revised.

Agreements for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of the participating government entities.

Davis Bacon Act requirements will be met when Federal Funds are used for construction and/or repair of buildings.

Tax exempt status

A taxable item sold, leased, rented to, stored, used, or consumed by any of the following governmental entities is exempted from the taxes imposed by this chapter: (1) the United States; (2) an unincorporated instrumentality of the United States; (3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States; (4) the State of Texas; (5) a Texas county, city, special district, or other political subdivision; or (6) a state, or a governmental unit of a state that borders Texas, but only to the extent that the other state or governmental unit exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state. Texas Tax Code § 151.309.

Assignments of Agreements

No assignment of Agreement may be made without the prior written approval of TIPS. Payment can only be made to the awarded Vendor or vendor assigned dealer.

Disclosures

1. Vendor affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
2. Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with participants in the TIPS program.
3. The vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Renewal of Agreements

The Agreement with TIPS is for one (1) year with an option for renewal for additional consecutive years as provided in the solicitation. Total term of Agreement can be up to the number of years provided in the solicitation, if sales are reported through the Agreement and both parties agree.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.

No Agreement for goods or services with a TIPS member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause with which the TIPS member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS member shall only be valid and enforceable when the vendor receives written confirmation by purchase order or executed Agreement issued by the TIPS member for any renewal period. The purpose of this clause is to avoid a TIPS member inadvertently renewing an Agreement during a period in which the governing body of the TIPS member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments

The Vendor shall ship ordered products within a commercially reasonable time after the receipt of the order. If a product cannot be shipped within that time, the Vendor shall notify TIPS and

the requesting entity as to why the product has not shipped and shall provide an estimated shipping date, if applicable. TIPS or the requesting entity may cancel the order if estimated shipping time is not acceptable.

Invoices

The Vendor or vendor assigned dealer shall submit invoices, to the TIPS participant. Each invoice shall include the TIPS participant's purchase order number. The shipment tracking number or pertinent information for verification of TIPS participant receipt shall be made available upon request. The Vendor or vendor assigned dealer shall not invoice for partial shipments unless agreed to in writing in advance by TIPS and the TIPS participant.

Payments

The TIPS participant will make payments directly to the Vendor or vendor assigned dealer at net 30 days after receiving invoice.

Pricing

The Vendor Agreements to provide pricing to TIPS and its participating governmental entities that is the lowest pricing available to like cooperative purchasing customers and the pricing shall remain so throughout the duration of the Agreement.

The Vendor agrees to promptly lower the cost of any product purchased through TIPS following a reduction in the manufacturer or publisher's direct cost to the Vendor. Price increases will be honored. However, the Vendor shall honor previous prices for thirty (30) days after written notification to TIPS of an increase.

All pricing submitted to TIPS shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to customer. Failure to render the participation fee to TIPS shall constitute a breach of this agreement and shall be grounds for termination of this agreement and any other agreement held with TIPS.

Participation Fees

Vendor or vendor assigned dealer Agreements to pay the participation fee for all Agreement sales to TIPS on a monthly scheduled report. Vendor must login to the TIPS database and use the "Submission Report" section to report sales. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement. Failure to pay the participation fee will result in termination of Agreement. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

1. **Indemnity for Personality Agreements.** Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS member(s), officers and employees, from and against all claims and suits for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and attorney's fees, arising out of, or resulting from, Vendor's performance of this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, invitees, whether or not such claims are based in whole or in part upon the negligent acts or omissions of the TIPS, TIPS member(s), officers, employees, or agents.
2. **Indemnity for Performance Agreements.** The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS member(s), officers and employees from and against all claims and suits for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and attorney's fees, arising out of, or resulting from, Vendor's work under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Vendor further agrees to indemnify and hold harmless and defend TIPS, TIPS member(s), officers and employees, from and against all claims and suits for injuries (including death) to an officer, employee, agent, subcontractors, supplier or equipment lessee of the Vendor, arising out of, or resulting from, Vendor's work under this Agreement whether or not such claims are based in whole or in part upon the negligent acts or omissions of the TIPS, TIPS member(s), officers, employees, or agents.

Attorney's Fees--Texas Local Government Code § 271.159 is expressly referenced.

Pursuant to §271.159, TEXAS LOC. GOV'T CODE, in the event that any one of the Parties is required to obtain the services of an attorney to enforce this Agreement, the prevailing party, in addition to other remedies available, shall be entitled to recover reasonable attorney's fees and costs of court.

Multiple Vendor Awards

TIPS reserves the right to award multiple vendor Agreements for categories when deemed in the best interest of the TIPS membership. Bidders scoring 80% or above will be considered for an award. Categories are established at the discretion of TIPS.

State of Texas Franchise Tax

By signature hereon, the bidder hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS participants will submit any orders at any time. TIPS reserves the right to request additional proposals for items already on Agreement at any time.

Purchase Order Pricing/Product Deviation

If a deviation of pricing/product on a purchase order occurs, TIPS is to be notified within 24 hours of receipt of order.

Cancellation for non-performance or Agreement deficiency

TIPS may terminate any Agreement if TIPS Members have not used the Agreement, or if purchase volume is determined to be "low volume" in any 12-month period. TIPS reserves the right to cancel the whole or any part of this Agreement due to failure by awarded vendor to carry out any obligation, term or condition of the Agreement. TIPS may issue a written deficiency notice to awarded vendor for acting or failing to act in any of the following:

- Providing material that does not meet the specifications of the Agreement;
- Providing work and/or material that was not awarded under the Agreement;
- Failing to adequately perform the services set forth in the scope of work and specifications;
- Failing to complete required work or furnish required materials within a reasonable amount of time;
- Failing to make progress in performance of the Agreement and/or giving TIPS reason to believe that awarded vendor will not or cannot perform the requirements of the Agreement; and/or
- Performing work or providing services under the Agreement prior to receiving a TIPS reviewed purchase order for such work.

Upon receipt of the written deficiency, awarded vendor shall have ten (10) days to provide a satisfactory response to TIPS. Failure to adequately address all issues of concern may result in Agreement cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by awarded vendor under this Agreement shall become the property of the TIPS Member on demand.

TIPS Member Purchasing Procedures

Purchase orders are issued by participating TIPS member to the awarded vendor indicating on the PO "Agreement Number". Purchase Order is emailed to TIPS at tipspo@tips-usa.com.

- Awarded vendor delivers goods/services directly to the participating member.

- Awarded vendor invoices the participating TIPS member directly.
- Awarded vendor receives payment directly from the participating member.
- Awarded vendor reports sales monthly to TIPS (unless prior arrangements have been made with TIPS to report monthly).

Form of Agreement

If a vendor submitting an offer requires TIPS and/or TIPS Member to sign an additional agreement, a copy of the proposed agreement must be included with the proposal. In response to submitted supplemental Vendor Agreement documents, TIPS will review proposed vendor Agreement documents. Vendor's Agreement document shall not become part of TIPS's Agreement with vendor unless and until an authorized representative of TIPS reviews and approves it.

Licenses

Awarded vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded vendor. Awarded vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Agreement. TIPS reserves the right to stop work and/or cancel Agreement of any awarded vendor whose license(s) expire, lapse, are suspended or terminated.

Novation

If awarded vendor sells or transfers all assets or the entire portion of the assets used to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. TIPS reserves the right to accept or reject any new party. A simple change of name agreement will not change the Agreement obligations of awarded vendor.

Site Requirements (when applicable to service or job)

Cleanup: Awarded vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

Preparation: Awarded vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order.

Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

Registered sex offender restrictions: For work to be performed at schools, awarded vendor agrees that no employee of a sub-contractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or reasonably expected to be present.

Awarded vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. Safety measures: Awarded vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

Smoking

Persons working under Agreement shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.

Invoices

The awarded vendor shall submit invoices to the participating entity clearly stating "Per TIPS Agreement". The shipment tracking number or pertinent information for verification shall be made available upon request.

Marketing

Awarded vendor agrees to allow TIPS to use their name and logo within website, marketing materials and advertisement. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS.

Supplemental agreements

The entity participating in the TIPS Agreement and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this Agreement is exclusively between the participating entity and awarded vendor. TIPS, its agents, TIPS members and employees shall not be made party to any claim for breach of such agreement.

Survival Clause

All applicable software license agreements, warranties or service agreements that were entered into between Vendor and Customer under the terms and conditions of the Agreement shall survive the expiration or termination of the Agreement. All Purchase Orders issued and accepted by Order Fulfiller shall survive expiration or termination of the Agreement.

Legal obligations

It is the responding vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in this RFP and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. TIPS shall have authority to conduct random audits of Awarded Vendor's pricing that is offered to TIPS Members. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 8 ESC or TIPS.

Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and fully particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Services

When applicable, performance bonds and payment bonds will be required on construction or labor required jobs. Awarded vendor will meet the TIPS member's local and state purchasing requirements. Awarded vendors may need to provide additional capacity as jobs increase. Bonds will not require that a fee be paid to TIPS. The actual cost of the bond will be a pass through to the TIPS member and added to the purchase order or Agreement.

Scope of Services

The specific scope of work for each job shall be determined in advance and in writing between TIPS Member and Awarded vendor. It is okay if the TIPS member provides a general scope, but the awarded vendor should provide a written scope of work to the TIPS member as part of the proposal.

Once the scope of the job is agreed to, the TIPS member will issue a PO and/or an Agreement with the estimate referenced as an attachment along with bond and any other special provisions agreed to for the TIPS member. If special terms and conditions other than those covered within this solicitation and awarded Agreements are required, they will be attached to the PO and shall take precedence over those in the base Agreement.

Project Delivery Order Procedures

The TIPS member having approved and signed an interlocal agreement, or other TIPS membership document, may make a request of the awarded vendor under this Agreement when the TIPS member has services that need to be undertaken. Notification may occur via phone, the web, email, fax, or in person.

Upon notification of a pending request, the awarded vendor shall make contact with the TIPS member as soon as possible, but must make contact with the TIPS member within two working days.

Scheduling of Projects

Scheduling of projects (if applicable) will be accomplished when the TIPS member issues a purchase order that will serve as "the notice to proceed". The period for the delivery order will include the mobilization, materials purchase, installation and delivery, design, weather, and site cleanup and inspection. No additional claims may be made for delays as a result of these items. When the tasks have been completed the awarded vendor shall notify the client and have the TIPS member inspect the work for acceptance under the scope and terms in the PO. The TIPS member will issue in writing any corrective actions that are required. Upon completion of these items, the TIPS member will issue a completion notice and final payment will be issued.

Support Requirements

If there is a dispute between the awarded vendor and TIPS member, TIPS or its representatives will assist in conflict resolution or third party (mandatory mediation), if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded vendors TIPS project files, documentation and correspondence.

Incorporation of Solicitation

The TIPS Request for Proposals or the Request for Competitive Sealed Proposals solicitation and all associated documents and forms made part of the solicitation process, including any addenda, that resulted in the execution of this agreement are hereby incorporated by reference into this agreement as if copied verbatim.

Special Terms and Conditions

It is the intent of TIPS to Agreement with a reliable, high performance vendor to supply products and services to government and educational agencies. It is the experience of TIPS that the following procedures provide TIPS, the Vendor, and the participating agency the necessary support to facilitate a mutually beneficial relationship. The specific procedures will be negotiated with the successful vendor.

- **Agreements:** All vendor purchase orders and/or Agreements/agreements must be emailed to TIPS at tipspo@tips-usa.com. Should an agency send an order direct to vendor, it is the vendor's responsibility to forward the order to TIPS at the email above within 24 business hours and confirm its receipt with TIPS.
 - **Promotion of Agreement:** It is agreed that Vendor will encourage all eligible entities to purchase from the TIPS Program. Encouraging entities to purchase directly from the Vendor and not through TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
 - **Daily Order Confirmation:** All Agreement purchase orders will be approved daily by TIPS and sent to vendor. The vendor must confirm receipt of orders to the TIPS member (customer) within 24 business hours.
 - **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, then updated pricing must be posted by 1st of each month.
 - **Back Ordered Products:** If product is not expected to ship within 3 business days, customer is to be notified within 24 hours and appropriate action taken based on customer request.
-

Term of Agreement is one year with renewal options for up to two additional years as provided in the solicitation.

TIPS Vendor Agreement Signature Form

RCSP 170201 Trades, Labor and Materials (JOC)

Company Name Duro-Last, Inc.
Address 525 Morley Drive
City Saginaw State MI Zip 48601
Phone 800.248.0280 Fax 800.432.9331
Email of Authorized Representative csauer@duro-last.com
Name of Authorized Representative Steve Ruth
Title Vice President, Sales & Marketing
Signature of Authorized Representative 
Date 3/15/17
TIPS Authorized Representative Name Meredith Barton
Title Vice-President of Operations
TIPS Authorized Representative Signature 
Approved by ESC Region 8 
Date 3/23/2017

The Interlocal Purchasing System (TIPS Cooperative) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Mr. David Mabe General Manager	Address	Region VIII Education Service Center 4845 US Highway 271 North Pittsburg, TX 75686	Address
Email	david.mabe@tips-usa.com			Contact
Phone	+1 (903) 243-4759			
Fax	+1 (866) 749-6674	Contact	Kim Thompson, TIPS Office Manager	Department Building
Bid Number	170201 Addendum 1			
Title	Trades, Labor and Materials (JOC)	Department Building		Floor/Room
Bid Type	RFP			Telephone
Issue Date	2/2/2017 08:00 AM (CT)			Fax
Close Date	3/17/2017 03:00:00 PM (CT)	Floor/Room		Email
		Telephone	+1 (866) 839-8477	
		Fax	+1 (866) 839-8472	
		Email	bids@tips-usa.com	

Supplier Information

Company Duro-Last, Inc.
 Address 525 Morley Drive

 Saginaw, MI 48601
 Contact Chenelle Sauer
 Department
 Building
 Floor/Room
 Telephone (800) 248-0280 x2223
 Fax (800) 432-9331
 Email csauer@duro-last.com
 Submitted 3/16/2017 12:39:19 PM (CT)
 Total \$0.00

By submitting your response, you certify that you are authorized to represent and bind your company.

Signature Chenelle Davila Sauer

Email csauer@duro-last.com

Supplier Notes

Bid Notes

Bid Activities

Bid Messages

Bid Attributes

Please review the following and respond where necessary

#	Name	Note	Response
1	Yes - No	Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.	No
2	Yes - No	Highly Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB? Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.	No
3	Yes - No	The Vendor can provide services and/or products to all 50 US States?	Yes
4	States Served:	If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)	
5	Company and/or Product Description:	This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)	Duro-Last®, Inc. is the world's largest manufacturer of custom-fabricated single-ply roofing systems used on commercial spaces. As a full system provider, Duro-Last also offers time-saving prefabricated accessories, Duro-Guard® insulation and roll goods.
6	Primary Contact Name	Primary Contact Name	Chenelle D. Sauer
7	Primary Contact Title	Primary Contact Title	Government Sales Administrator
8	Primary Contact Email	Primary Contact Email	csauer@duro-last.com
9	Primary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8002480280
10	Primary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8004329331
11	Primary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	9892845391
12	Secondary Contact Name	Secondary Contact Name	Steve Ruth
13	Secondary Contact Title	Secondary Contact Title	Vice President Sales and Marketing
14	Secondary Contact Email	Secondary Contact Email	sruth@duro-last.com
15	Secondary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8002480280
16	Secondary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8004329331
17	Secondary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	9892335597
18	Admin Fee Contact Name	Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.	Chenelle D. Sauer

19	Admin Fee Contact Email	Admin Fee Contact Email	csauer@duro-last.com
20	Admin Fee Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8002480280
21	Purchase Order Contact Name	Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.	Chenelle D. Sauer
22	Purchase Order Contact Email	Purchase Order Contact Email	csauer@duro-last.com
23	Purchase Order Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	8002480280
24	Company Website	Company Website (Format - www.company.com)	www.duro-last.com
25	Federal ID Number:	Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789)	38-2362839
26	Primary Address	Primary Address	525 Morley Drive
27	Primary Address City	Primary Address City	Saginaw
28	Primary Address State	Primary Address State (2 Digit Abbreviation)	MI
29	Primary Address Zip	Primary Address Zip	48601
30	Search Words:	Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)	Single-ply membrane, PVC membrane, Custom fabrication, White roofing, Sustainable roofing, Energy star roofing, Duro-Tuff®, Duro-Fleece®, Ketone Ethylene Ester (KEE), Elvaloy®, Rock-Ply®, Shingle-Ply®, Metal Roof System, Metal Wall Systems, Duro-Guard® Insulation, Duro-Light™ Roof Skylights, Pipe Suppports, Pipe Stands, Roof Coatings
31	Yes - No	Do you wish to be eligible to participate in a TIPS contract in which a TIPS member utilizes federal funds on contracts exceeding \$100,000? (Non-Construction)	No
32	Yes - No	Certification of Residency (Required by the State of Texas) Company submitting bid is a Texas resident bidder?	No
33	Company Residence (City)	Vendor's principal place of business is in the city of?	Saginaw
34	Company Residence (State)	Vendor's principal place of business is in the state of?	Michigan
35	Pricing Information:	Pricing information section. (Questions 36 - 38)	(No Response Required)
36	Yes - No	Pricing submitted includes the TIPS administration fee?	Yes
37	Yes - No	Vendor agrees to remit to TIPS the required administration fee?	Yes
38	Yes - No	Additional discounts to TIPS members for bulk quantities or scope of work?	Yes
39	Years Experience	Company years experience in this category?	39
40	Prices are guaranteed for?	(__ Month(s), __ Year(s), or Term of Contract) (Standard term is "Term of Contract")	Term of Contract

41	Estimating Requirements	Awarded contractor must use Cost Works, JOC Works, RS Means Online, 4 Clicks, or Other Approved estimating software. If the contractor selects "Other Software", please make the request for approval in the next attribute question.	Cost Works
42	Other Estimating Software	Please list the program name, website address and phone number of the requested estimating software.	RSMeans Building Construction Costs Book
43	NON-COLLUSIVE BIDDING CERTIFICATE	<p>By submission of this bid or proposal, the Bidder certifies that:</p> <p>1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;</p> <p>2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor;</p> <p>3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;</p> <p>4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf. Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.</p>	(No Response Required)
44	CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ	<p>If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS, Richard Powell, 4845 US Highway 271 North, Pittsburg, Texas 75686</p> <p>You may find the Blank CIQ form on our website at:</p> <p>Copy and Paste the following link into a new browser or tab: https://www.tips-usa.com/assets/documents/docs/CIQ.pdf</p> <p>Do you have any conflicts under this statutory requirement?</p>	No
45	Filing of Form CIQ	If yes (above), have you filed a form CIQ as directed here?	

46 Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds. Yes, I certify
Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

You may find the Blank Certification Regarding Lobbying form on our website at:

Copy and Paste the following link into a new browser or tab:

<https://www.tips-usa.com/assets/documents/docs/CRL.pdf>

Do you certify the three (3) certification of lobbying statements above? If you do not certify the three (3) statements above please download the Certification Regarding Lobbying form, fill out the form, sign the form, scan the form and upload to the Certification Regarding Lobbying section on the "Response Attachments" tab.

47 Regulatory Standing

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

Yes

48 Regulatory Standing

Regulatory Standing explanation of no answer.

49 Antitrust Certification Statements (Tex.
Government Code § 2155.005)

By submission of this bid or proposal, the Bidder certifies (No Response Required)
that:

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Instructions for Certification:

(No Response Required)

1. By agreeing to the form, the prospective lower tier participant is providing the certification set out on the form in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies,

including suspension and / or debarment.

- 51 Suspension or Debarment Certification Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Yes

By submitting this offer and certifying this section, this bidder:

Certifies that no suspension or disbarment is in place, which would preclude receiving a federally funded contract as described above.

- 52 Non-Discrimination Statement and Certification In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident. Yes
- Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.
- To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.
- (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)
- USDA is an equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. I

certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited law and regulations.

53 2 CFR PART 200 Contract Provisions
Explanation

Required Federal contract provisions of Federal Regulations for contracts with ESC Region 8 and TIPS Members:

(No Response Required)

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members is the subgrantee or Subrecipient by definition. The federal Rule numbering or identification below is only for reference purpose on this form and does not identify an actual Federal designation or location of the rule. The Rules are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

54 2 CFR PART 200 (A) Contracts

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Notice: Pursuant to Federal Rule (A) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.
Does vendor agree?

55 2 CFR PART 200 (B) Termination

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
Pursuant to Federal Rule (B) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.
Does vendor agree?

56	2 CFR PART 200 (G) Clean Air Act	<p>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p> <p>Pursuant to Federal Rule (G) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to the terms listed and referenced therein.</p> <p>Does vendor agree?</p>	Yes
57	2 CFR PART 200 (H) Debarment and Suspension	<p>Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.</p> <p>Pursuant to Federal Rule (H) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting for this procurement process the vendor certifies that they are not debarred from receiving a contract from the federal government as provided therein.</p> <p>Does vendor agree?</p>	Yes
58	2 CFR PART 200 (I) Byrd Anti-Lobbying Amendment	<p>Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.</p> <p>Pursuant to Federal Rule (I) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and after the awarded term of an award by the ESC Region 8 and TIPS Members resulting for this procurement process the vendor certifies to the terms included or referenced therein.</p> <p>Does vendor agree?</p>	Yes

59	2 CFR PART 200 Federal Rule (12)	<p>Federal Rule (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)</p> <p>Pursuant to Federal Rule (12) above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$100,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).</p> <p>Does vendor certify that it is in compliance with the Clean Air Act?</p>	Yes
60	2 CFR PART 200 Procurement of Recovered Materials	<p>A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with</p> <p>maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.</p> <p>Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?</p>	Yes

61 Indemnification

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas." Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

Yes

62 Remedies

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder must be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas. Do you agree to these terms?

Yes, I Agree

63 Remedies Explanation of No Answer

64	Choice of Law	<p>This agreement and any addenda or other additions and all contracts or awards resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.</p> <p>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?</p>	Yes
65	Jurisdiction and Service of Process	<p>Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue clauses in contracts with TIPS members may be determined by the parties.</p> <p>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?</p>	Yes
66	Alternative Dispute Resolution	<p>Prior to filing of litigation, the parties may select non-binding mediation as a method of conflict resolution for issues arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction. The parties agree that if nonbinding mediation is chosen as a resolution process, the parties must agree to the chosen mediator(s) and that all mediation venue shall be at a location in Camp or Titus, County, Texas agreed by the parties. The parties agree to share equally the cost of the mediation process and venue cost.</p> <p>Do you agree to these terms?</p>	Yes, I Agree
67	Alternative Dispute Resolution Explanation of No Answer		
68	Infringement(s)	<p>The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights in connection with the vendor's proposal or ultimate contracts awarded and approved.</p>	Yes, I Agree

Do you agree to these terms?

69 Infringement(s) Explanation of No Answer

70 Acts or Omissions

The successful vendor will be expected to indemnify and hold harmless the TIPS, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements ultimately made by TIPS and the vendor.
Do you agree to these terms?

Yes, I Agree

71 Acts or Omissions Explanation of No Answer

72 Contract Governance

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

Yes

73 Payment Terms and Funding Out Clause

Payment Terms:
TIPS members pay net 30 or at point of sale and complies with the State of Texas payment law, Texas Government Code, Chapter 2251. See statute for specifics or consult your legal counsel. These are minimum terms required of the TIPS member in Texas by law and the parties may negotiate custom payment terms as desired provided they do not violate the statutory requirements. Statutory or binding regulations control TIPS members in this contract.
Funding out Clause:
Pursuant to Texas Local Government Code Sec. 271.903, any proposal offer accepted by TIPS and its members and all contracts to be approved are subject to the budgeting and appropriation of then currently available funds. See statute for specifics or consult your legal counsel.
Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

Yes

74 Insurance and Fingerprint Requirements
Information

Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

(1) will have continuing duties related to the contracted services; and

(2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at

NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

(No Response Required)

<p>75 Texas Education Code Chapter 22 Contractor Certification for Contractor Employees</p>	<p>Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.</p> <p>Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:</p> <p>(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.</p> <p>I certify that:</p> <p>NONE (Section A) of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.</p> <p>OR</p> <p>SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:</p> <p>(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.</p> <p>(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.</p> <p>(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.</p> <p>(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.</p> <p>Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.</p>	<p>None</p>
<p>76 Solicitation Deviation/Compliance</p>	<p>Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?</p>	<p>Yes</p>

77 Solicitation Exceptions/Deviations Explanation	<p>If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.</p> <p>TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.</p> <p>In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.</p>	
78 Agreement Deviation/Compliance	Does the vendor agree with the language in the Vendor Agreement?	No
79 Agreement Exceptions/Deviations Explanation	<p>If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.</p>	<p>Page 4, PARTICIPATION FEES: Duro-Last's accounting system prefers payment of the 2% participation fee on a quarterly basis.</p> <p>Agreed.</p> <p>David Mabe</p> <p>3/23/2017</p>

Line Items		
Response Total:		\$0.00

REFERENCES

Please provide three (3) references, preferably from school districts or other governmental entities who have used your services within the last three years. Additional references may be required. DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than three (3) references.

[illegible]



Complete Commercial Roofing Systems: Edge-to-Edge & Deck-to-Sky™



Manufacturer of the
World's Best Roof®
Proven performance since 1978

Building Relationships Through Partnership and Innovation



Since 1978, billions of square feet of Duro-Last® single-ply roofing have been installed throughout North America. We stand by every square foot with our best-in-class warranties, Quality Assurance department and commitment to providing problem-solving products.

Dedication

Duro-Last will do what it takes to get the job done, whether you are a roofing contractor, building owner, architect, specifier, roof consultant or engineer. We are with you — from design through post-installation inspection — to ensure that the “World’s Best Roof®” is delivered.

Quality

Duro-Last is a leader in vertical integration. Since the beginning, our founder, John R. Burt, strived to produce as many parts of a Duro-Last assembly in-house while also embracing the Edge-to-Edge & Deck-to-Sky™ approach. All of this allows Duro-Last to control quality from top to bottom.

Innovation

With entrepreneurial roots, Duro-Last cultivates a culture of innovation. We are always looking for ways to make roof systems better and solve problems for our customers.





Prefabrication Difference

Custom prefabrication sets Duro-Last apart. Duro-Last can custom prefabricate deck sheets and accessories to fit each building exactly.

Prefabrication dramatically reduces rooftop labor — when workers are on the rooftop where the environment is harsh and unpredictable. Whether you are using custom prefabricated deck sheets or roll goods, Duro-Last's prefabricated flashings and accessories address the critical transition areas of a roof. All of this leads to a long-term, low-maintenance solution.



Warranties

Duro-Last warranties provide unparalleled protection for virtually all commercial roofing applications. We have warranty options to suit your needs, including hail and high-wind warranties, and we are the only manufacturer to offer a warranty that expressly covers consequential damages.

North American Footprint

We are “keeping North America covered” through strategically placed Quality Assurance Technical Representatives for service and inspections, a fully staffed Engineering Services Department and five state-of-the-art manufacturing facilities.

- **Saginaw, Michigan** – *Corporate Headquarters*
- **Grants Pass, Oregon**
- **Jackson, Mississippi**
- **Sigourney, Iowa**
- **Carrollton, Texas**



Industry Leadership

For more than three decades, the Duro-Last PVC roofing membrane's proprietary formulation has proven to be durable, serviceable, flame resistant, highly flexible and recyclable. With the completion of the most technologically advanced PVC extruder in the world, we further strengthened our commitment to the proven performance of PVC roofing.

All Duro-Last roofing membranes are UL and FM approved, and many of our metal products offer ES-1 compliance. For more information on code approvals and standards, visit the Duro-Last website at www.duro-last.com.

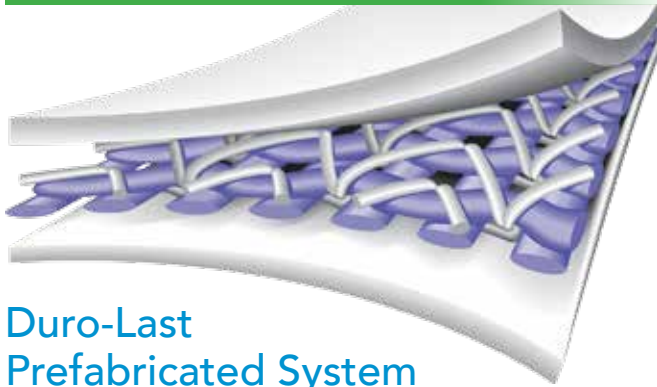




Duro-Last Membrane Systems: Billions of Square Feet Installed



MEMBRANES



Duro-Last Prefabricated System

The Duro-Last flagship membrane is a proprietary thermoplastic formulation that provides exceptional flexibility, reflectivity and resistance to UV radiation, fire and a broad range of chemicals.

A key Duro-Last difference is a weft-insertion anti-wicking scrim with a density of 18 by 14 threads per inch — which gives the Duro-Last membrane its strength and durability.

- Available in 40, 50 and 60 mil membranes
- Colors: White, tan, gray, dark gray, terra cotta
- Only product in the marketplace to offer prefabrication of the entire roofing membrane
- Unique in the industry, Duro-Last offers a 15-year warranty with consequential damage coverage for the Duro-Last prefabricated roofing system
- Can be mechanically attached, adhered or induction welded using the Duro-Bond® system

Designer Series: Rock-Ply® and Shingle-Ply®

Our Designer Series membranes provide an aesthetic look plus the watertight performance and long-term durability of the Duro-Last roofing system. Each system has either shingle or ballast design printed directly onto the membrane.

- Available in 50 mil
- Shingle-Ply colors: slate gray or sandstone





Additional Membrane Solutions

Duro-Last also offers other PVC membrane solutions. Although we are committed to the benefits of prefabrication, we realize that it may not be the ideal solution for all jobs and roofing contractors. Roll goods from Duro-Last enable installation on challenging roofs that are difficult to measure and projects in extreme weather.

A complete line of custom prefabricated accessories is available for each membrane product line.

Duro-Tuff®

Duro-Tuff was introduced to provide a better roll good product while also providing a cost-effective, secure and watertight installation.

- Available in 50, 60 and 80 mil
- Roll widths: 10", 30", 5', 10'
- Can be mechanically attached, adhered or induction welded using the Duro-Bond system

Duro-Fleece®

Duro-Fleece combines a PVC thermoplastic membrane and a high-quality fleece material on the underside of the membrane. Our Duro-Fleece membranes are an ideal product for use in adhered and mechanically fastened applications over a wide variety of roof substrates.

- Available in 50, 60 and 80 mil
- Roll widths: 5', 10'
- Can be mechanically attached or adhered

Duro-Tuff and Duro-Fleece Colors

Colors are available in all Duro-Tuff and Duro-Fleece membranes. These membranes have the same color film throughout to reduce the visual effects of bleed out as well as the availability of color matched custom membrane accessories.

- Color options: blue, copper, charcoal, green, patina, light gray and light tan
- Duro-Tuff Colors roll widths: 10", 30", 5', 10'
- Duro-Fleece Colors roll widths: 5', 10'

Duro-Last EV

Duro-Last's ketone ethylene ester (KEE) containing membrane, Duro-Last EV, offers the UV resistance, reflectivity and chemical resistance that Duro-Last is known for. Duro-Last EV contains DuPont's™ Elvaloy®, which provides durable flexibility in roofing membranes. Duro-Last EV is flexible and weldable in low temperatures and performs well in cold, harsh environments.

- Available in 50 and 60 mil
- Roll widths: 10", 30", 5', 10'
- Can be mechanically attached, adhered or induction welded using the Duro-Bond system

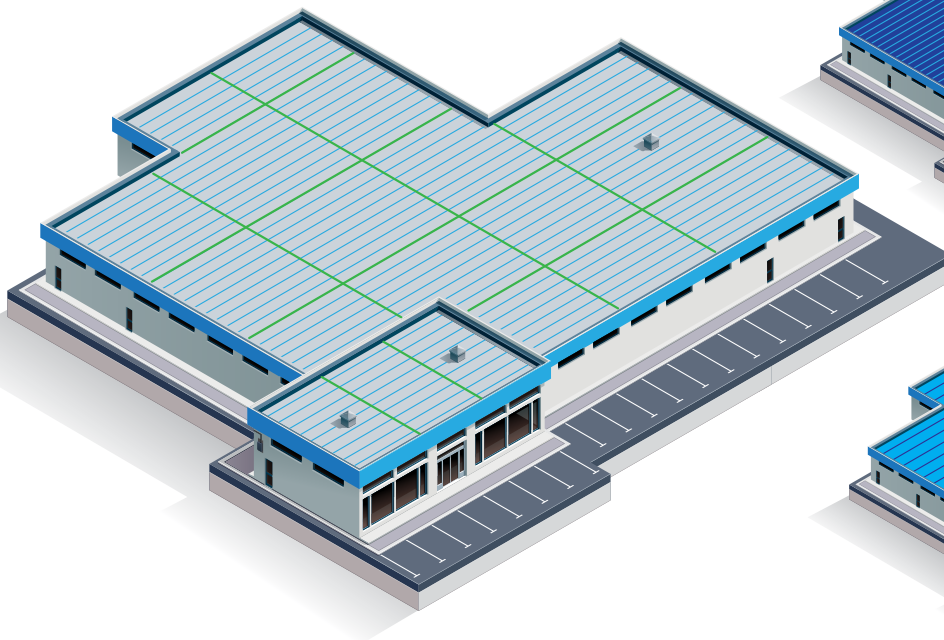


It's as Easy as it "Seams"

Prefabrication from Duro-Last: Fewer Seams = Fewer Leaks

When you install a Duro-Last custom prefabricated roofing system, up to 85% of the seams are completed in a factory-controlled environment before the roofing system is delivered to the job site. By eliminating most of the on-site seaming, Duro-Last dramatically reduces the potential for leaks — and adds the advantages of a faster, quieter and easier installation, with less maintenance and reliable performance for years to come.

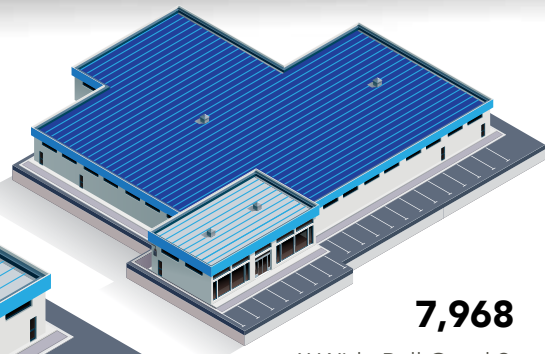
The Duro-Last Difference



1,278

- Duro-Last Prefabricated Roofing System – 5' Laps
- Prefabricated Membrane Sheets
- Linear Feet of Field Seams – 1,278 (Green)

(Blue lines represent Duro-Last factory seams)



7,968

- 6' Wide Roll Good Systems
- Linear Feet of Field Seams – 7,968



5,130

- 10' Wide Roll Good Systems
- Linear Feet of Field Seams – 5,130

The Prefab Four

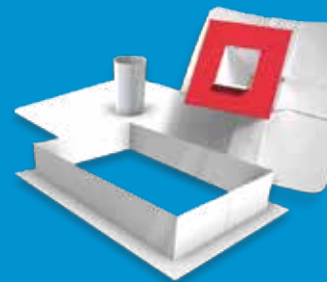
1. Factory welded seams mean better first-time quality and less callbacks
2. Prefabricated accessories provide easier transitions, superior waterproofing and aesthetics
3. Less labor for Time off the Roof™
4. Clean installations offer less job site waste and disruptions

Prefabrication Benefits for Any Duro-Last Roof

Custom prefabricated accessories and details from both Duro-Last and our EXCEPTIONAL® Metals division offer the perks of factory prefabrication to roofs installed with any Duro-Last membrane — even roll goods.

Custom prefabricated stack and curb flashings eliminate rooftop labor on the most critical roof areas — penetrations and transitions. Many of these accessories, including metal scuppers and collector boxes, come with the Duro-Last membrane already welded to it. Flashings for difficult areas like corners and parapet wall transitions come pre-welded as well.

The benefit of these products is twofold: First, having the welding completed in our factory-controlled environment provides a better-looking finished product along with the necessary watertight integrity. Second, rooftop labor is greatly reduced, getting roofing crews off the roof faster and on to the next job.



Factory Welded



Easy Transitions



Less Labor



Clean Installations

THE PREFAB FOUR

Edge-to-Edge Solutions



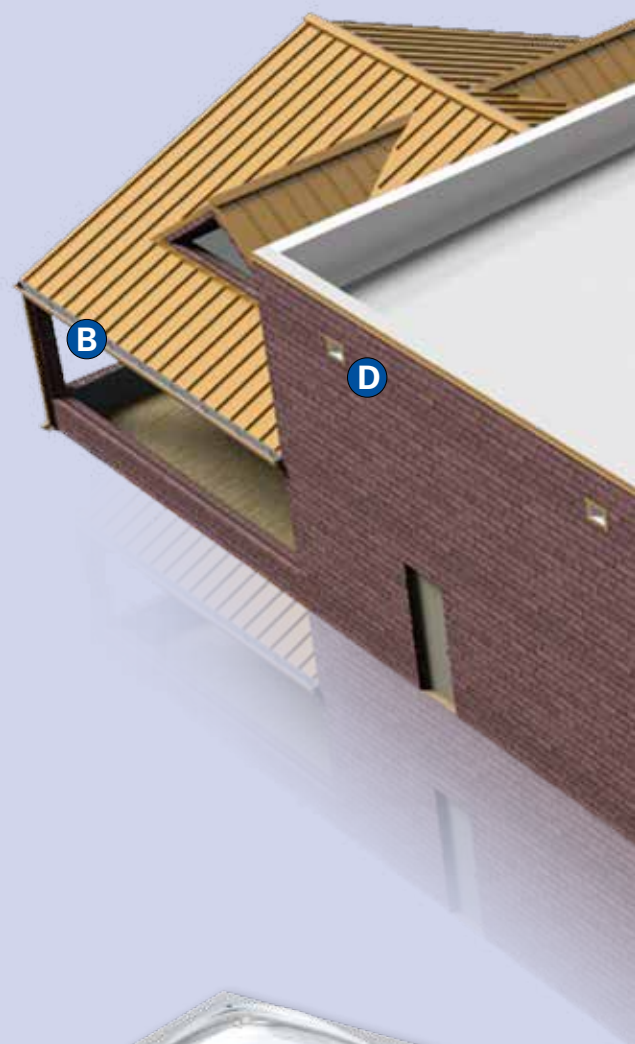
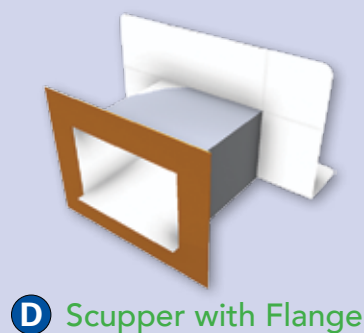
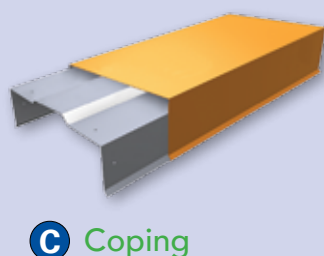
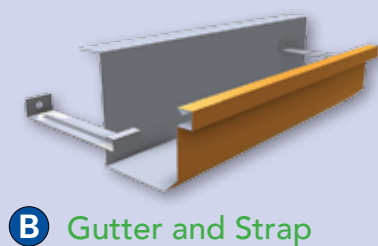
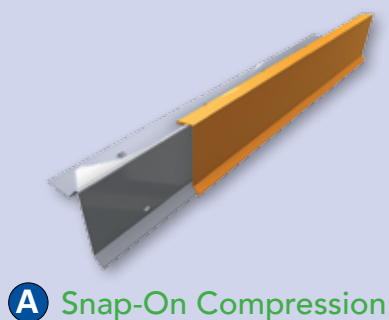
Protection is in the Details

Our EXCEPTIONAL Metals division manufactures edge metal, standing seam and drainage products. We also offer unique membrane skirted products, including scuppers, conductors and collectors that are made with reinforced single-ply roofing membrane to provide unmatched strength at critical transitions.

With EXCEPTIONAL Metals edge metal products, we offer a high-quality solution for edge metal that also has an aesthetic look — and a majority of our edge metal products are ES-1 compliant.

Standing Seam

EXCEPTIONAL Metals offers industry-leading metal roof and wall systems.



With the thickest and highest density lens in the industry, Duro-Light skylights get the job done at a value price with outstanding lifecycle cost benefits. Custom sizes are available.



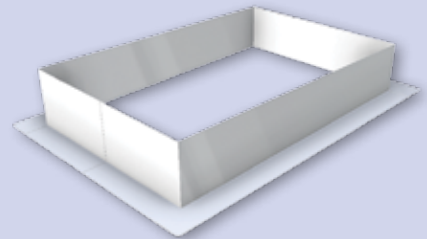
G Stack



H Two-Way Vent



I Curb Flashing



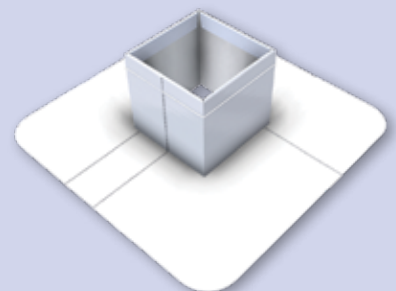
J ATR Hub



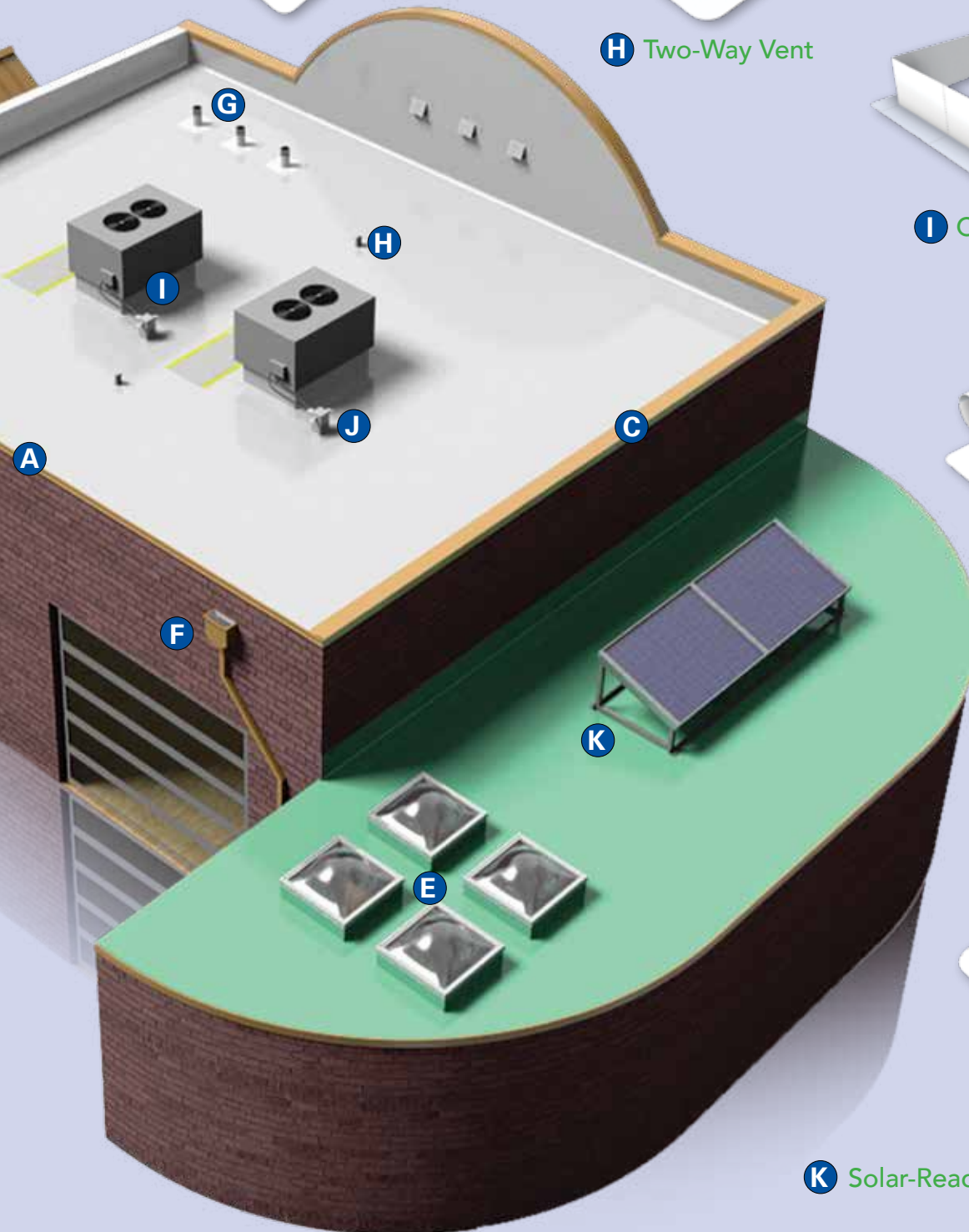
Drain



Pitch Pan



K Solar-Ready Flashings



Deck-to-Sky and Installation Solutions

Increasing Efficiency

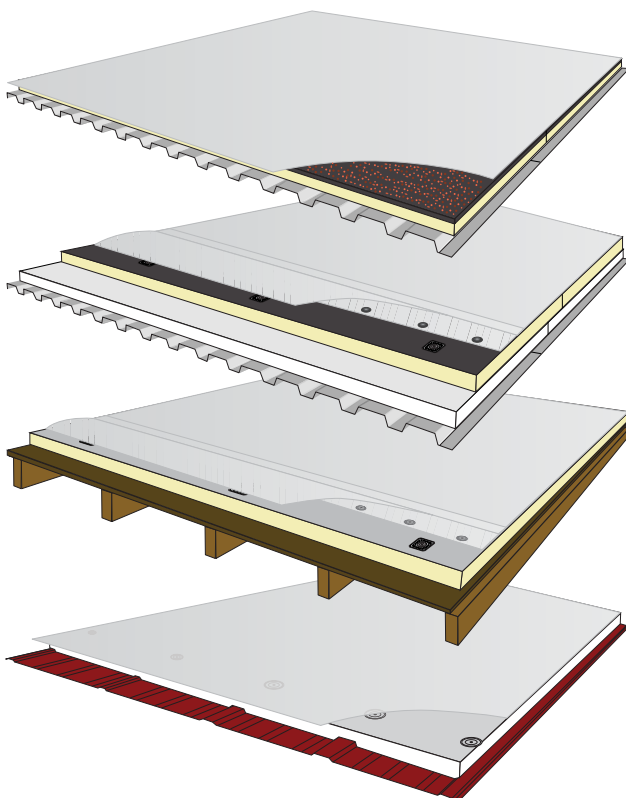
As a full roofing systems provider, Duro-Last offers many different products for fast and efficient roof installation, including:

Fasteners

TIP-TOP® Screw Manufacturing, Inc., a sister company to Duro-Last, is a manufacturer of roofing fasteners including concrete screws, heavy-duty fasteners, construction fasteners, insulation fasteners and insulation plates for the Duro-Last roofing system and other applications.

Adhesives

For adhered applications, Duro-Last offers both solvent-based and water-based adhesives for membrane, along with low-rise foam options for insulation and cover board applications.



The Duro-Last Duro-Bond® Roofing System

This system is a mechanically-attached installation option using non-penetrating “induction weld” technology. This technique bonds the Duro-Last PVC membrane to a PVC-coated fastening plate beneath the roof membrane, which also fastens insulation and recovery board materials to the roof deck. The OMG RhinoBond® is the preferred induction fastening system.



We've Got You Covered

Duro-Last offers complete roofing systems — with solutions from Edge-to-Edge & Deck-to-Sky™. Deck-to-Sky options include everything from cover boards and vapor barriers to both polyisocyanurate (ISO) and expanded polystyrene (EPS) insulation. All of these products contribute to roofing system assembly best practices, making the “World’s Best Roof” even more durable. Through our easy ordering process, competitive pricing and logistical service support, our Duro-Guard® line of products is both cost-effective and convenient.

Additional Duro-Guard Products Include:

- Duro-Guard EPS Flute Fill Combo
- Fan Fold
- DensDeck®, Securock® and DEXcell® roof boards
- Duro-Last Vapor Barrier

Reduce, Recycle, Reimagine

Duro-Last was Sustainable Before it was Cool

Sustainability has been a part of the Duro-Last culture for more than 20 years. Our founder, John R. Burt, came up with the idea to make flooring out of scrap. He was able to look at old PVC roofs and manufacturing scrap and reimagine it into resilient flooring, walkway pads and concrete expansion joints.

Recycling

Duro-Last has a focus on recycling at every step of the product lifecycle. In addition to our manufacturing process that allows scrap to be recycled back into production, we can take old roofs back at the end of their useful life through our Take Back Program.

In addition, our prefabricated roof systems allow roofing contractors to reduce scrap on the job site — meaning less waste ends up in a landfill.

Energy

By reflecting up to 86% of the sun's energy, Duro-Last's white membranes can greatly reduce energy consumption and costs. With a total solar emittance of up to 95%, the Duro-Last membrane is ENERGY STAR® qualified, meaning our roofing systems release energy and heat efficiently.



Manufacturers of the **World's Best Roof®** with proven performance since 1978

Best-in-Class Warranties

Duro-Last leads the roofing industry with comprehensive warranty coverage. As the only manufacturer with a warranty that expressly covers consequential damages, we work hard and stand by every square foot.

With our warranty groupings, we have a level of coverage right for any job.

Duro-Last Supreme Warranties

- Offer consequential damage coverage

Duro-Last Ultra Warranties

- Cover both material and labor
- High wind and/or hail coverage is available

Duro-Last Basic Warranties

Duro-Last Residential Warranties

Inspection

Upon completion of a commercial job, a Duro-Last Quality Assurance Technical Representative will inspect the Duro-Last roofing system. A warranty will not be issued until a roof has passed our inspection. This means that between the inspections in our manufacturing plant and on the roof, every field seam will be inspected.



Spec Generator

Our Spec Generator makes it easy to specify and order Duro-Last. This online tool features the full spectrum of Duro-Last roofing systems along with corresponding warranties, technical data and roof details to ensure the best roofing solution for any situation.



For more information give us a call
or visit our website today.

800-248-0280

duro-last.com



FELONY CONVICTION NOTICE

Statutory citation covering notification of criminal history of contractor is found in the Texas Education Code #44.034. Following is an example of a felony conviction notice:

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district or ESC 8/TIPS must give advance notice to the district or ESC 8/TIPS if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

THIS NOTICE IS NOT REQUIRED OF A PUBLICLY-HELD CORPORATION

Complete only one of the three below: A or B or C.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Official: **Steve Ruth**

Print Authorized Company Official's Name

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

Signature of Authorized Company Official: _____

B. My firm is not owned nor operated by anyone who has been convicted of a felony:

Signature of Authorized Company Official: _____

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

Signature of Authorized Company Official: _____

CERTIFICATION BY CORPORATE OFFERER

IF OFFERER IS A CORPORATION,

THE FOLLOWING CERTIFICATE SHOULD BE EXECUTED AND INCLUDED AS PART OF PROPOSAL FORM/PROPOSAL FORM.

OFFERER: Duro-Last, Inc.
(Name of Corporation)

I, Shawn Sny certify that I am the Secretary of the Corporation
(Name of Corporate Secretary)

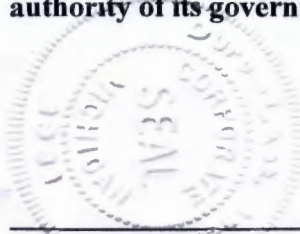
named as OFFERER herein above; that

Steve Ruth
(Name of person who completed proposal document)

who signed the foregoing proposal on behalf of the corporation offerer is the authorized person that is acting as

Vice President, Sales and Marketing
(Title/Position of person signing proposal/offer document within the corporation)

of the said Corporation; that said proposal/offer was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.


CORPORATE SEAL


SIGNATURE

March 15, 2017

DATE

Federal Requirements for Procurement and Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

The Education Service Center Region 8 and TIPS anticipate possibly using federal funds for procurement under this potential award and is required to obtain the following compliance assurance.

1. Will you be subcontracting any of your work under this award if you are successful? (Circle one)

☒ YES or NO ☐

2. If yes, do you agree to comply with the following federal requirements? (Circle one)

☒ YES or NO ☐

2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Company Name Duro-Last, Inc.

Print name of authorized representative Steve Ruth

Signature of authorized representative 

Date March 15, 2017

FAILURE TO PROPERLY COMPLETE THIS FORM AND SUBMIT WITH YOUR RESPONSE MAY RESULT IN A WAIVER OF YOUR RIGHTS UNDER THE LAW TO MAINTAIN CONFIDENTIALITY TREATMENT OF SUBMITTED MATERIALS.

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential information and not subject to public disclosure pursuant to Chapter 552 Tex Gov't Code or other law(s), **you must make a copy of all claimed confidential materials within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include the confidential information in the submitted proposal as well, the copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the District receives a Public Information Request.) Education Service Center Region 8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law. Pricing of solicited product or service may be deemed as public information under Chapter 552 Tex Gov't Code. The Office of Texas Attorney General shall make the final determination whether the information held by Education Service Center Region 8 and TIPS is confidential and exempt from public disclosure.

I DO NOT desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials:

Duro-Last, Inc.

Name of company claiming confidential status of material

Steve Ruth, Vice President, Sales & Marketing

Printed Name, Title, and Signature of authorized company officer claiming confidential status of material

525 Morley Drive	Saginaw	MI 48601	800.248.0280
Address	City	State ZIP	Phone

ATTACHED ARE COPIES OF 21 PAGES OF CONFIDENTIAL MATERIAL FROM OUR PROPOSAL

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Name of company expressly waiving confidential status of material

Printed Name, Title, and Signature of authorized company officer expressly waiving confidential status of material

Address	City	State	ZIP	Phone
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2900 Charlevoix Drive SE
Cook Plaza, Suite 220
Grand Rapids, MI 49546

Kevin J. Van Otterloo

Underwriting Consultant

Telephone 616-285-2682
800-432-9534 x2682

Fax 616-285-2688

Email Kevin.VanOtterloo@cna.com

March 15, 2017

To: The Interlocal Purchasing System - TIPS/TAPS

RE: Duro-Last Roofing, Inc.
Saginaw, MI - Surety Capacity

We are writing you at the request of Duro-Last Roofing, Inc.

We have been providing surety bonds for Duro-Last Roofing, Inc. since 2007. We have approved bonds for them covering bonded jobs up to \$7,500,000 and maintain an aggregate bonded work program of \$15,000,000. We would favorably consider projects and programs above these amounts.

We continue to be confident in this principal's ability to perform and we recommend them for your favorable consideration.

Bonds for this account are written on Western Surety Company (NAIC# 13188) paper which is an approved surety on the Department of Treasury's Listing and currently has a US Treasury Limit of \$131,504,000 (as of 7/1/16). Western Surety Company maintains an A Excellent AM Best Rating and a financial size of XI.

This letter is not to be construed as an agreement to provide surety bonds for any particular project, but is offered as an indication of our past experience and confidence in this firm. Any specific request for bonds will be underwritten on its own merits.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Van Otterloo".

Kevin Van Otterloo
Western Surety Company

DURO-LAST® WARRANTIES

Supreme Warranties

*These warranties include consequential damage for the first 15 years.

<i>Warranty</i>	<i>(Minimum) Mil</i>	<i>Membranes Covered</i>	<i>Color</i>	<i>Base</i>
15 Year NDL-consequential	40	DL/DFP	Green	0.00/ sq ft
20 Year-15 year consequential, additional 5 year material only	50	DL/DFP	Orange	0.08/ sq ft*
20 Year-15 year consequential, additional 5 year material and labor	50	DL/DFP	Purple	0.18/ sq ft*

Ultra Warranties

*Performance warranties that cover material and labor, but do not include consequential damages.

<i>Warranty</i>	<i>(Minimum) Mil</i>	<i>Membranes Covered</i>	<i>Color</i>	<i>Base</i>
15 Year Hail Warranty	50	DL/DFP	Brown	0.13/ sq ft***
15 Year Hail & High Wind Warranty	50	DL/DFP	Yellow/ Brown	HW** + 0.13/ sq ft***
15 Year High Wind Warranty	40	DL/DT/DF/ DFP/DLEV	Yellow	HW**
20 Year High Wind Warranty	50	DL/DT/DF/ DFP/DLEV	Fuchsia	HW** + 0.13/ sq ft***

Basic Warranties

*Warranties do not include consequential damages.

<i>Warranty</i>	<i>(Minimum) Mil</i>	<i>Membranes Covered</i>	<i>Color</i>	<i>Base</i>
15 Year NDL	40	DL/DT/DF/ DFP/DLEV	Burgundy	0.00/ sq ft
20 Year NDL	50	DL/DT/DF/ DFP/DLEV	Blue	0.13/ sq ft*

Residential Warranties

*Warranties do not include consequential damages. Material Only warranties.

<i>Warranty</i>	<i>(Minimum) Mil</i>	<i>Membranes Covered</i>	<i>Color</i>	<i>Base</i>
15 Year Residential	40	DL/DT/DF/ DFP/DLEV	Pink	0.00/ sq ft
20 Year Residential	50	DL/DT/DF/ DFP/DLEV	Pink/Blue	0.00/ sq ft

* Discount rates:

- \$0.05 for Platinum Contractors
- \$0.04 for Elite Contractors
- \$0.03 for Master Contractors

** See High Wind (HW) charts for upcharges from 55 mph-120 mph.

*** All Hail and or High Wind Warranties require a Warranty Letter of Intent from Engineering Services and full assembly requirements supplied by Duro-Last Roofing, Inc.

**15 Year High Wind Adder (HW) MPH	Mechanically Attached	Fully-Adhered
55-72 mph	\$0.00	\$0.00
73 - 80 mph	\$0.07	\$0.08
81 - 90 mph	\$0.09	\$0.10
91 - 100 mph	\$0.11	\$0.12
101 - 110 mph	\$0.13	\$0.14
111 - 120 mph	\$0.15	\$0.16

15-YEAR NDL WARRANTY

- Our standard, comprehensive 15-year No Dollar Limit (NDL) warranty is transferable, has no exclusions for ponding water, and provides coverage against consequential damages that result from defects in the Duro-Last material and/or installation workmanship.
- There is no additional charge for your Duro-Last standard warranty. That means you get the industry's best rooftop protection for FREE.
- NO MAINTENANCE PROGRAM REQUIRED - Duro-Last does not require you to invest in a roof maintenance program often stipulated by other manufacturers.

NOTE: Consequential damage coverage is not available for Duro-Tuff®, Duro-Fleece®, or Duro-Last® EV.



ALLEN EVENT CENTER

City of Allen

Zach Cain-Loss Director

James Kaltman-TMLIRP Claim Manager

Scott Franklin

4T Partnership LLC

PART 1 GENERAL CONTRACT REQUIREMENTS

1. Contractor will bid this project through the TIPS/Manufacture Direct program. This project must be 100% Bonded and Insured to the satisfaction of the City of Allen by the TIPS contractor.
2. All contractor employees on jobsite must conform to and meet standards as outlined in State of Texas Senate Bill 9, as enacted as law. Documentation must be provided to building owner/owners representatives.
3. TIPS MANUFACTURE & Sub-Contractor must execute State of Texas Conflict of Interest Form.
4. Contract final acceptance will only be valid after TIPS certifies that all cost is at or below the contracted "Favored Nation Pricing" table submitted to TIPS buying co-operative.
5. Contractor must provide documentation results of pull tests and wind calculations to Manufacture TIPS administrator as part of the submittal & bid package.
6. Contractor through coordination with the City will pull all appropriate & required permits and post at the appropriate location as identified by the City. Any costs will be at the exact cost by the city. Due to timing any permit costs will be passed on without mark-up to the City. There is a \$25.00 fee for registration.
7. Contractor to provide a unit cost for replacement of 2.5" polysiocyanurate insulation and DensDeck® board.
8. Copies of all Manufacturer inspections to be sent upon publication to 4T Partnership and Owner within 5 days of all Manufacturer inspections.
9. Contractor to provide and include in their proposal the following breakout items:
 - A. Alternate Add #001 – Installer to provide a separate cost option for a Permanent Line Safety Cable system to both the upper and lower roof area. \$_____
 - B. Alternate Add #002 – Provide a separate add cost to provide (10) 4,000 lb. non-penetrating anchors in lieu of "Permanent Life Safety System". \$_____
 - C. Alternate Add #003 – Provide the cost to add all Anchor non-penetrating mounts required for securing all required Lightening protection mounts for existing lightening protection to be reattached after repair of existing roof system. \$_____
 - D. Alternate #004 – Deduct to reuse existing pipe supports in lieu of ne Anchor pipe supports. \$_____
 - E. Line Item pricing for replacement of wet/damaged insulation. \$_____

1.0 SCOPE OF WORK – Upper Arena Roof and detached Upper Roof Areas

- A. Contractor to slice existing PVC membrane to release all stress points in accordance to Duro-Last Roofing, Inc. specifications.
- B. Contractor shall mechanically install a 1/4" 4' x 8' DensDeck® Prime Roof board in accordance to Duro-Last Roofing, Inc. specifications. Fastening determined from pull tests.

- C. Contractor shall furnish and install, on the cover board, via a **fully adhered** system using Duro-Grip CR-20 a white, **80 mil (98 mil with Fleece) Duro-Fleece®** single-ply membrane roofing system that is fabricated of a weft inserted, low-shrink, anti-wicking polyester fabric and has a thermoplastic coating of PVC material laminated to both sides and a 5.5-ounce per square yard needle punched polypropylene fleece as manufactured by Duro-Last Roofing, Inc. to attain a 20-year NDL warranty. Contractor to be certain to follow all manufacturers' specifications.
- D. Contractor to include the use of Duro-Last Peel Stop Detail AS9060A where needed as per the Duro-Last published specifications. All Peel Stops are 2' in on all perimeter walls. This is required regardless of whether required by Manufacture.
- E. Contractor shall install new base-flashing at all multi-pipe curb penetrations and counter flash with new skirting.
- F. Contractor shall install all Duro-Last related accessories that include vents, open stacks, open curbs, scuppers, drains, edgings, etc. No non pre-fab boots are allowed. All boots to fit snug to shaft of penetration a min. of 8" above finished roof then top sealed and back seal along with stainless steel clamping band.
- G. Contractor shall install new gutters and downspouts to match existing gutters & downspouts that are manufactured by Exceptional Metals, Inc. These gutters shall be installed on the North and South sides of the roof.
- H. Contractor shall terminate on the Eave side (East & West) of building using white Duro-Last vinyl coated metal with pre-installed skirt. Termination flashing to meet or exceed Factory Mutual/ES 1-90 and be a current certified and approved Factory Mutual Manufacture of metal components. All metal components are to be included as part of the primary manufactures guaranty and consequential damage coverage.
- J. Contractor shall install a temporary Life Safety Protection system. Contractor shall follow construction process requiring all work in compliance with OSHA Guidelines. Manufacture shall also file a full safety plan with daily inspection by certified Safety Manager throughout the project.
- K. Contractor to furnish and install a new Bilco or equivalent roof ladder on the (1) East and (1) West side of building. (Transition between High and Low Arena Roofs)
- L. Contractor will replace any wet or damaged insulation found or documented during the roof replacement project. Provide line item for insulation replacement.
- M. Contractor shall have the roof inspected by the Duro-Last Quality Assurance Technical Representative. Upon satisfaction the Technical Rep shall provide a 20-year NDL warranty. This warranty covers all material and labor as set forth by the printed document.
- N. Copies of all Manufacture inspections to be sent upon publication to 4T Partnership and Owner within 5 days of all Manufacture Inspections by installing contractor.
- O. Contractor, at no cost to him, shall have interim and finished inspection by third party consultant – 4T Partnership LLC. All final punch list items are to be completed prior to release of retainage.
- P. Invoicing will be limited to once a month and include only those areas/ material on site and completely installed and inspected prior to the 20th of each month. Invoices approved shall be processed and paid by the following 10th and include a copy of the interim inspection confirming work completion being invoiced.
- Q. Contractor shall dispose of all debris in an approved facility in accordance with all local, state and federal regulations. The work area will be kept clean daily. Dumpsters and Port-A-Johns to be provided by installing contractor. All materials for Arena upper and lower to be loaded on a

daily basis. No materials are to be stored overnight. Pre-loading can be done on to lower Modified roof.

- R. Contractor shall supply their own source of power. No use of building owners electrical receptacle allowed.
- S. **ALTERNATE ADD #001** -Contractor to install ICE Guards throughout the exposed roof to prevent Ice from falling in large chunks down below.

1.01 SCOPE OF WORK – Lower Roof/Canopies

- A. Contractor to remove exposed mechanically attached membrane between membrane screws and plates. Contractor shall not remove any more membrane then can be covered each day. Contractor shall dispose of all materials properly in an approved receptacle. Remove and replace any wet or damaged roof Insulation.
- B. Contractor shall mechanically install a 1/4" 4' x 8' Dens Deck® Prime Roof board in accordance to Duro-Last Roofing, Inc. specifications. Fastening determined from pull tests. **Contractor shall use White fasteners over the practice Hockey Rink and round Aatrium front entrance.**
- C. Contractor shall furnish and install, via a fully adhered system using Duro-Grip CR-20 a white, **60 mil (90 mil nominal with Fleece) Duro-Fleece®** single-ply membrane roofing system that is fabricated of a weft inserted, low-shrink, anti-wicking polyester fabric and has a thermoplastic coating of PVC material laminated to both sides and a 5.5-ounce per square yard needle punched polypropylene fleece as manufactured by Duro-Last Roofing, Inc. to attain a 20-year NDL warranty.
- D. Contractor shall furnish and install, via a fully adhered system using Duro-Last WB II Adhesive a white, **60 mil (90 mil with Fleece) Duro-Fleece®** single-ply membrane roofing system that is fabricated of a weft inserted, low-shrink, anti-wicking polyester fabric and has a thermoplastic coating of PVC material laminated to both sides and a 5.5-ounce per square yard needle punched polypropylene fleece as manufactured by Duro-Last Roofing, Inc. Contractor shall encapsulate wall and terminate on the outside of wall and fully adhered flashings using the 60 mill Fleece with Water Based adhesive.
- E. Contractor shall terminate roof edge by using a 2-Piece Compression edge metal that is manufactured by Exceptional Metals, Inc. (Detail DF3110). Color to be chosen by building owner or representative. Bareback membrane to be welded to Duro-Fleece® and extend over cleat prior to installation of cover. Assembly to be ES-1 Certified.
- F. Contractor shall install all Duro-Last related accessories that include vents, stacks, curbs, scuppers, drains, edgings, etc. No non pre-fab boots are allowed. All boots must fit snug to shaft a min of 8" above finished membrane, top sealed, back sealed and terminated with stainless steel draw band.
- G. At Hockey practice section/area exposed air ducts, contractor to fully adhere 60 mil Duro-Fleece® over exposed ducts that extend 36" and terminate using Duro-Last termination bar with caulking.
- H. Contractor shall install 30"x60" Duro-Last Trak III Walkway Pads around all serviceable unit sides, ladders and roof hatches per Duro-Last specifications.
- I. Contractor shall re-use original support products for all pipes to keep pipes off the exposed membrane. Spacing to be as required by manufacturers published specifications.
- J. Contractor shall paint (grey) all exposed vent penetrations.

- K. Contractor to provide and install new steps and railing at roof landing leading out of access door.
- L. Contractor shall have the roof inspected by the Duro-Last Quality Assurance Technical Representative. Upon satisfaction the Technical Rep shall provide a 20-year NDL warranty. This warranty covers all material and labor as set forth by the printed document.
- M. Copies of all Manufacture inspections to be sent upon publication to 4T Partnership and Owner within 5 days of all Manufacture Inspections.
- N. Roof to be inspected weekly and published field report of findings to be supplied to Owner and Manufacturer by 4T Partnership.
- O. Contractor shall dispose of all debris in an approved facility in accordance with all local, state and federal regulations. The work area will be kept clean daily. Dumpsters and Port-A-Johns to be provided by installing contractor.

SCOPE OF WORK- Existing Modified Roof / Mechanical Roof Area

- A. Contractor to prepare existing modified roof by cleaning and removing all debris for acceptance for a new Duro-Last roof. Any identified wet Insulation shall be cut and removed prior. At any low spots in the exposed system contractor will feather out using inverted cap sheet prior to installation of new.
- B. Contractor shall furnish and install, via a fully adhered system using Duro-Grip CR-20 a white, **60 mil (90 mil with Fleece) Duro-Fleece®** single-ply membrane roofing system that is fabricated of a weft inserted, low-shrink, anti-wicking polyester fabric and has a thermoplastic coating of PVC material laminated to both sides and a 5.5-ounce per square yard needle punched polypropylene fleece as manufactured by Duro-Last Roofing, Inc. to attain a 20-year NDL warranty.
- C. Contractor shall furnish and install, via a fully adhered system using Duro-Last WB II Adhesive a white, **60 mil (90 mil with Fleece) Duro-Fleece®** single-ply membrane roofing system that is fabricated of a weft inserted, low-shrink, anti-wicking polyester fabric and has a thermoplastic coating of PVC material laminated to both sides and a 5.5-ounce per square yard needle punched polypropylene fleece as manufactured by Duro-Last Roofing, Inc. on the parapet walls and curb flashings. This is to include the exposed concrete wall. Contractor shall use 60 mil Duro-Fleece® at all wall, base flashings and curbs.
- D. Contractor shall terminate roof edge by using a Pre-painted skirt flashing and terminate just below existing coping and vented wall assembly.
- E. Contractor shall install all Duro-Last related accessories that include vents, stacks, curbs, scuppers, drains, edgings, etc. No non pre-fab boots are allowed.
- F. Contractor to fully adhere using 60 mil Duro-Fleece over exposed ducts that extend 36" and terminate using Duro-Last termination bar with caulking.
- G. Contractor shall cover all multiple pipe penetration curbs with fully adhered membrane installed over metal cover and each pipe penetration to be properly flashed with boots.
- H. Contractor shall remove existing counterflashing on inside wall terminate flashing and reinstall counterflashing. At locations of curbs contractor to add metal skirt metal to counter flash any exposed base flashings.
- I. Contractor shall install 30"x60" Duro-Last Trak III Walkway Pads around all serviceable unit sides, ladders and roof hatches per Duro-Last specifications.

- J. Contractor shall have the roof inspected by the Duro-Last Quality Assurance Technical Representative. Upon satisfaction the Technical Rep shall provide a 20-year NDL warranty. This warranty covers all material and labor as set forth by the printed document.

- K. Contractor to cover all exposed concrete walls with fully adhere membrane. Membrane shall be fully adhered up and over parapet wall and terminated using two-piece compression.
- L. Parapet walls covered with cap sheet. Contractor will remove any loose or detached cap sheet. Contractor will then fully adhere 60 mil Duro-Fleece® membrane over the exposed wall and terminate below the coping. (Once terminated with term par and caulk contractor to counter flash with skirt metal that extends under the inside face of the coping and counter flashes the termination bar by no less than 2”).
- M. Contractor to seal and re-caulk all exposed caulking joints in coping be reused at louvers and steel column areas.
- N. Contractor shall dispose of all debris in an approved facility in accordance with all local, state and federal regulations. The work area will be kept clean daily. Dumpsters and Port-A-Johns to be provided by installing contractor.

1.1 SECTION INCLUDES

- A. Overlay Single-Ply: (Arena Upper & Lower), (Lower Roofs and Canopies), (Modified Roof and Mechanical) and (Canopies) Fully adhered Roof, walls and curb flashings using 80 & 60 mill fully adhered PVC assembly to meet Factory Mutual Sever Hail Rated assembly.
- B. Duro-Last® Duro-Fleece Plus™ membrane adhered with Duro-Fleece CR-20 membrane adhesive, splatter applied at all vertical walls and curb flashings.
- C. DensDeck® Prime Roof Board, attached with steel screws and plates at Arena, lower and canopy roofs.
- D. Prefabricated flashings, corners, parapets, stacks, vents, and related details.
- E. Fasteners, adhesives, and other accessories required for a complete roofing installation.
- F. Traffic Protection.

1.2 NATIONAL STANDARDS & REFERENCES COMPLIANCE

- A. NRCA - The NRCA Roofing and Waterproofing Manual.
- B. ASCE 7 - Minimum Design Loads For Buildings And Other Structures.
- C. UL - Roofing Materials and Systems Directory, Roofing Systems (TGFU.R10128).
- D. ASTM C 1289 - Standard Specification for Faced Rigid Cellular Polyisocyanurate Thermal Insulation Board.
- E. ASTM D 751 - Standard Test Methods for Coated Fabrics.
- F. ASTM D 4434 - Standard Specification for Poly(Vinyl Chloride) Sheet Roofing.
- G. ASTM E 108 - Standard Test Methods for Fire Tests of Roof Coverings.
- H. ASTM E 119 - Standard Test Methods for Fire Tests of Building Construction and Materials.

1.3 SYSTEM DESCRIPTION

- A. General: Provide installed roofing membrane and base flashings that remain watertight; do not permit the passage of water; and resist specified uplift pressures, thermally induced movement, and exposure to weather without failure.
- B. Material Compatibility: Provide roofing materials that are compatible with one another under conditions of service and application required, as demonstrated by roofing membrane manufacturer based on testing and field experience.
- C. Physical Properties:
 - 1. Roof product must meet the requirements of Type III PVC sheet roofing as defined by ASTM D 4434 and must meet or exceed the following physical properties.
 - 2. Thickness: 60 mil (90 mil including fleece), nominal, in accordance with ASTM D 751.
 - 3. Thickness Over Scrim: ≥ 32 mil in accordance with ASTM D 751.
 - 4. Breaking Strengths: ≥ 546 lbf. (MD) and ≥ 490 lbf. (XMD) in accordance with ASTM D 751, Grab Method.
 - 5. Elongation at Break: $\geq 21\%$ (MD) and $\geq 39\%$ (XMD) in accordance with ASTM D 751, Grab Method.
 - 6. Heat Aging in accordance with ASTM D 3045: 176 °F for 56 days. No sign of cracking, chipping or crazing. (In accordance with ASTM D 4434).
 - 7. Factory Seam Strength: ≥ 539 lbf. in accordance with ASTM D 751, Grab Method.
 - 8. Tearing Strength: ≥ 104 lbf. (MD) and ≥ 192 lbf. (XMD) in accordance with ASTM D 751, Procedure B.
 - 9. Low Temperature Bend (Flexibility): Pass at -40 °F in accordance with ASTM D 2136.
 - 10. Accelerated Weathering: No cracking, checking, crazing, erosion or chalking after 5,000 hours in accordance with ASTM G 154.
 - 11. Linear Dimensional Change: $\leq 0.16\%$ (MD) and 0.16% (XMD) in accordance with ASTM D 1204 at 176 ± 2 °F for 6 hours.
 - 12. Water Absorption: $\leq 2.2\%$ in accordance with ASTM D 570 at 158 °F for 166 hours.
 - 13. Static Puncture Resistance: ≥ 33 lbs. in accordance with ASTM D 5602.
 - 14. Dynamic Puncture Resistance: ≥ 14.7 ft-lbf. in accordance with ASTM D 5635.
- D. Cool Roof Rating Council (CRRC):
 - 1. Membrane must be listed on CRRC website.
 - a. Initial Solar Reflectance: $\geq 87\%$
 - b. Initial Solar Reflective Index (SRI): ≥ 110

1.4 SUBMITTALS

- A. Submit under provisions of Section 01300.
- B. Duro-Last data sheets on each product to be used, including:
 - 1. Preparation instructions and recommendations.
 - 2. Storage and handling requirements and recommendations.
 - 3. Installation methods.
 - 4. Maintenance requirements.
- C. Shop Drawings: Indicate insulation pattern, overall membrane layout, field seam locations, joint or termination detail conditions, and location of fasteners.

- D. Verification Samples: For each product specified, two samples, representing actual product, color, and finish.
 - 1. 4 inch by 6 inch sample of roofing membrane, of color specified.
 - 2. 4 inch by 6 inch sample of walkway pad.
 - 3. Termination bar, fascia bar with cover, drip edge and gravel stop if to be used.
 - 4. Each fastener type to be used for installing membrane, insulation/recover board, termination bar and edge details.
- E. Installer Certification: Certification from the roofing system manufacturer that Installer is approved, authorized, or licensed by manufacturer to install roofing system.
- F. Manufacturer's warranties.

1.5 QUALITY ASSURANCE

- A. Perform work in accordance with manufacturer's installation instructions.
- B. Manufacturer Qualifications: A manufacturer specializing in the production of PVC membranes systems and utilizing a Quality Control Manual during the production of the membrane roofing system that has been approved by and is inspected by Underwriters Laboratories.
- C. Installer Qualifications: Company specializing in installation of roofing systems similar to those specified in this project and approved by the roofing system manufacturer.
- D. Source Limitations: Obtain components for membrane roofing system from roofing membrane manufacturer.
- E. There shall be no deviations from the roof membrane manufacturer's specifications or the approved shop drawings without the prior written approval of the manufacturer.

1.6 REGULATORY REQUIREMENTS

- A. Conform to applicable code for roof assembly wind uplift and fire hazard requirements.
- B. Fire Exposure: Provide membrane roofing materials with the following fire-test-response characteristics. Materials shall be identified with appropriate markings of applicable testing and inspecting agency.
 - 1. Exterior Fire-Test Exposure:
 - a. Class A; ASTM E 108, for application and roof slopes indicated.
 - 2. Fire-Resistance Ratings: Comply with ASTM E 119 for fire-resistance-rated roof assemblies of which roofing system is a part.
 - 3. Conform to applicable code for roof assembly fire hazard requirements.
- C. Wind Uplift:
 - 1. Roofing System Design: Provide a roofing system designed to resist uplift pressures calculated according to the current edition of the ASCE-7 Specification *Minimum Design Loads for Buildings And Other Structures*.

1.7 PRE-INSTALLATION MEETING

- A. Convene meeting not less than one week before starting work of this section.
- B. Review methods and procedures related to roof deck construction and roofing system including, but not limited to, the following.
 - 1. Meet with Owner, Architect, Owner's insurer if applicable, testing and inspecting agency representative, roofing installer, roofing system manufacturer's representative, deck installer, and installers whose work interfaces with or affects roofing including installers of roof accessories and roof-mounted equipment.
 - 2. Review and finalize construction schedule and verify availability of materials, installer's personnel, equipment, and facilities needed to make progress and avoid delays.
 - 3. Examine deck substrate conditions and finishes for compliance with requirements, including flatness and fastening.
 - 4. Review structural loading limitations of roof deck during and after roofing.
 - 5. Review base flashings, special roofing details, roof drainage, roof penetrations, equipment curbs, and condition of other construction that will affect roofing system.
 - 6. Review governing regulations and requirements for insurance and certificates if applicable.
 - 7. Review temporary protection requirements for roofing system during and after installation.
 - 8. Review roof observation and repair procedures after roofing installation.

1.8 DELIVERY, STORAGE AND HANDLING

- A. Deliver roofing materials to Project site in original containers with seals unbroken and labeled with manufacturer's name, product brand name and type, date of manufacture, and directions for storing and mixing with other components.
- B. Store liquid materials in their original undamaged containers in a clean, dry, protected location and within the temperature range required by roofing system manufacturer. Protect stored liquid material from direct sunlight.
- C. Protect roof insulation materials from physical damage and from deterioration by sunlight, moisture, soiling, and other sources. Store in a dry location. Comply with insulation manufacturer's written instructions for handling, storing, and protecting during installation.
- D. Store roof materials and place equipment in a manner to avoid permanent deflection of deck.
- E. Store and dispose of solvent-based materials, and materials used with solvent-based materials, in accordance with requirements of local authorities having jurisdiction.

1.9 WARRANTY

- A. Contractor's Warranty: The contractor shall warrant the roof application with respect to workmanship and proper application for two (2) years from the effective date of the warranty issued by the manufacturer.
- B. Manufacturer's Warranty: Must be no-dollar limit type and provide for completion of repairs, replacement of membrane or total replacement of the roofing system at the then-current material and labor prices throughout the life of the warranty. In addition the warranty must meet the following criteria:
 - 1. Warranty Period: 20 years from date issued by the manufacturer.
 - 2. Must provide positive drainage.
 - 3. No exclusion for damage caused by biological growth.
 - 4. Issued direct from and serviced by the roof membrane manufacturer.
 - 5. Transferable for the full term of the warranty.

PART 2 PRODUCTS

2.1 MANUFACTURER

- A. Manufacturer: Duro-Last Roofing, Inc., which is located at: 525 Morley Drive, Saginaw, MI 48601. Telephone: 800-248-0280.
- B. All roofing system components to be provided or approved by Duro-Last Roofing, Inc.
- C. Substitutions: Not permitted.

2.2 ROOFING SYSTEM COMPONENTS

- A. Roofing Membrane: Duro-Last® Duro-Fleece Plus™ membrane conforming to ASTM D 4434, type III, fabric-reinforced, PVC, NSF/ANSI 347 Gold or Platinum Certification, and a product-specific third-party verified Environmental Product Declaration. Membrane properties as follows:
 - 1. Thickness:
 - 2. 80 mill (Arena) 60 mil (Mechanical, Lower & Canopies)
 - 3. Exposed Face Color:
 - a. White.
 - 4. Minimum recycle content 7% post-industrial and 0% post-consumer.
 - 5. Recycled at end of life into resilient flooring or concrete expansion joints.
- B. Accessory Materials: Provide accessory materials supplied by or approved for use by Duro-Last Roofing, Inc.
 - 1. Sheet Flashing: Manufacturer's standard reinforced PVC sheet flashing.
 - 2. Duro-Last Factory Prefabricated Flashings: manufactured using Manufacturer's standard reinforced PVC membrane.
 - a. Stack Flashings.
 - b. Curb Flashings.
 - c. Inside and Outside Corners.
 - 3. Sealants and Adhesives: Compatible with roofing system and supplied by Duro-Last Roofing, Inc.
 - a. Duro-Last Water based Adhesive. (Walls & Base Flashings)
 - b. Duro-Grip® CR-20 Membrane Adhesive for all three roof areas.
 - c. Duro-Caulk® Plus.
 - d. Strip Mastic.
 - 4. Slip Sheet: Compatible with roofing system and supplied by Duro-Last Roofing, Inc.
 - 5. Fasteners and Plates: Factory-coated steel fasteners and metal or plastic plates meeting corrosion-resistance provisions in FMG 4470, designed for fastening membrane and insulation to substrate. Supplied by Duro-Last Roofing, Inc.
 - a. #15 Heavy Duty Fasteners.
 - 6. PV Anchors

7. Termination and Edge Details: Supplied by Duro-Last Roofing, Inc.
 - a. Termination Bar.
 - b. Universal 2-Piece Compression Metal System.
 - c. AllTerm™.
 8. Vinyl Coated Metal: Supplied by Duro-Last Roofing, Inc. 24 gauge, hot-dipped galvanized, grade 90 metal with a minimum of 17 mil of Duro-Last membrane laminated to one side.
- C. Substrate Board:
1. Glass-mat-faced, water-resistant gypsum substrate conforming to ASTM C 1177/C 1177M, DensDeck® Prime Roof Board as manufactured by Georgia-Pacific Corporation.
 - a. 1/4 inch thick.
- D. Walkways:
1. Provide non-skid, maintenance-free walkway pads in areas of heavy foot traffic and around mechanical equipment.
 - a. Duro-Last Roof Trak® III Walkway Pad.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Verify that the surfaces and site conditions are ready to receive work.
- B. Verify that the deck is supported and secured.
- C. Verify that the deck is clean and smooth, free of depressions, waves, or projections, and properly sloped to drains, valleys, eaves, scuppers or gutters.
- D. Verify that the deck surfaces are dry and free of standing water, ice or snow.
- E. Verify that all roof openings or penetrations through the roof are solidly set.
- F. If substrate preparation is the responsibility of another contractor, notify Architect of unsatisfactory preparation before proceeding.
- G. Prior to re-covering an existing roofing system, conduct an inspection of the roof system accompanied by a representative of the membrane manufacturer or an authorized contractor.
 1. Determine required fastener type, length, and spacing.
 2. Verify that moisture content of existing roofing is within acceptable limits.
 3. Identify damaged areas requiring repair before installation of new roofing.
 4. Conduct core cuts as required to verify information required.

3.2 PREPARATION

- A. Clean surfaces thoroughly prior to installation.
- B. Prepare surfaces using the methods recommended by the manufacturer for achieving the best result for the substrate under the project conditions.
- C. Surfaces shall be clean, smooth, free of fins, sharp edges, loose and foreign material, oil, grease, and bitumen.

D. Re-Roofing Over Existing Single-Ply System:

1. Remove all loose or high fasteners.
2. Membrane contaminated with bitumen must be immediately cleaned. If cleaning does not remove the bitumen, the contaminated membrane must be replaced, or covered with both a slip sheet and new membrane.
3. Blisters, buckles and other surface irregularities must be repaired or removed. If the damage is extensive, an approved rigid board insulation or a cover board must be installed.
4. When the system is smooth or granular-surfaced, any approved slip sheet, insulation or cover board may be used to provide separation of the roof system and new membrane. Duro-Guard fan folds may be used if the surface is pea gravel or crushed stone which is ¼ to 3/8 inch in size and has been leveled and maintained at 4 psf. For larger rock/gravel, utilize an approved rigid insulation or cover board.
5. If rock/gravel surfacing is removed, an approved fan fold, rigid insulation or cover board must be used. If embedded rock/gravel remains that protrudes out of the deck more than ¼ inch, do not use fan fold board. Instead, use an approved cover board or rigid insulation.
6. When installing polystyrene insulation over coal tar pitch or asphalt-based roof systems, a slip sheet must be used between the insulation and existing roof.

3.3 INSTALLATION

A. Install insulation in accordance with the roof manufacturer's requirements.

B. Separation Board: DensDeck® Prime Roof Board.

C. Roof Membrane: 80 mill FB & 60 mil, Duro-Last® Duro-Fleece TUFF™ membrane.

1. Use only membrane adhesive acceptable to the roof manufacturer's that meets the applicable design requirements.
2. Cut membrane to fit neatly around all penetrations and roof projections.
3. Unroll roofing membrane and positioned with a minimum 6 inch overlap along the selvage edge. Roll ends must be butted together and membrane of the same mil thickness, without fleece backing, must be used to form the end lap.
4. Apply adhesive in accordance with the roof manufacturer's requirements.
5. Apply adhesive in splatter pattern.
6. Follow guidelines outlined in the adhesive's Product Data Sheet.
7. Read the adhesive's Material Safety Data Sheet (MSDS) prior to using the adhesive.

D. Seaming:

1. Weld overlapping sheets together using hot air. Minimum weld width is 1-1/2 inches.
2. Check field welded seams for continuity and integrity and repair all imperfections by the end of each work day.

E. Membrane Termination/Securement: All membrane terminations shall be completed in accordance with the membrane manufacturer's requirements.

1. Provide securement at all membrane terminations at the perimeter of each roof level, roof section, curb flashing, skylight, expansion joint, interior wall, penthouse, and other similar condition.
2. Provide securement at any angle change where the slope or combined slopes exceeds two

inches in one horizontal foot.

- F. Flashings: Complete all flashings and terminations as indicated on the drawings and in accordance with the membrane manufacturer's requirements.
1. Provide securement at all membrane terminations at the perimeter of each roof level, roof section, curb flashing, skylight, expansion joint, interior wall, penthouse, and other similar condition.
 - a. Do not apply flashing over existing thru-wall flashings or weep holes.
 - b. Secure flashing on a vertical surface before the seam between the flashing and the main roof sheet is completed.
 - c. Extend flashing membrane a minimum of 6 inches (152 mm) onto the main roof sheet beyond the mechanical securement.
 - d. Use care to ensure that the flashing does not bridge locations where there is a change in direction (e.g. where the parapet meets the roof deck).
 2. Penetrations:
 - a. Flash all pipes, supports, soil stacks, cold vents, and other penetrations passing through the roofing membrane as indicated on the Drawings and in accordance with the membrane manufacturer's requirements.
 - b. Utilize custom prefabricated flashings supplied by the membrane manufacturer.
 - c. Existing Flashings: Remove when necessary to allow new flashing to terminate directly to the penetration.
 3. Pipe Clusters and Unusual Shapes:
 - a. Clusters of pipes or other penetrations which cannot be sealed with prefabricated membrane flashings shall be sealed by surrounding them with a prefabricated vinyl-coated metal pitch pan and sealant supplied by the membrane manufacturer.
 - b. Vinyl-coated metal pitch pans shall be installed, flashed and filled with sealant in accordance with the membrane manufacturer's requirements.
 - c. Pitch pans shall not be used where prefabricated or field fabricated flashings are possible.
- G. Roof Drains:
1. Coordinate installation of roof drains and vents specified in Section 15146 - Plumbing Specialties.
 2. Remove existing flashing and asphalt at existing drains in preparation for sealant and membrane.
 3. Provide a smooth clean surface on the mating surface between the clamping ring and the drain base.
- H. Edge Details:
1. Provide edge details as indicated on the Drawings. Install in accordance with the membrane manufacturer's requirements.
 2. Join individual sections in accordance with the membrane manufacturer's requirements.
 3. Coordinate installation of metal flashing and counter flashing specified in Section 07620.
 4. Manufactured Roof Specialties: Coordinate installation of copings, counter flashing systems, gutters, downspouts, and roof expansion assemblies specified in Section 07710.

I. Walkways:

1. Install walkways in accordance with the membrane manufacturer's requirements.
2. Provide walkways where indicated on the Drawings.
3. Install walkway pads at roof hatches, access doors, rooftop ladders and all other traffic concentration points regardless of traffic frequency. Provided in areas receiving regular traffic to service rooftop units or where a passageway over the surface is required.
4. Do not install walkways over flashings or field seams until manufacturer's warranty inspection has been completed.

J. Water cut-offs:

1. Provide water cut-offs on a daily basis at the completion of work and at the onset of inclement weather.
2. Provide water cut-offs to ensure that water does not flow beneath the completed sections of the new roofing system.
3. Remove water cut-offs prior to the resumption of work.
4. The integrity of the water cut-off is the sole responsibility of the roofing contractor.
5. Any membrane contaminated by the cut-off material shall be cleaned or removed.

3.4 FIELD QUALITY CONTROL

- A. The membrane manufacturer's representative shall provide a comprehensive final inspection after completion of the roof system. All application errors shall be addressed and final punch list completed.

3.5 PROTECTION

- A. Protect installed roofing products from construction operations until completion of project.
- B. Where traffic is anticipated over completed roofing membrane, protect from damage using durable materials that are compatible with membrane.
- C. Repair or replace damaged products after work is completed.

END OF SECTION

Earliest start date: "Upon Notice to Proceed"

Expected Pre-Construction date: August 15th, 2019 at 9am.

Number of days to completion 90 days

Following guidelines regarding workdays (per July 29th, 2019 meeting)

- Rain days- defined as days which the closest national weather service forecast 20%+ chance of rain.
- Wind Days- Days where wind speeds exceed 20 mph / 10 mph on Arena Roof area
- Event Center "no workdays"- Days that the Event Center cannot be worked on due to security or scheduled event. (Per provided schedule at July 29th, 2019 meeting)

CONTRACTOR OF RECORD: Duro-Last

Sub- Contractor Company Name: Merit Roofing

PROJECT: Allen Event Center

Address: 2009 East Stacey Road

City: Allen **State:** Texas 75002

Signature of Manufacture/Contractor of Record: Duro-Last

Authorized (Print) Signature Name: _____

TIPS PROPOSAL COST BREAKDOWN

Arena-Upper & Lower Cost: \$ _____

Lower Roof and all canopies: \$ _____

Modified Roof-Mechanical: \$ _____

Bond (Performance and Payment): \$ _____

TIPS (1%) \$ _____

TAX: TAX EXEMPT

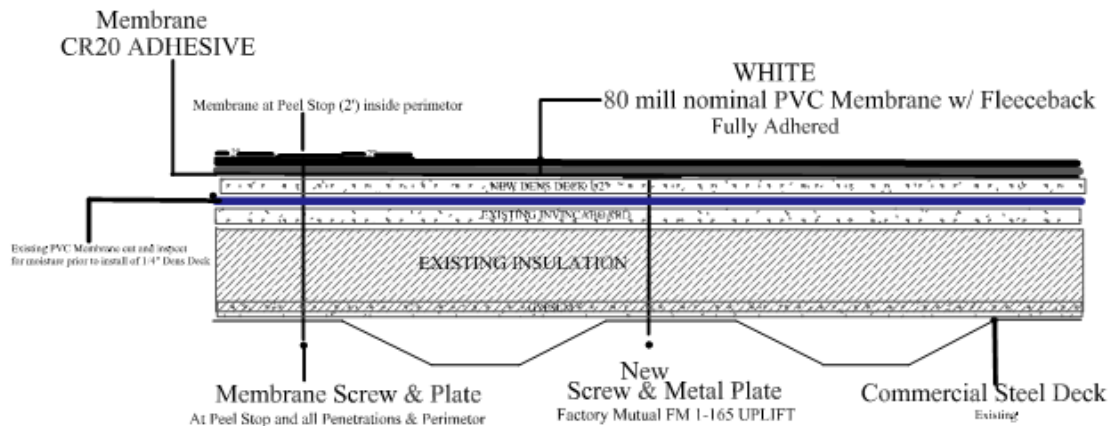
Total: \$ _____

4.00 Drawings

4.01 See attached

ROOF ASSEMBLY

Upper Roof Areas & All Fully Adhered detached Roof Areas



General Scope of Work

All Upper fully adhered roof area's

- Cut existing fully adhered PVC Membrane / Verify Assembly is dry,Clean and smooth
- Contractor to mark, document and replace any wet or damaged Insulation
- Mechanically attach Primed 1/4" Dens Deck over existing assembly
- Fully adhere 80 mill Fleeceback using CR20 adhesive over existing Dens Deck Primed

Additional Items:

- Lightning Protection (Disconnect and reconnect by other contractor) Contractor to provide induction anchors at all necessary locations for reinstallation
- Contractor to install Peel-Stop 2' in from perimeter
- Contractor to replace all Gutters/ Downspouts
- Contractor to install PVC clad metal gravel stop into gutter at perimeter of roof
- Contractor to furnish and install Indution anchor hooks as marked for safety line attachment
- Contractor to install new roof ladder at deck transition of both ends
- Contractor to install walk pads at all access points and ladders / Install walk pads at service side of all units
- Contractor to remove and reflash all door thresholds / Door entry areas

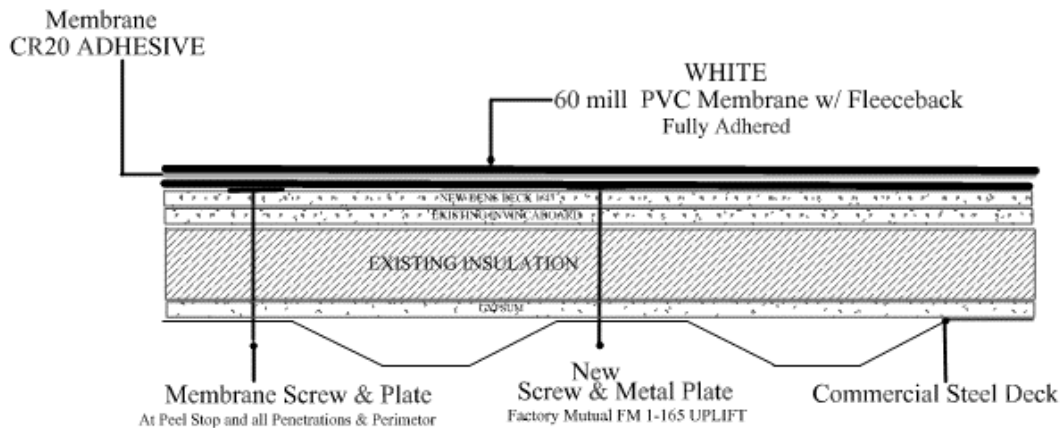
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Detail	ALLEN EVENT CENTER	CONSTRUCTION/RFP DETAIL SLIDE
#1	Allen Convention Center ALLEN, TEXAS	UPPER ARENA ROOF AREA
		4T PARTNERSHIP LLC

Upper Roof Areas / Assembly Drawings

ROOF ASSEMBLY

Lower Roof Areas & Canopies- Mechanically attached locations



GENERAL SCOPE OF WORK:

- Remove existing PVC Membrane / Inspect and replace any wet or damage Insulation
- Install 1/4" Primed Dens Deck over existing Insulation Assembly
- Install Fully Adhered PVC Fleeceback using CR20

Additional Items

- Lightning Protection (Detach and Reattach by other contractor) Contractor to provide Lightning Protection induction anchors at same locations
- Install 60 mill PVC adhered over 1" Insulation over (1) exposed Air Duct
- Install Metal/Steel Landing with two steps at access door entry to Lower Shipping roof
- Contractor to use white fasteners over Hockey Practice Rink to attach new Dens Deck
- Contractor to install fully adhered 60 mill FB Membrane to encapsulate all exposed Parapet walls
- Contractor to install new PVC induction supports to replace all existing Pipe Supports
- Contractor to install new walk pads at all access locations, Ladders and service side of all units
- Contractor to remove and reflash all door thresholds / Door entry to Roof areas

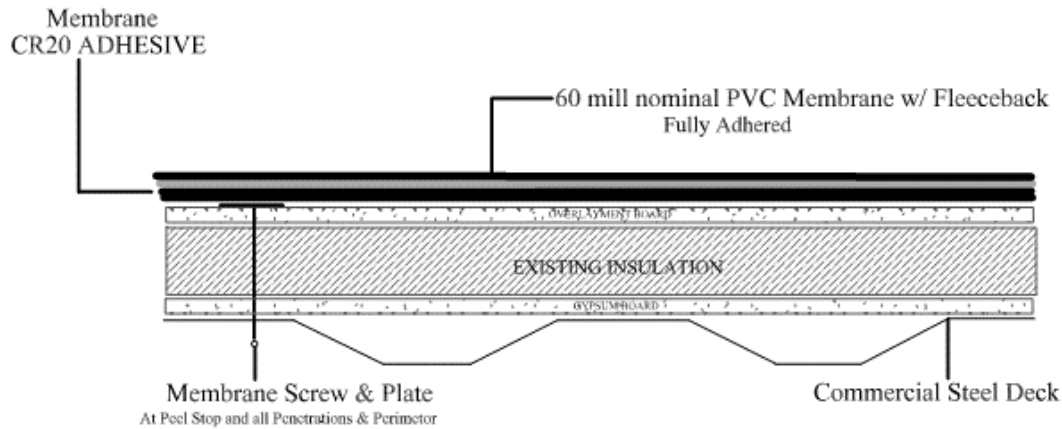
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Detail	ALLEN EVENT CENTER	CONSTRUCTION/RFP DETAIL SLIDE
#2	Allen Convention Center ALLEN, TEXAS	LOWER ROOF ASSEMBLY AREAS
		4T PARTNERSHIP LLC

Lower Roof Area & Canopies (Existing Mechanically attached PVC)

ROOF ASSEMBLY

Mechanical Roof Area - SBS Modified Roof



General Scope of Work

- Contractor to sweep and clean surface of SBS Modified Roof Membrane
- Contractor to verify and remove all wet or damaged Roof Insulation assembly
- Contractor to feather any low spots with cap sheet
- Contractor to Fully adhere 60 mill FB membrane with CR20

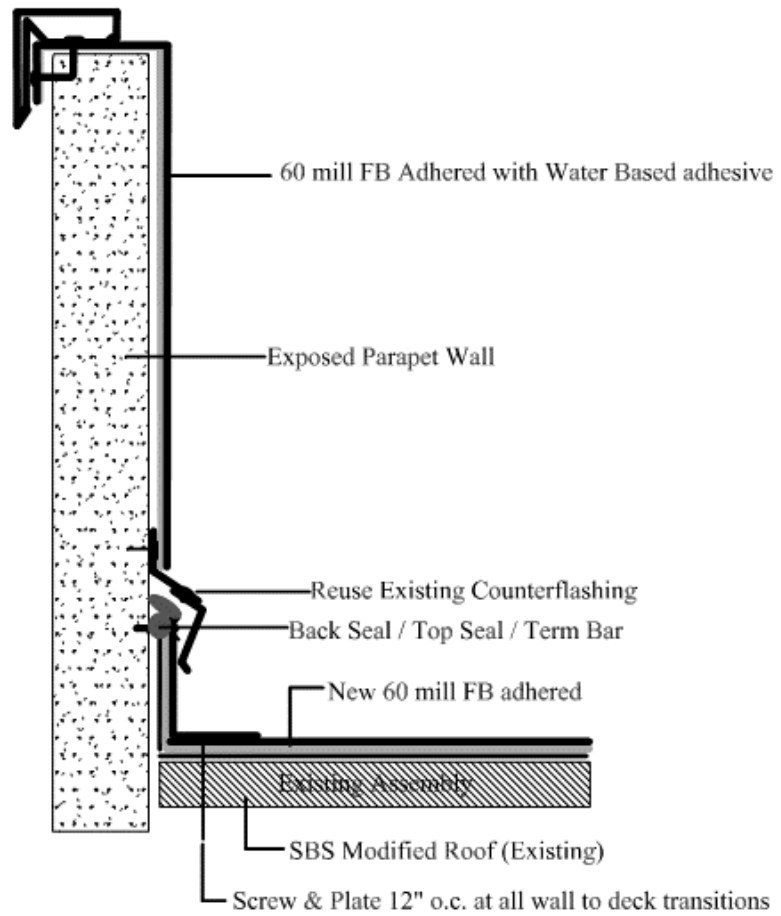
Additional Items:

- Lightning Protection (Disconnect & Reconnect by other) Contractor to provide Induction anchor at all Lightning Protection locations
- Contractor to install walk pads at all access ladders and Doors to roof / Service side of all units
- Contractor to install new scuppers at all current scupper locations
- Contractor to install new induction supports at all required locations to support piping up off the roof
- Contractor to install 50 mill FB fully adhered at all base flashings
- Contractor to cover all exposed parapet walls with full adhered membrane
- Contractor to install metal termination at all paraets where membrane extends up and over parapet
- Contractor to reuse counterflashing at inter and exterior parapets
- Contractor to install "Z" flashing metal were terminating at existing coping locations
- Contractor to remove and reflash all door access locotion
- At all raised and detached upper decks contractor to cover all exposed parapets
- Duct support legs to be flashed with boot flashing / Remove all pitchpans
- Contractor to recaulk all existing caulking locations where coping to remain (under louver locations)
- Contractor to install metal skirting at all base flashings to assure Base Flashing Termination is not exposed

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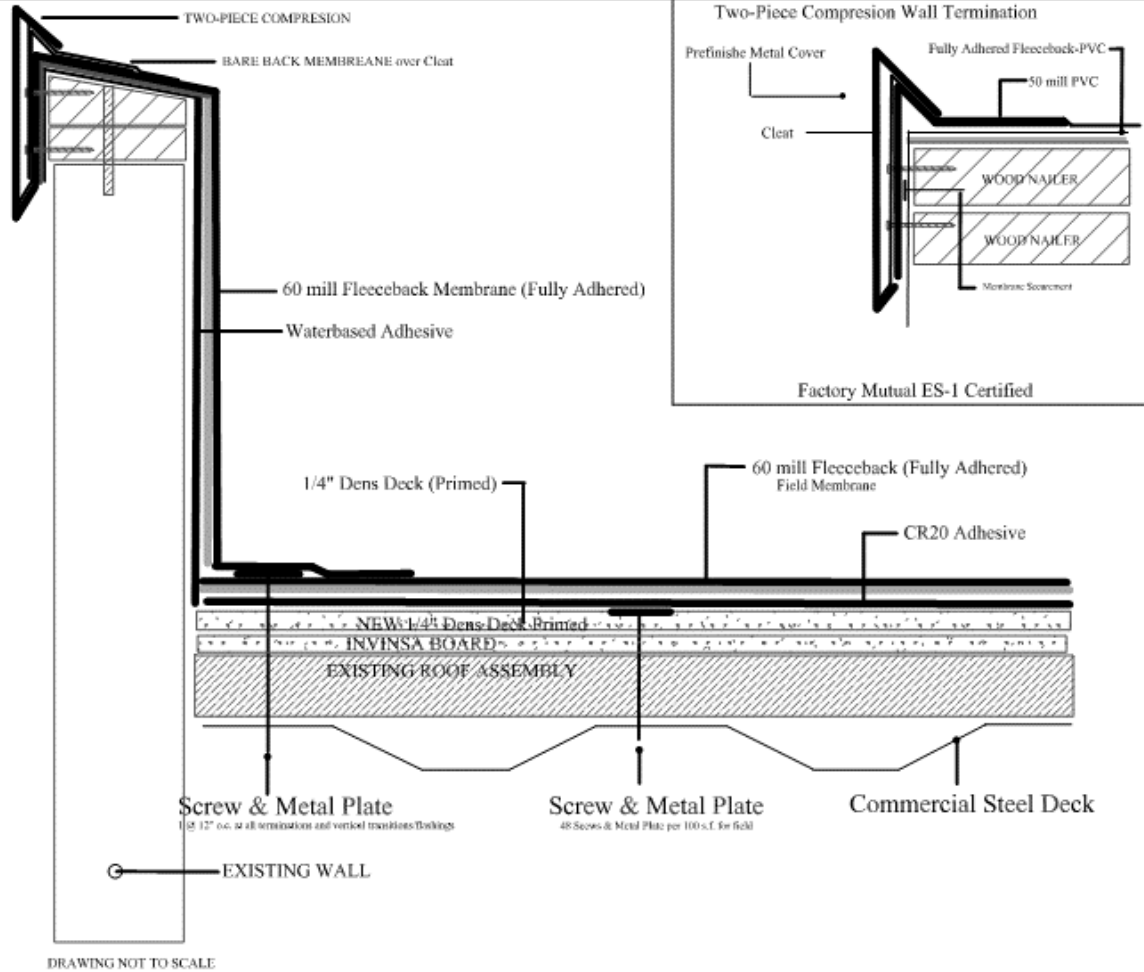
Detail	ALLEN EVENT CENTER	CONSTRUCTION ASSEMBLY
#3	Allen Convention Center ALLEN, TEXAS	MECHANICAL ROOF AREA
		4T PARTNERSHIP LLC

Mechanical Roof Area (SBS Modified Roof Area)



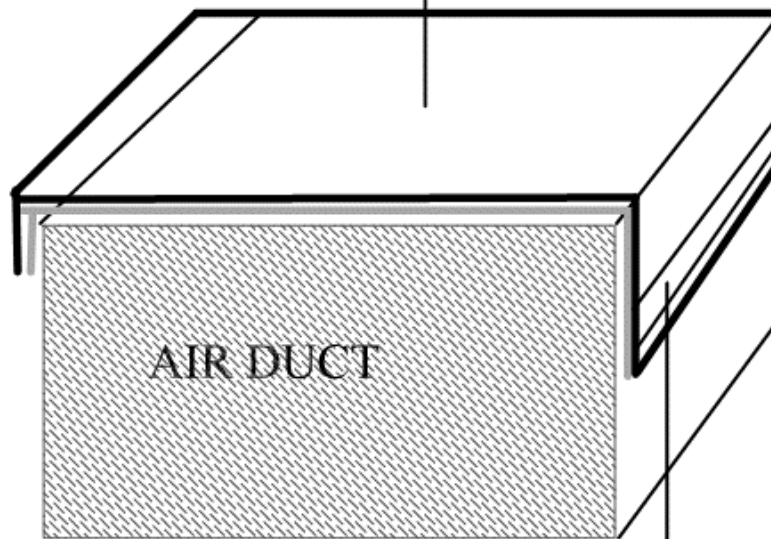
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Detail	MECHANICAL ROOF AREA	PARAPET WALL DETAIL
#4	ALLEN EVENT CENTER ALLEN, TEXAS	PARAPET WALL DETAIL
		4T PARTNERSHIP LLC



Detail	LOWER ROOF AREAS-PARAPET WALLS	WALL to Deck Transitions
#5	ALLEN EVENT CENTER ALLEN, TEXAS	WALL to Deck / Parapet Wall Assembly
		4T PARTNERSHIP LLC

60 PVC Mill FB Adhered

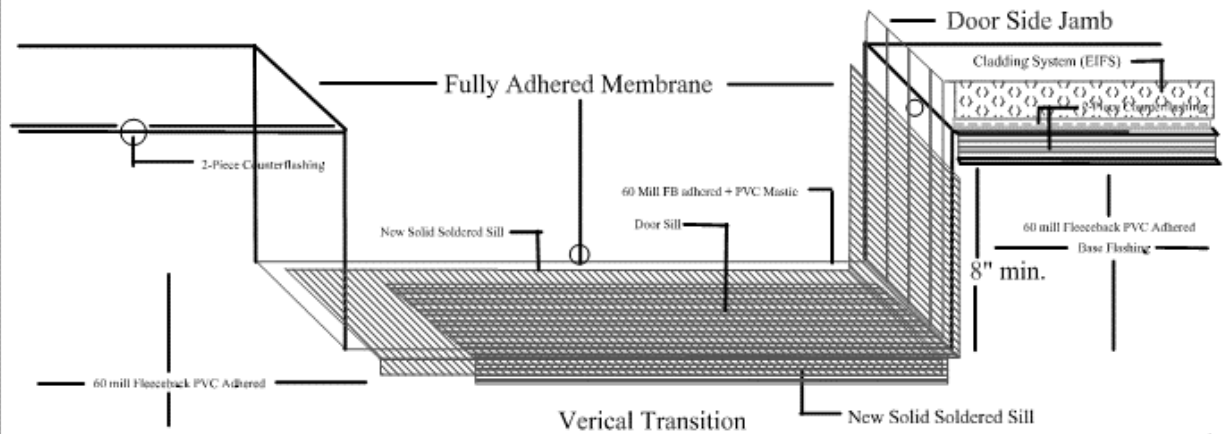


Term Bar w/ metal Cover

WALL to Deck Transitions

Detail	MECHANICAL ROOF AREA & LOWER ROOF AREA	EXPOSED AC DUCTS
#6	ALLEN EVENT CENTER ALLEN, TEXAS	Membrane adhered over exposed Duct
		4T PARTNERSHIP LLC

Door Frame Assembly



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Detail	Door Threshold	
#7	Allen Eventt Center Allen, Texas	Door Assembly to Roof
		4T PARTNERSHIP LLC

Duro-Last/TIPS Project Bid Sheet

Date: 7/30/2019
Building Owner: Allen Event Center

Warranty: 20-yr NDL
Mil: 60 & 80 DF
Contractor: Merit Roofing Systems

Area:	Base Bid
Square Footage:	146,893
Material/Labor/Warranty \$	1,156,263.00
Bonds \$	9,898.64
Duro-Last Administration Fees \$	83,168.04
Duro-Last Fee Reduction \$	(12,000.21)
Bid Total \$	1,237,329.47
Alternate #2: \$	(1,281.39)
Alternate #3: \$	21,754.93
Alternate #4: \$	40,621.18

	<u>0-554 Sq Ft</u>	<u>555 - 1000 Sq Ft</u>
Unit Pricing #1	\$5.43/sq ft	\$5.23/sq ft
Unit Pricing #2	\$7.79/sq ft	\$7.50/sq ft
	<u>0-254 Sq Ft</u>	<u>255 - 1000 Sq Ft</u>
Unit Pricing #3	\$10.79/sq ft	\$9.36/sq ft



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/06/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Van Wyk Risk Solutions 150 Ottawa Ave NW Suite 1000 Grand Rapids, MI 49503	CONTACT NAME: Patti Zuk	
	PHONE (A/C, No. Ext): (616)942-5070 FAX (A/C, No.): (616)942-8199	
	E-MAIL ADDRESS: pattiz@vanwykcorp.com	
INSURED Duro-Last, Inc. Duro-Last Roofing, Inc. 525 Morley Drive Saginaw, MI 48601	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Zurich American Ins. Co.	16535
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 2019-2020

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		GLO0380991	7/1/2019	7/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y		BAP0380992	7/1/2019	7/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC0380990	7/1/2019	7/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Allen Event Center Re-Roofing Project
Certificate holder is named as additional insured as required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Allen 305 Century Parkway Allen, TX 75013	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 2

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Duro-Last, Inc.
Saginaw, MI United States

Certificate Number:
2019-525444

Date Filed:
08/05/2019

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Allen, Texas

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Allen Event Center
Installation of the Duro-Last Roofing System on the Allen Event Center

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Tunney, Jason P.	Saginaw, MI United States	X	
	Sny, Shawn M.	Saginaw, MI United States	X	
	Moeller, Connie J.	Saginaw, MI United States	X	
	Stuhr, Carol A.	Saginaw, MI United States	X	
	Lawler, Thomas J.	Saginaw, MI United States	X	
	Saeli, Thomas L.	Saginaw, MI United States	X	
	Murphy Jr. , Daniel P.	Saginaw, MI United States	X	
	Plyler, Chenelle D.	Saginaw, MI United States		X
	Burt Allen, Kathy	Saginaw, MI United States	X	
	Burt, John, C.	Saginaw, MI United States	X	

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

2 of 2

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

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Allen Event Center
Installation of the Duro-Last Roofing System on the Allen Event Center

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Kelly Tobias, and my date of birth is _____.

My address is 525 E. Morley Dr, Saginaw, MI, 48601, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in SAGINAW County, State of MICHIGAN, on the 5th day of AUGUST, 20 19.
CHENELLE D. PLYLER (month) (year)

Notary Public, State of Michigan
County of Saginaw

My Commission Expires 02-12-2021
Acting in the County of Saginaw

Chenelle D. Plyler
Signature of authorized agent of contracting business entity
(Declarant)

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE:

August 13, 2019

SUBJECT:

Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Central Business District and Adopt Development Regulations, Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections for a Property Generally Located at the Northeast Quadrant of U.S. Highway 75 and W. Main Street and Bounded by Anna Drive, Main Street, U.S. Highway 75, and the Southern Boundary of Block A and C of Whisenant Estates Addition. [Allen City Center - Urban Residential and Office Uses]

STAFF RESOURCE:

Marc Kurbansade, Director of Community Development

BOARD / COMMISSION ACTION:

On July 16, 2019, the Planning and Zoning Commission voted 4 in favor (Commissioners Trahan, Platt, Orr, and Shaikh) and 2 opposed (Commissioners Autrey and Metevier) to recommend approval of the request with the following conditions: (1) 2,000 square feet of retail space is developed with each phase and (2) a decrease in total number of units from 850 to 825.

ACTION PROPOSED:

Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Central Business District and to Adopt Development Regulations, Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections for a Property Generally Located at the Northeast Quadrant of U.S. Highway 75 and W. Main Street and Bounded by Anna Drive, Main Street, U.S. Highway 75, and the Southern Boundary of Block A and C of Whisenant Estates Addition. [Allen City Center - Urban Residential and Office Uses]

BACKGROUND

The subject property is generally located at the northeast quadrant of U.S. Highway 75 and W. Main Street

and bounded by Anna Drive, Main Street, U.S. Hwy 75, and the southern boundary of Blocks A and C of Whisenant Estates Addition. As depicted on the Concept Plan, there are three properties within this generally boundary that are not included in this request. The properties to the north are zoned Single Family Residential R-5. The properties to the east are zoned Central Business District CBD. The properties to the south are zoned Shopping Center SC and Central Business District CBD. The properties to the west across U.S. Highway 75 are zoned Planned Development No. 54 Corridor Commercial CC.

The subject property is currently zoned Central Business District CBD. A Design Plan was approved in December 2018 by the Central Business District Design Review Committee. The proposed Planned Development would permit a mix of uses consistent with the Central Business District, but consist primarily of Office and Urban Residential uses. The subject property is 12.28± acres, proposed to be developed in four phases with the initial phase occurring in the northwest quadrant of the site. The Concept Plan shows the phases of the proposed development as follows:

- Phase 1 - 249 urban residential units within a single 4 story building with an integrated 5-level structured parking garage. The northern building façade on the eastern portion of the building will be 3 stories and transition to 4 stories.
- Phase 2 - 165__ urban residential units located in a 4 story building with an integrated 4-level parking structure.
- Phase 3 - 190 urban residential units located in a 5 story building with an integrated 8-level parking structure to serve the urban residential units and the adjoining five-story office building.
- Phase 4 - 221 urban residential units located in a 5 story building with an integrated 5-level parking structure.

Parking will be provided at a rate of 1.1 spaces per bedroom with 0.1 spaces reserved for guest parking. Based on the mix of dwelling units this will equate to approximately 1.3 spaces per dwelling unit. Parking for the proposed office use will be provided at a rate of one space per 300 square feet of gross floor area. Vehicular access within and to the project will largely be through existing thoroughfares, with the addition of a privately maintained fire lane/alley to be constructed along the northern boundary of the project. The existing thoroughfares will be improved to meet current standards, with the phasing of these improvements being commensurate with the demand resulting from subsequent development phases of the project. Pedestrian accessibility will include a 12-foot hike and bike trail along the north side of Main Street and west side of Anna Drive. The U.S. Highway 75 frontage will include a 10-ft sidewalk from Main Street to the northern limits of the project. All other internal sidewalks will be a minimum of 6-feet in width.

The transition from the adjacent Whisenant subdivision to the north will be through two primary approaches. First the applicant will coordinate with property owners to the north to determine if a wall or drive access is requested. Based on this coordination, a wall may be constructed at this location. Second, the applicant is proposing a gradual decrease in building height and density by including a two-story townhouse product farthest to the north, with the proposed four-story urban residential units being set back approximately 100 feet from the south property line of the Whisenant subdivision.

Open Space within the proposed development will consist primarily of a 0.54± acre public park dedication located north of the Phase 2 building, spanning from Bonham Drive to Anna Drive. This will be in addition to the aforementioned Hike & Bike Trails to be located within the development.

The architectural elevations depict an architectural style that was previously approved by the CBD Design Review Committee. The portions of these elevations visible from public view will be a minimum of 85% masonry materials and a maximum of 15% of secondary building materials (e.g., cementitious panels/siding, flat non-corrugated metal panels or exterior grade high pressure laminate panels). Where the exterior facades are not visible from public view, such as interior courtyards, the secondary building materials may be incorporated up to a maximum of 50% of the façade exterior.

Retail-ready space will be constructed at the locations identified in the Architectural Plan. These spaces will be constructed with 14-foot ceiling heights in accordance with Urban Residential standards. Other ground-floor spaces not identified will be constructed with standard ceiling heights as these areas are less conducive to the long-term development of non-residential uses. Sign regulations will primarily adhere to current ALDC standards. However, there are several signs that were incorporated into the development regulations that are representative of a pedestrian-oriented urban environment. A-Frame/Sandwich Signs; Hanging/Projecting Signs, and Blade Signs. Visual representations of these signs are included in the Development Regulations.

The request has been reviewed by the Technical Review Committee. This item was previously recommended for denial by Planning and Zoning Commission on May 7, 2019. On May 28, 2019, City Council remanded this item back to Planning and Zoning Commission to allow the Commission to re-consider the item due to a significant design change. At the June 18, 2019 Planning and Zoning Commission meeting, the applicant requested a continuation of the public hearing to alter the plans.

On July 16, 2019, the Planning and Zoning Commission recommended approval of the item under the condition that 2,000 square feet of retail space is developed with each phase and the total number of units decreased from 850 to 825.

LEGAL NOTICES

Public Hearing Letters - June 7, 2019

Public Hearing Sign - June 7, 2019

Newspaper Notice - July 25, 2019

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ to establish a Planned Development zoning district with a base zoning of Central Business District and adopt a Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections for a property generally located at the northeast quadrant of U.S. Highway 75 and W. Main Street and bounded by Anna Drive, Main Street, U.S. Highway 75, and the Southern Boundary of Block A and C of Whisenant Estates Addition.

ATTACHMENTS:

Updated Council Communication Memo

Proposed Ordinance

Property Notification Map

Draft Minutes of the July 16, 2019 P&Z Meeting

CITY COUNCIL AGENDA COMMUNICATION
--

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Open Space within the proposed development will consist primarily of a 0.54± acre public park dedication located north of the Phase 2 building, spanning from Bonham Drive to Anna Drive. This will be in addition to the aforementioned Hike & Bike Trails to be located within the development.

The architectural elevations depict an architectural style that was previously approved by the CBD Design Review Committee. The portions of these elevations visible from public view will be a minimum of 85% masonry materials and a maximum of 15% of secondary building materials (e.g., cementitious panels/siding, flat non-corrugated metal panels or exterior grade high pressure laminate panels). Where the exterior facades are not visible from public view, such as interior courtyards, the secondary building materials may be incorporated up to a maximum of 50% of the façade exterior.

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ATTACHMENTS:

Proposed Ordinance

Property Notification Map

Draft Minutes of the July 16, 2019 P&Z Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE ZONING REGULATIONS AND ZONING MAP, AS PREVIOUSLY AMENDED, BY CHANGING THE ZONING REGULATIONS RELATING TO THE DEVELOPMENT AND USE OF 12.28± ACRES IN THE A. B. PERRIN SURVEY, ABSTRACT NO. 713 AND WILLIAM PERRIN SURVEY, ABSTRACT NO. 708 DESCRIBED IN EXHIBIT “A” HERETO FROM CENTRAL BUSINESS DISTRICT “CBD” TO PLANNED DEVELOPMENT NO 141 (“PD-141”) FOR CENTRAL BUSINESS DISTRICT USES; ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, OPEN SPACE PLAN, AND BUILDING CONCEPTS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and Zoning Map, of the City of Allen, Texas, as amended, is hereby further amended by changing the zoning regulations relating to the development and use of 12.28± acres in the A. B. Perrin Survey, Abstract No. 713 and William Perrin Survey, Abstract No. 708, City of Allen, Collin County, Texas, described in Exhibit “A” attached hereto and incorporated herein by reference (“The Property”) from Central Business District “CBD” to Planned Development No. 141 (“PD-141”) in accordance with and subject to Section 2 of this ordinance.

SECTION 2. The Property shall be developed and used in accordance with applicable provisions of the Allen Land Development Code, as amended (“ALDC”) and the zoning regulations applicable to the Central Business District “CBD” except to the extent modified by the Development Regulations set forth below:

- A. CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit “B,” and incorporated herein by reference (the “Concept Plan”). Provide that such modifications do not alter the general circulation of streets and alleys or general location of buildings as shown on the Concept Plan, minor modification of streetscapes to meet future City requirements and building configuration within each Block may be made at the time of Site Plan approval for each Block. For purpose of this ordinance, unless the context indicates otherwise, the reference to “Block” followed by a number shall refer to the corresponding area of the Property so designated on the Concept Plan.

B. ADDITIONAL PERMITTED USES:

- (1) The Property may be developed and used for the following purposes in addition to those uses permitted in the CBD zoning district:
 - (a) Dance/martial arts studio;
 - (b) Fitness and health center;
 - (c) Microbrewery;
 - (d) Retail store, provided such store is located only at street level and integrated into the building as shown on the Concept Plan;
 - (e) Convenience store;
 - (f) Day care facility;
 - (g) Museum/art gallery;
 - (h) Park (private); and
 - (i) Radio or TV broadcast studio.
- (2) Retail, restaurant, and microbrewery uses may provide outside dining and seating. Outside dining is permitted provided a minimum clear path of six feet in width is maintained in accordance with the Concept Plan.

C. OPEN SPACE: The Property shall be developed with open space as shown on the Open Space Plan attached hereto as Exhibit “C,” and incorporated herein by reference (the “Open Space Plan”).

D. SETBACKS: The required minimum yard setbacks shall conform with the approved Street Cross Sections attached hereto as Exhibit “D,” and incorporated herein by reference (the “Street Cross Sections”), and as set forth on the Concept Plan.

E. BUILDING CONCEPTS: Buildings to be constructed on the Property shall be developed in general conformance with the materials and architectural intent set forth on the Building Concepts attached hereto as Exhibit “E,” and incorporated herein by reference (the “Building Concepts”).

F. MAXIMUM FAR: The calculation of the maximum floor/area ratio relating to development of the Property shall exclude the floor area of structured parking constructed on the Property.

G. MAXIMUM DENSITY: No more than 825 urban residential dwelling units shall be developed on the Property.

H. MAXIMUM HEIGHT:

- (a) The maximum height of any building constructed in Blocks 1 and 2 shall be four (4) stories (except the parking structure which may be 4-1/2 stories in height) but in no case exceeding sixty (60) feet.
- (b) The maximum height of any building constructed in Blocks 3 and 4 shall be eighty-five (85) feet.

- I. MINIMUM AREA PER DWELLING UNIT:** The floor area of any Urban Residential dwelling unit shall not be less than 600 square feet.
- J. OFF-STREET PARKING:** Off-Street parking shall be provided in accordance with ALDC Section 7.04.1 except as follows:
- (1) For each dwelling unit within an Urban Residential Use, 1.1 space/bedroom, with 0.1 space/bedroom unreserved and available for use as visitor parking.
 - (2) On-street parking spaces located within 200 feet of a building may be included in the count of required off-street parking spaces for uses within that building; provided, however, such on-street parking spaces may only be counted once and not counted toward the off-street for multiple uses within a building or more than one building.
 - (3) Off-street parking requirements may be satisfied through the use of shared parking agreements, satisfying the requirements of ALDC Section 7.04.1.2.c.; provided, however, all off-street parking spaces that are the subject of a shared parking agreement must be located within 800-feet of the building/use which is including such space in its required off-street parking space count, said distance being measured at the shortest possible distance in a straight line from the building/use to the parking space.
 - (4) Temporary parking for special events, and as approved with a Special Event Permit, may be approved by the Director of Community Development.
 - (5) Parallel, perpendicular, or angled parking is allowed, in general conformance with the Concept Plan
- K. TREE MITIGATION AND LANDSCAPING:** Development of the Property shall comply with ALDC Section 7.06 except as follows:
- (1) Negative tree credits assessed for the removal of Hackberry trees shall be reduced by 25%;
 - (2) Negative tree credits will not be assessed for a tree that is removed following the City arborist's determination the tree is at the end of its life, diseased, dead or dying;
 - (3) Negative tree credits will not be assessed for removal of fence row trees located internal to the Property and existing prior to consolidation of ownership of the various tracts constituting the Property;
 - (4) Tree preservation or replacement credits may be granted on the determination by the Director of Parks and Recreation based upon development details and level of landscaping provided during phase planning, with consideration being given to:
 - (a). Perimeter roadway, parkway and median landscaping;
 - (b). Interior landscape development such as high impact plantings throughout the Property exceeding the minimum landscaping requirements of the ALDC; and
 - (c). Landscaping within common areas.
 - (5) Street tree spacing shall no less than forty foot (40') on center; trunk caliper shall be not less than three inches (3") at time of planting; and tree gate shall be not less than five feet (5') by six feet (6') at time of planting minimum.

- (6) Screening on any Block as required by ALDC Section 7.07.4 may be accomplished solely with landscaping or a combination of masonry and landscaping as approved by the Director of Parks and Recreation and Director of Community Development. Screening to be provided along the northern boundary of the Property adjacent to Blocks 1 and 2 shall consist at a minimum of an eight-foot (8') masonry wall located not less than one and one-half feet (1.5') from the existing northern property line. Vehicular access from these northern adjacent properties may be provided utilizing periodic breaks in the masonry wall, provided that visibility triangles are maintained in accordance with existing ALDC regulations.

L. INFRASTRUCTURE IMPROVEMENTS:

- (1) The Concept Plan illustrates typical streetscape sections for Public Right-of-Way along or within the Property.
- (2) Improvements to public streets are to have elements that reflect streetscape design standards that exists along Allen Drive and St. Mary Drive to provide a homogeneous environment with the surrounding area. The final design of the street and streetscape improvements will be determined with the respective Boyd Drive, Bonham Drive, Main Street, and Anna Drive construction plans.
- (3) Utility meters and other utility apparatus, including, but not limited to, transformers and switch boxes, shall:
 - (a) Be located to the rear of the structure unless screened from view from public streets and adjoining properties. Utility meters and apparatus located along public streets shall be screened from public view using evergreen shrubs planted at a height and spaced in such a manner that an opaque screen is achievable within one growing season; and
 - (b) Accessible for the purpose of allowing required for service and maintenance.

M. HIKE AND BIKE TRAIL CONNECTION:

- (1) A twelve feet wide connection to the off-site Hike and Bike Trail, inclusive of a publicly accessible trail head, shall be constructed adjacent to the Property as shown on the Concept Plan in accordance with plans and specifications approved by the Director of Parks and Recreation and Director of Community Development. Completion of construction of such trail and trailhead must be completed and accepted by the City prior to issuance of a certificate of occupancy for any building developed with Urban Residential dwellings.
- (2) Other required trails or sidewalks shall be constructed as illustrated on the Concept Plan.

N. TEMPORARY USES AND SPECIAL EVENTS: Temporary uses and special events conducted on the Property shall be conducted in accordance with ALDC Section 6.04 "Temporary Uses and Special Events" subject to the following:

- (1) Temporary Uses and Special Events shall not be limited by number or duration in a calendar year;
- (2) Temporary Uses and Special Events must be held only in non-residential Blocks;
- (3) Temporary Use and Special Event locations may not obstruct fire lanes/emergency access points; and
- (4) Special Events and Temporary Uses shall be conducted only upon approval of a permit.

O. FAÇADE MATERIALS – PARKING STRUCTURES: The construction of the exterior façades of parking structure constructed on the Property shall be subject to the following:

- (1) Street front openings in parking structures shall not exceed 75 percent of the façade area;
- (2) The shorter width façade of a parking structure may be oriented towards any street to facilitate garage access;
- (3) Cast in place and precast concrete are a permitted material. Such material fronting a public street shall be, at minimum, painted to be compatible with the adjacent building. Architectural barrier walls and screens shall be used to articulate the façade and hide parked vehicles.

P. BUILDINGS – USES AND FACADES:

- (1) For purposes of this ordinance only, ALDC Sec. 4.08.19.2.b.ii shall be read as follows:

- i. The Design Review Committee shall approve the design plan if it determines that the construction, alteration or addition is of such appearance and design that the building or structure, when constructed or remodeled, or the alteration or addition as the case may be, satisfies the Central Business District standards, will be of good architectural design, and will be suitable to its location.

- (2) For purposes of this ordinance only, ALDC Sec. 4.08.19.2.c. shall be read as follows:

- c. *Purpose.* The review and approval set forth herein is intended to go beyond the regulations of this Code to address issues specifically related to the relationship of adjacent properties and neighborhood patterns. The Design Review Committee is concerned with not only the design of the specific project but also the effect it will have on the surrounding properties. The purpose of Design Review Committee review and approval is to: encourage adaptive reuse of existing buildings, creative construction and major modifications that will enhance the architectural character of the Central Business District; stabilize and reinforce property values; protect private and public investment; reverse urban decline and blight; reverse neighborhood decline and improve housing quality; preserve the natural, historic and architectural qualities of the Central Business District; establish and enhance aesthetic and architectural compatibility within the Central Business District; attract residential and business development and redevelopment that provide aesthetic and safe and healthy living and working conditions in the Central Business District; and that building rehabilitation has the architecture and design elements of the principal structure.

- (3) A maximum of fifteen percent (15%) of the permitted secondary exterior building materials may include flat non-corrugated metal panels or exterior grade high pressure laminate panels.
- (4) Building exterior wall construction materials for facades not fronting a public street or property line (e.g., interior courtyards) may include the following secondary exterior building materials: cementitious panels/siding, flat non-corrugated metal panels or exterior grade high pressure laminate panels. These materials shall not exceed fifty percent (50%) of the overall surface area of these facades.
- (5) Not less than 2,000 square feet of gross floor area of the first floors of the buildings constructed in each phase of the development will be required to be constructed and developed for occupancy solely by retail uses. No certificate of occupancy or approval of final inspection for

any Urban Residential dwelling unit within a phase of the development shall be granted until a certificate of occupancy has been issued by the City for the shell space of the foregoing minimum area of required retail space. Such retail space shall have a minimum floor-to-floor height of fourteen feet (14.0').

- (6) With the exception of retail uses indicated in Section 2.P.(5), above, Commercial uses (Retail-Ready) will not be required at the first floor of a building unless indicated on the Architectural Plan attached hereto as Exhibit "F" and incorporated herein by reference (the "Architectural Plan"). A Commercial space shall have a minimum floor-to-floor height of fourteen feet (14.0') unless indicated otherwise on the Architectural Plan.

Q. STREETS, ALLEYS, AND CROSS-PARKING AND ACCESS EASEMENTS:

- (1) A perpetual cross-access easement established by plat or separate instrument for parking and vehicle and pedestrian ingress and egress shall be granted between and among all Blocks within the Property.
- (2) New alleys may be located and constructed in accordance with the Concept Plan.
- (3) The pavement and subgrade of all such private alleys developed within the Property shall be constructed at minimum in accordance with the City standard construction specifications for fire lanes.

R. SIGN REGULATIONS: Signs installed, located, or constructed on the Property shall comply with applicable provisions of the ALDC except to the extent modified as follows:

- (1) *A-Frame/Sandwich Sign.* A Sandwich/A-frame sidewalk sign displaying the name of the restaurant, offerings and hours of operation may be located in association with a restaurant use subject to the following:
 - (a) The sign height shall not exceed four (4) feet;
 - (b) Each sign face shall not exceed an area of eight (8) square feet;
 - (c) The sign may be placed in the pedestrian amenity zone created by street trees and pedestrian lighting, provided that:
 - i. The sign shall not be located no closer than one foot to the fact of the curb; and
 - ii. A minimum unobstructed sidewalk width of six (6) feet is maintained;
 - (d) A sign permit must be obtained from the City prior to placement of the sign on the Property;
 - (e) Only one (1) A-frame signs is permitted per occupancy; and
 - (f) A-frame signs may be placed on the sidewalk adjacent to the restaurant associated with the sign only during the restaurant's business hours.

(2) *Hanging/Projecting Signs.* Hanging signs may be installed on the Property subject to the following:

- (a) No more than one (1) hanging sign will be allowed for each first floor occupancy; provided, however, a first floor building occupant with public entrances on more than one street frontage may have one (1) hanging sign on each street frontage;
- (b) Each sign face shall not exceed an area of twelve (12) square feet;
- (c) Each sign face shall not exceed a width of five (5) feet;
- (d) The lowest edge of the sign shall not be less than eight (8) feet above the ground below the sign; and
- (e) No hanging signs shall be closer than fifteen (15) feet from another hanging sign.



Sample Hanging/Projecting Signage

(3) *Blade Signs.*

- (a) No more than one (1) blade sign will be allowed for each building face. The use of a blade sign on a building face will preempt the use of any permitted wall sign on the same building face and a monument sign on the same street frontage adjacent to that building face.
- (b) Each blade sign shall not exceed an area of fifty (50) square feet per building face.
- (c) Each blade sign shall not exceed a width of five (5) feet.
- (d) The lowest edge of a blade signs shall not be less than twelve (12) feet above the ground.

- (e) Blade signs shall be installed so that the highest edge of the sign is not higher than the point that is two-thirds (2/3) of the building face height in linear feet.



Sample Blade Signage

- (4) *Illuminated Signs:* Illuminated signs will otherwise be allowed to face all streets, including US 75; provided, however, illuminated signs are not allowed to be installed on a street frontage facing a single-family residential development or within 150 feet of any single-family residential district.
- (5) *Banners:* Banners may be installed in association with the grand opening of a business in accordance with applicable provisions of the ALDC.
- (6) *Permanent signs:*
- (a) Wall signs not exceeding a total area of forty (40) square feet may be placed on each street-facing façade of a building used for Urban Residential purposes. In lieu of, but not in addition to, the above-described wall signs, one (1) freestanding monument sign designed, constructed, and located in accordance with applicable provisions of the ALDC may be installed adjacent to the street-facing façade of an Urban Residential building.
 - (b) Retail and Commercial wall signs shall be limited to the maximum allowed for each retail tenant.
- (7) *Awning Signs.* Awning signs are permitted subject to the following:
- (a) Awning signs may only be installed on the ground floor;
 - (b) One (1) awning sign will be allowed for each first floor occupancy; provided, however, a first floor building occupant with public entrances on more than one street frontage may have one (1) awning sign on each street frontage;
 - (c) Awning Signs must be installed with the lowest edge not less than nine (9) feet above sidewalk level;

- (d) Awning Signs shall not exceed ten (10) square feet in sign area, and will only be located on the face or surface of the awning;
- (e) If being used as the main business sign, an awning sign shall not be installed in addition to a wall-mounted sign; and
- (f) If being used as an auxiliary business sign, the awning sign must be located on the valance only, and the height of the lettering shall not exceed eight (8) inches.

SECTION 3. To the extent of any irreconcilable conflict with the provisions of the Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:7/29/19:106904)

Shelley B. George, TRMC, CITY SECRETARY

EXHIBIT "A"
PROPERTY DESCRIPTION

LEGAL DESCRIPTION

PARCEL 1

BEING a tract of land situated in the A.B. Perrin Survey, Abstract No. 713, City of Allen, Collin County, Texas and being all of Lots 1, 2 and 3, Block 12, all of Lot 1 and a part of Lots 2 and 3, Block 13 and all of a 20-foot wide alley of the J.M. Whisenant Addition, an addition to the Town of Allen, Collin County, Texas, according to the plat recorded in Volume 1, Page 52, Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at the intersection of the north right-of-way line of Boyd Drive (a 50-foot wide right-of-way) and the west right-of-way line of Bonham Drive (a 50-foot wide right-of-way);

THENCE with said north right-of-way line of Boyd Drive, South 89°01'58" West, a distance of 522.74 feet to the intersection of the east right-of-way line of U.S. Highway 75 (a variable width right-of-way) and said north right-of-way line of Boyd Drive;

THENCE with said east right-of-way line of U.S. Highway 75, North 19°45'07" East, a distance of 332.50 feet to a point for corner at the intersection of the south right-of-way line of a 15-foot wide alley of the Whisenant Estates Addition No. 2, an addition to the Town of Allen, recorded in Volume 3, Page 98 of said Map Records and said east right-of-way line of U.S. Highway 75;

THENCE with said south right-of-way line of the 15-foot alley, North 89°01'58" East, a distance of 404.84 feet to the intersection of said south right-of-way line of the 15-foot alley and said west right-of-way line of Bonham Drive;

THENCE with said west right-of-way line of Bonham Drive, South 1°00'59" East, a distance of 311.00 feet to the **POINT OF BEGINNING** and containing 3.31 acres of land.

PARCEL 2

BEING a tract of land situated in the A.B. Perrin Survey, Abstract No. 713, City of Allen, Collin County, Texas and being all of Lots 1, 2 and 3, Block 4, all of Lots 1 and 2, Block 5 and all of a 20-foot wide alley of the J.M. Whisenant Addition, an addition to the Town of Allen, Collin County, Texas, according to the plat recorded in Volume 1, Page 52, Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at the intersection of the north right-of-way line of Boyd Drive (a 50-wide right-of-way) and the east right-of-way line of Bonham Drive (a 50-wide right-of-way);

THENCE with said east right-of-way line of Bonham Drive, North 1°00'59" West, a distance of 311.00 feet to a point for corner at the intersection of said east right-of-way line of Bonham Drive and the south right-of-way line of a 15-foot wide alley of the Whisenant Estates Addition, an addition to the Town of Allen, recorded in Volume 3, Page 89, of said Map Records;

THENCE with said south right-of-way line of the 15-foot alley, North 89°01'58" East, a distance of 406.01 feet to a point for corner at the intersection of the west right-of-way line of Anna Drive (a 50-foot wide right-of-way) and said south right-of-way of the 15-foot alley;

THENCE with said west right-of-way line of Anna Drive, South 0°51'55" East, a distance of 311.00 feet to a point for corner at the intersection of said west right-of-way line of Anna Drive and said north right-of-way line of Boyd Drive;

THENCE with said north right-of-way line of Boyd Drive, South 89°01'58" West, a distance of 405.19 feet to the **POINT OF BEGINNING** and containing 2.90 acres of land.

PARCEL 3

BEING a tract of land situated in the William Perrin Survey, Abstract No. 708, City of Allen, Collin County, Texas and being a portion of Lot 1, Block 6 and all of Lots 2 and 3, Block 6 of the J.M. Whisenant Addition, an addition to the Town of Allen, Collin County, Texas, according to the plat recorded in Volume 1, Page 52, Map Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at the intersection of the south right-of-way line of Boyd Drive (a 50-wide right-of-way) and the east right-of-way line of Bonham Drive (a 50-foot wide right-of-way);

THENCE with said south right-of-way line of Boyd Drive, North 89°01'58" East, a distance of 405.06 feet to a point for corner at the intersection of the west right-of-way line of Anna Drive (a 50-foot wide right-of-way) and said south right-of-way line of Boyd Drive;

EXHIBIT "A"
PROPERTY DESCRIPTION cont.

THENCE with said west right-of-way line of Anna Drive, South 0°51'55" East, a distance of 300.00 feet to a point for corner at the intersection of the north right-of-way line of Main Street (a 50-foot wide right-of-way) and said west right-of-way line of Anna Drive;

THENCE with said north right-of-way line of Main Street, South 89°01'58" West, a distance of 294.27 feet to the southeast corner of a tract of land described in Special Warranty Deed to Frank Warren Burpo, recorded in Instrument Number 2003-0105102, Official Public Records of Collin County, Texas;

THENCE with the east and north lines of said Burpo Tract, the following courses and distances to wit:

North 1°00'59" West, a distance of 150.00 feet to the northeast corner of said Burpo Tract;

South 89°01'58" West, a distance of 110.00 feet to the northwest corner of said Burpo Tract and in said east right-of-way line of Bonham Drive;

THENCE with said east right-of-way line of Bonham Drive North 1°00'59" West, a distance of 150.00 feet to the **POINT OF BEGINNING** and containing 2.41 acres of land.

PARCEL 4

BEING a tract of land situated in the William Perrin Survey, Abstract No. 708, City of Allen, Collin County, Texas and being a portion of Lots 1, 11 & 12 and all of Lots 2, 3, 4, 6, 7, 8, 9 and 10, Block 1 of the JAS. Garland Addition, an addition to the Town of Allen, according to the plat recorded in Volume 1, Page 122, Map Records of Collin County, Texas and a portion of Lot 1 and all of Lot 2, Block 11 and all of a 20-foot wide alley of the J.M. Whisenant Addition, an addition to the Town of Allen, Collin County, Texas, according to the plat recorded in Volume 1, Page 52, of said Map Records, and being more particularly described as follows:

BEGINNING at the intersection of the south right-of-way line of Boyd Drive (a 50-foot wide right-of-way) and the west right-of-way line of Bonham Drive (a 50-foot wide right-of-way);

THENCE with said west line of Bonham Drive, South 01°00'59" East, a distance of 185.00 feet to the northeast corner of a tract of land described in Special Warranty Deed to P & J Partners, recorded in Instrument No. 20061204180, Official Public Records of Collin County, Texas;

THENCE departing said west line of Bonham Drive and with the north and east lines of said P & J Partners tract, the following courses and distances to wit:

South 89°01'58" West, a distance of 75.00 feet to the northwest corner of said P & J Partners Tract;

South 1°00'59" East, a distance of 115.00 feet to the southwest corner of said P & J Partners Tract and the north right-of-way line of Main Street (a 50-foot wide right-of-way);

THENCE with said north right-of-way line of Main Street, South 89°01'58" West, a distance of 216.28 feet to the southeast corner of a tract of land described in Special Warranty Deed to Amer Suleman, recorded in Instrument No. 20071102001495810, of said Official Public Records;

THENCE departing said north right-of-way line of Main Street and with the east, north and west lines of said Suleman Tract, the following courses and distances to wit:

North 1°00'59" West, a distance of 150.31 feet to the northeast corner of said Suleman Tract;

South 89°01'58" West, a distance of 71.10 feet to the northwest corner of said Suleman Tract;

South 1°00'59" East, a distance of 150.31 feet to the southwest corner of said Suleman Tract and in said north right-of-way line of Main Street;

THENCE with said north right-of-way line of Main Street, South 89°01'58" West, a distance of 286.54 feet a point for corner at the intersection of said north right-of-way line of Main Street and the east right-of-way line of U.S. Highway 75 (a variable width right-of-way);

THENCE with said east right-of-way line of U.S. Highway 75, North 18°36'07" East, a distance of 303.29 feet to a point for corner;

THENCE continuing with said east right-of-way line of U.S. Highway 75, North 19°45'07" East, a distance of 15.21 feet to a point for corner at the intersection of said south right-of-way line of Boyd Drive and said east right-of-way line of U.S. Highway 75;

THENCE with said south right-of-way line of Boyd Drive, North 89°01'58" East, a distance of 541.70 feet to the **POINT OF BEGINNING** and containing 3.66 acres of land.

Kimley»»Horn

EXHIBIT B
PD CONCEPT PLAN

ALLEN CITY CENTER
BLOCK 12 & 13, WHESENANT ADDITION
CITY OF ALLEN
COLLIN COUNTY, TEXAS

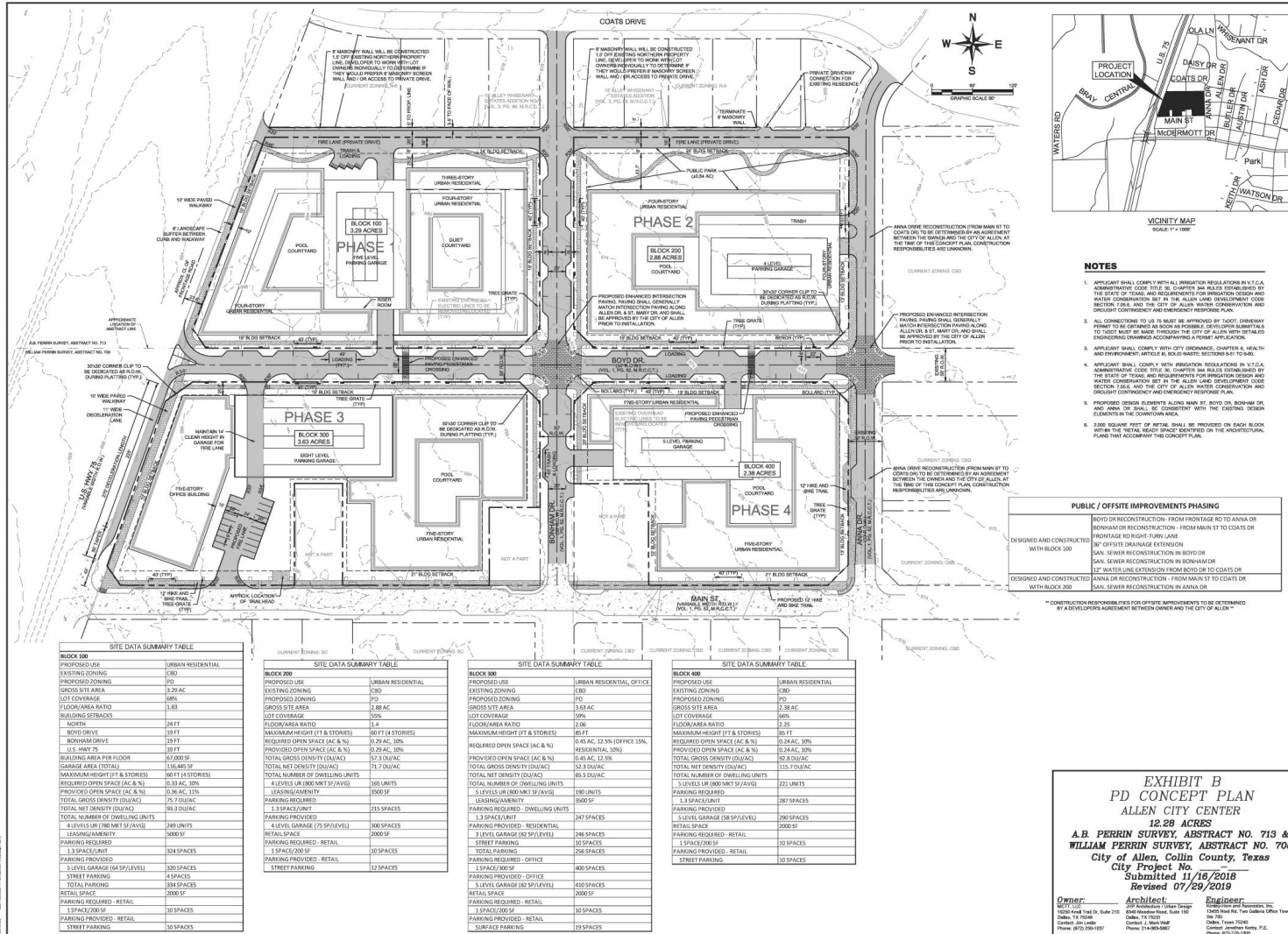
SHEET NUMBER
EX-B

No.	REVISION	DATE	BY

KHA PROJECT
064105012
DATE
07/25/2019
SCALE AS SHOWN
DESIGNED BY RCL
DRAWN BY RCL
CHECKED BY JCK

ALLEN CITY CENTER
12 & 13, WHISENANT ADDITION
CITY OF ALLEN
COLLIN COUNTY, TEXAS

SHEET NUMBER
EX-B



OPEN SPACE PLAN

ALLEN CITY CENTER BLOCK 12 & 13, ALBENANT ADDITION CITY OF ALLEN COLLIN COUNTY, TEXAS	OPEN SPACE PLAN	KIMLEY-HORN PROJECT DATE: 01/02/2019 DRAWN: JH-BROWN CHECKED: JH-BROWN DESIGNED: JH-BROWN CADD: JH-BROWN SCALE: AS SHOWN SHEET NO. 12 OF 12 SHEETS BY:	Kimley»Horn 2019 KIMLEY-HORN AND ASSOCIATES, INC. 10000 WEST 10TH STREET, SUITE 1700 DALLAS, TEXAS 75240 TEL: 972.382.7600 FAX: 972.382.7601 WWW.KIMLEY-HORN.COM TX 14-068	No.	DATE:	BY:
				REVIEWED:		

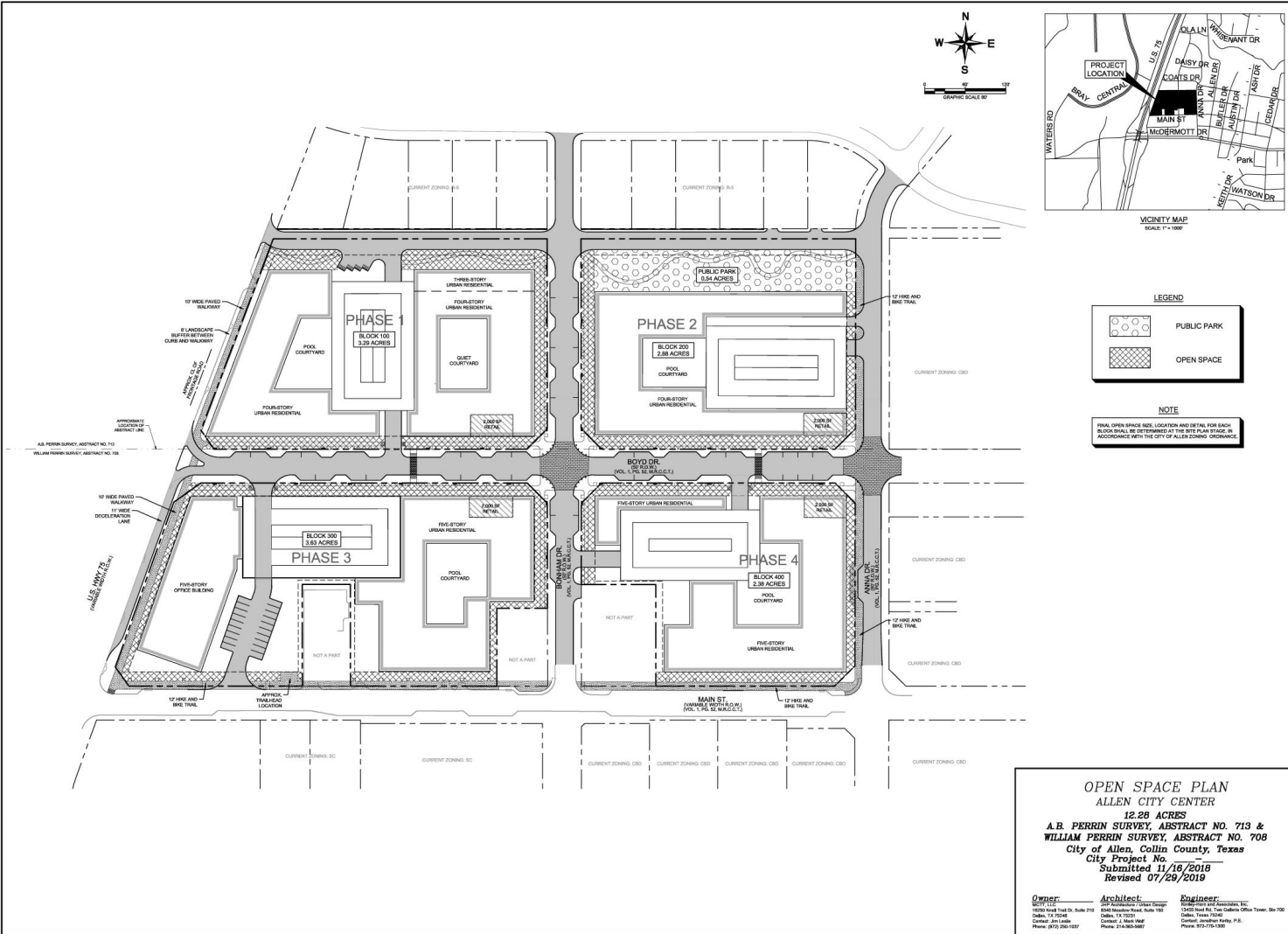
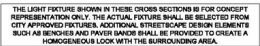


EXHIBIT “D”



STREET CROSS SECTIONS
ALLEN CITY CENTER
12.28 ACRES
A.B. PERRIN SURVEY, ABSTRACT NO. 713 &
WILLIAM PERRIN SURVEY, ABSTRACT NO. 708
City of Allen, Collin County, Texas
City Project No. _____
Submitted 11/16/2018
Revised 03/28/2019

Owner: MST, LLC 16550 Koval Trail Dr., Suite 210 Dallas, TX 75248 Contact: Jim Leslie Phone: 972-250-1087	Architect: 21P Architects / Urban Design 8040 Meadow Road, Suite 100 Dallas, TX 75231 Contact: J. Mark Wolf Phone: 214-343-0987	Engineer: Kierley-Horn and Associates, Inc. 15455 Neal Rd., Two Gulfside Office Tower, Ste 700 Dallas, Texas 75248 Contact: Jonathan Kierley, P.E. Phone: 972-275-1300
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EXHIBIT "E"
BUILDING CONCEPTS



01 Southwest Corner Perspective



02 West Elevation

Exterior Facade Materials: Masonry 96% Secondary: 6% Percentage of Openings: F1: 37% F2: 38% F3: 38% F4: 31%

MATERIAL LEGEND

- 1 Storefront
- 2 Windows
- 3 Masonry-Brick
- 4 Metal Panel
- 5 Not Used
- 6 Masonry-Stucco
- 7 Metal Assembly Rail
- 8 Metal Awning
- 9 Precast Concrete Panel, PTD



Allen City Center
Allen, Texas

MCTT LLC.

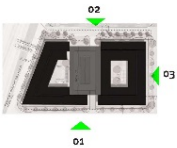
Elevation & Perspective

08.01.2019	201736.00 KM
Not for Regulatory Approval, Permit or Construction. J. Mark Wolf Registered Architect of State of Texas, Registration No. 9932	



MATERIAL LEGEND

- 1 Storefront
- 2 Windows
- 3 Masonry-Brick
- 4 Metal Panel
- 5 Not Used
- 6 Masonry-Stucco
- 7 Metal Assembly Rail
- 8 Metal Awning
- 9 Precast Concrete Panel, PTD



JHP

Allen City Center
Allen, Texas

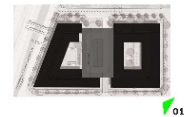
MCTT LLC.

Elevation & Perspective

08.01.2019	201736.00	KM
Not for Regulatory Approval, Permit or Construction; J. Mark West Registered Architect of State of Texas, Reg. No. 9119		



01 Southeast Corner Perspective



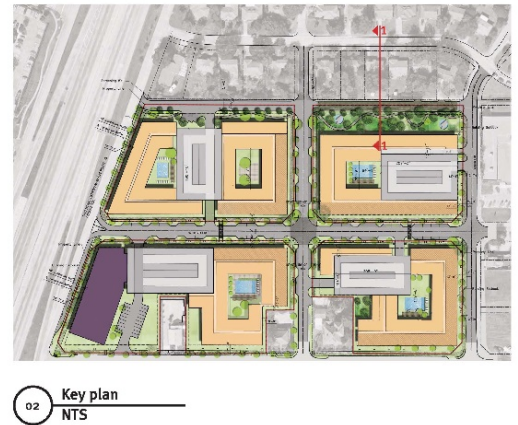
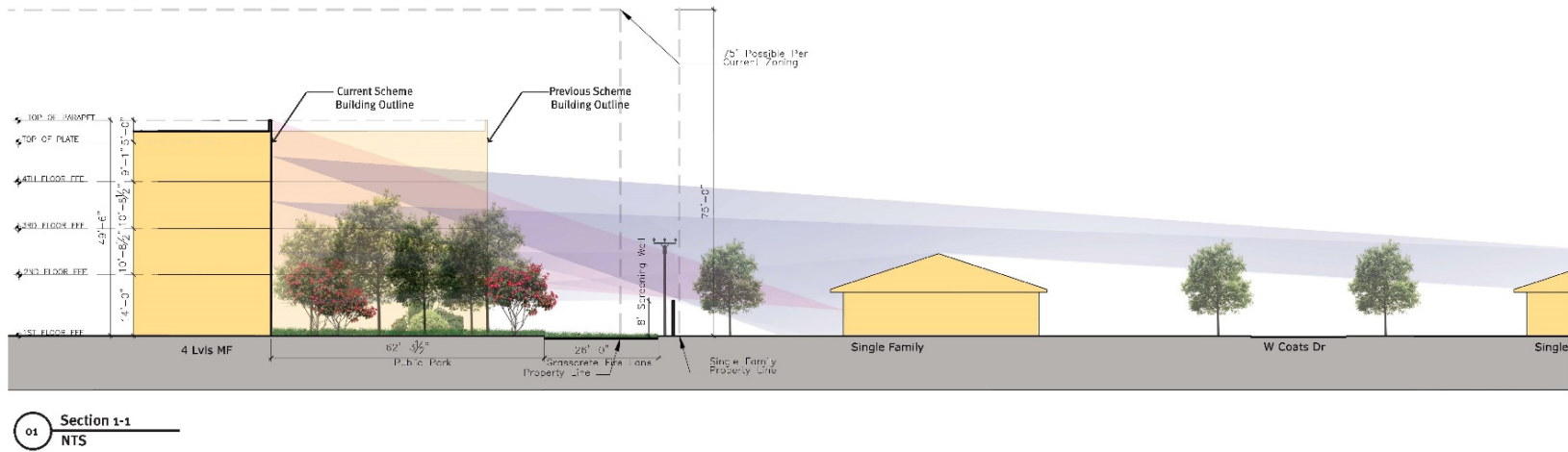
JHP

Allen City Center
Allen, Texas

MCTT LLC.

Elevation & Perspective

08.01.2019	201736.00 KM
Not for Regulatory Approval, Permit or Construction. J. Mark Wolf Registered Architect of Texas, Registration No. 91919	



JHP

Allen City Center
Allen, Texas

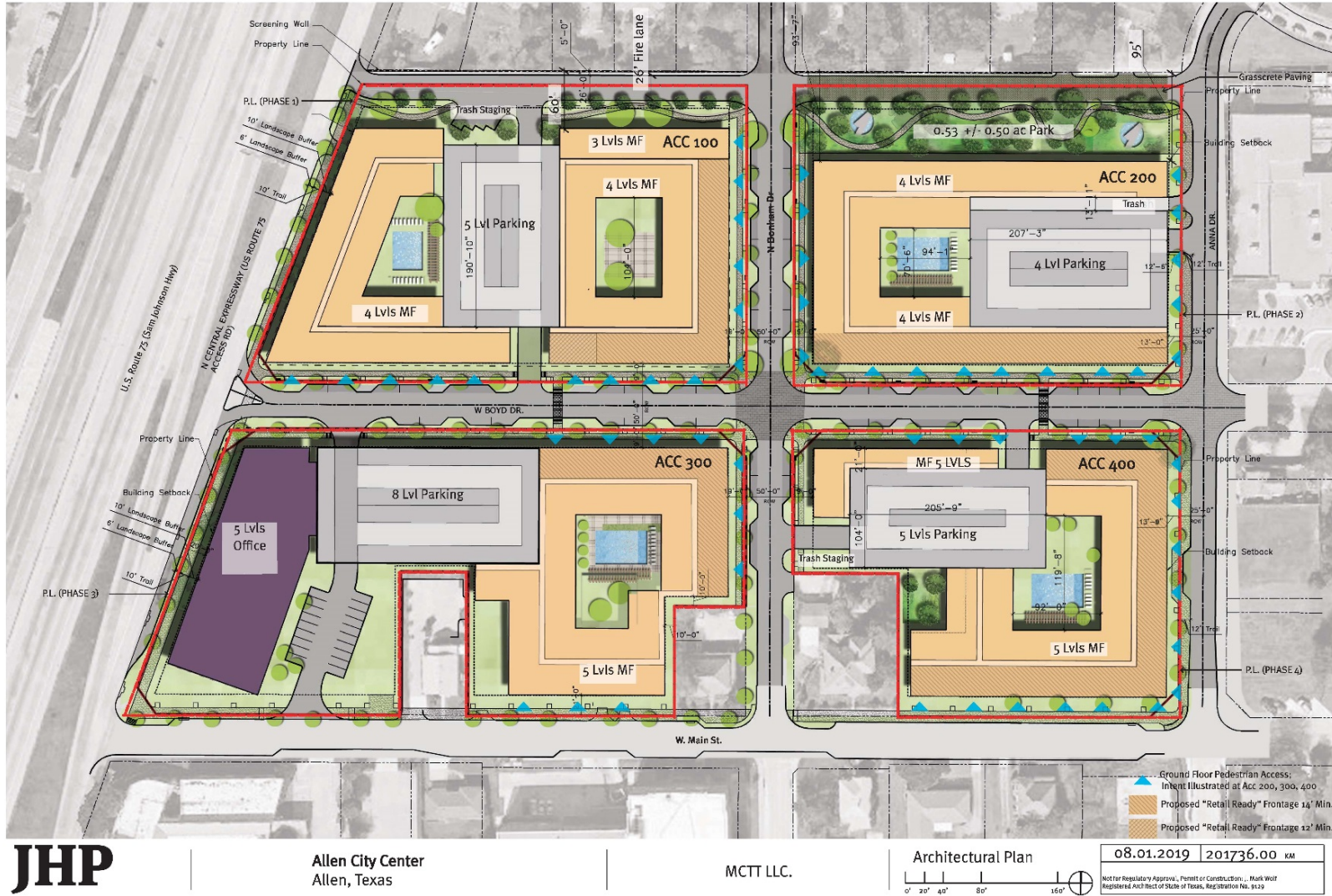
MCTT LLC.

Building Section

08.01.2019	201736.00 KM
Not for Regulatory Approval, Permit or Construction. J. Mark Wolf Registered Architect of State of Texas, Registration No. 9933	

EXHIBIT "E"
BUILDING CONCEPTS cont.

EXHIBIT "F"
ARCHITECTURAL PLAN

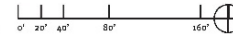


JHP

Allen City Center
Allen, Texas

MCTT LLC.

Architectural Plan







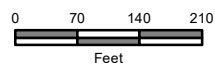


Property Ownership Notification

Allen City Center

Map Legend

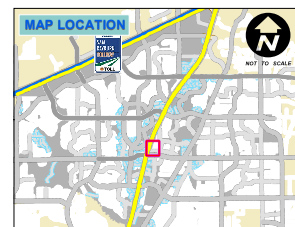
-  Public Hearing Property
 200' Buffer
 Railroad
 CollinCAD Parcels



Community Development - Planning

Date Saved: 5/30/2019

NOTE: This map is only for illustration purpose only, please contact the City of Allen Planning & Development Department for specific rules and regulations.



July 16, 2019 Planning and Zoning Commission Meeting Minutes

Conduct a Public Hearing and Consider a Request to Establish a Planned Development Zoning District with a Base Zoning of Central Business District "CBD" and to Adopt Development Regulations, Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections for Approximately 12.28± Acres in the A. B. Perrin Survey, Abstract No. 713 and William Perrin Survey, Abstract No. 708; Generally Located at the Northeast Quadrant of U.S. Highway 75 and W. Main Street and Bounded by Anna Drive, Main Street, U.S. Highway 75, and the Southern Boundary of Block A and C of Whisenant Estates Addition. (ZN-113018-0042) [Allen City Center - Urban Residential and Office Uses]

Mr. Kurbansade, Director, presented the item to the Commission.

Mr. Kurbansade noted that staff is in support of the agenda item.

Bill Dahlstrom, 2323 Ross Avenue, Suite 600, Dallas, Texas, the Applicant, spoke about the history of the project.

Chair Trahan opened the public hearing.

The following individual submitted a letter in opposition of the item:

- Rick and Margaret Ives, 401 W. Coats Drive, Allen, Texas,
- Kelly Cunningham, 727 Fairlawn Street, Allen, Texas,
- Katy Seitzler, Allen, Texas,
- Melinda Whirley, 509 Main Street, Allen, Texas,
- Cynthia Rosemond, 412 W. Coats Drive, Allen, Texas,
- Paul Wilkinson, 408 Daisy Drive, Allen, Texas,
- Marc Anderson, Allen, Texas, and
- Paul Rosemond, 412 W. Coats Drive, Allen, Texas

The following individuals submitted a letter in support of the item:

- Ross Obermeyer, 927 Rush Creek Drive, Allen, Texas

The following individuals spoke in support of the item:

- Jeff Burkhardt, 406 Fox Trail, Allen, Texas

The following individuals spoke in opposition of the item:

- John Humen, 206 Central Expressway N, Allen, Texas,
- Adelia Scaife, 403 W. Coats Drive, Allen, Texas,
- Devin Hudson, 407 Daisy Drive, Allen, Texas,
- Melanie Hughes, 920 Rush Creek Drive, Allen, Texas,
- Theresa Ginsburg, 910 Wyndham Way, Allen, Texas,
- Doug Gallagher, 204 Glenwick Place, Allen, Texas,

- Misty Strebeck, 302 N. Bonham Drive, Allen, Texas, and
- Louis Mancuso, 304 N. Anna, Allen, Texas

The following individuals did not speak but wished to record opposition of the item:

- Kevin Handy, 1858 Villa Drive, Allen, Texas,
- Marina Gutierrez, 303 N. Bonham Drive, Allen, Texas,
- Leslie Dicus, 802 Glen Rose Drive, Allen, Texas,
- Debbie Rhyner, 302 Fairfax Drive, Allen, Texas,
- Karen Kincheloe, 1006 Ashby Drive, Allen, Texas,
- Rick Ives, 401 W. Coats Drive, Allen, Texas,
- Paula Cheek, 302 W. Coats Drive, Allen, Texas,
- Pervez Mahmud, 405 W. Coats Drive, Allen, Texas,
- Judy Adams, 409 W. Coats Drive, Allen, Texas,
- Sherilyn Kunkel, 9 Cedar Elm Circle, Allen, Texas,
- Sui Tin, 2054 Wimbledon Drive, Allen, Texas,
- Kate Lawson, 302 N. Anna Drive, Allen, Texas,
- Marion Parked, 400 Daisy Drive, Allen, Texas,
- Michelle Mancuso, 304 N. Anna Drive, Allen, Texas,
- Sean Welch, 1414 Shiloh Road, #2824, Allen, Texas,
- Alyson Casey, 1514 Flameleaf Drive, Allen, Texas,
- Margaret Ives, 401 W. Coats Drive, Allen, Texas,
- Alex Evans, 1823 Lake Travis Drive, Allen, Texas,
- Priscilla Parker, 400 Daisy Drive, Allen, Texas,
- Jean Baker, 107 Melody Mall, Allen, Texas,
- Randy Johnson, 407 W. Coats Drive, Allen, Texas,
- Sterling Gibson, 1603 Lexington Avenue, Allen, Texas,
- Dawn Scaife, 909 Carlsbad Drive, Allen, Texas,
- Gene Scaife, 909 Carlsbad Drive, Allen, Texas,
- Ken Budz, 503 W. Coats Drive, Allen, Texas,
- Connie Budz, 503 W. Coats Drive, Allen, Texas,
- Sinan Yildirim, 206 Central Expressway, Allen, Texas,
- Steve Dicus, 802 Glen Rose Drive, Allen, Texas,
- Bonnie Monroe, 218 Wildwood Place, Allen, Texas, and
- Musta Erdem, 212 Windsong Way, Allen, Texas.

Chair Trahan closed the public hearing.

The Commission discussed the following:

- Impact of the project on the school district,
- Traffic impact analysis,
- Density,
- Previous versions of the plan,
- Phasing of the project,
- Phasing of the infrastructure, and
- Commercial and retail-ready space.

Motion: Upon a motion by 1st Vice-Chair Platt, and a second by 2nd Vice-Chair Orr, the Commission voted 4 IN FAVOR and 2 OPPOSED to recommend approval of an ordinance establishing a Planned Development zoning district with a base zoning of Central Business District “CBD” for 12.28± acres in the A. B. Perrin Survey, Abstract No. 713 and William Perrin Survey, Abstract No. 708, subject to the Development Regulations, Concept Plan, Building Elevations, Architectural Plan, Open Space Plan, and Street Cross Sections, with the following conditions: (1) 2,000 square feet of retail space is developed with each phase and (2) a decrease in total number of units from 850 to 825.

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair
Stephen Platt, Jr., 1st Vice-Chair
Michael Orr, 2nd Vice-Chair
Gene Autrey
Dan Metevier
Elias Shaikh

Absent:

John Ogrizovich

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE:	August 13, 2019
SUBJECT:	Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 56 Shopping Center By Adding "Banquet Hall" as a Permitted Use and Adopt a Concept Plan and Building Elevations for a Property Generally Located East of Custer Road and South of McDermott Drive. [McDermott Banquet Hall]
STAFF RESOURCE:	Hayley Angel, Planner II
PREVIOUS COUNCIL ACTION:	Planned Development No. 56 - Approved September, 1994
BOARD / COMMISSION ACTION:	On July 16, 2019, the Planning and Zoning Commission voted 6 in favor (Commissioners Trahan, Platt, Orr, Autrey, Metevier, and Shaikh) and 0 opposed to recommend approval of the request.
ACTION PROPOSED:	Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 56 Shopping Center By Adding "Banquet Hall" as a Permitted Use and Adopt a Concept Plan and Building Elevations for a Property Generally Located East of Custer Road and South of McDermott Drive. [McDermott Banquet Hall]

BACKGROUND

The property is generally located east of S. Custer Road and directly south of W. McDermott Drive (and commonly known as 2021 W. McDermott Drive). The property to the north, across W. McDermott Drive, is Agricultural-Open Space AO. The properties to the east are zoned Planned Development PD No. 56 Single-Family Residential SF. The property to the south and west is zoned Planned Development PD No. 56 Shopping Center SC.

The property is currently zoned Planned Development PD No. 56 Shopping Center SC. The applicant is requesting to amend the Development Regulations to add Banquet Hall as a permitted use.

There are four points of access into the site--one through W. McDermott Drive, one through an existing Fire Lane, Access, and Utility Easement, and two through internal access drives.

The Concept Plan shows the existing 3,783± square foot building being used as a Banquet Hall. There is a proposed second phase of development, which includes enclosing the existing drive through and adding eight parking spaces. The second phase would add an additional 1,254± square feet of building area to the site.

The development regulations include a definition for Banquet Hall.

The Building Elevations highlight the proposed addition to the building, with stucco, brick, and stone as the primary building materials.

The Planned Development Amendment request has been reviewed and meets the standards of the Allen Land Development Code.

On July 16, 2019, the Planning and Zoning Commission recommended approval of the item.

LEGAL NOTICES

Public Hearing Sign - July 5, 2019

Public Hearing Letters - July 5, 2019

Newspaper Notice - July 25, 2019

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ to amend the development regulations of Planned Development No. 56 Shopping Center and adopt a Concept Plan and Building Elevations for a property generally located east of Custer Road and south of McDermott Drive.

ATTACHMENTS:

Ordinance

Property Notification Map

Draft Minutes of the July 16, 2019 P&Z Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY AMENDING THE DEVELOPMENT REGULATIONS OF TRACT C OF PLANNED DEVELOPMENT “PD” NO. 56 SHOPPING CENTER “SC” AND ADOPTING A CONCEPT PLAN AND BUILDING ELEVATIONS RELATING TO THE USE AND DEVELOPMENT OF ALL OF LOT 1, BLOCK A, CUSTER/MCDERMOTT ADDITION (COMMONLY KNOWN AS 2021 W. MCDERMOTT DRIVE); PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and the Zoning Map of the City of Allen, Collin County, Texas, as previously amended, be further amended by amending as set forth in Section 2 of this Ordinance the development regulations of Tract C of Planned Development “PD” No. 56 Shopping Center “SC,” with respect to the use and development of Lot 1, Block A, Custer/McDermott Addition, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Cabinet K, Slide 158, Map Records, Collin County, Texas (“the Property”).

SECTION 2. The Property shall be developed and used in accordance with the applicable provisions of the Allen Land Development Code, as amended, (“ALDC”) and Tract C of Planned Development “PD” No. 56 as set forth in Ordinance No. 1281-9-94, (“the PD 56 Ordinance”), except to the extent modified by the Development Regulations set forth below:

- A. CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit “A” and incorporated herein by reference. Minor modifications to streets that do not alter the general alignment shown on the Concept Plan may be made at the time of Site Plan approval.
- B. PERMITTED USES:** In addition to the uses permitted by the PD 56 Ordinance with respect to the use and development of Tract C, the Property may be developed and used for a “Banquet Hall” use. For purposes of this Section 2.B., “Banquet Hall” means an establishment which is rented by individuals or groups used for the purpose of hosting private functions including, but not limited to a party, banquet, reception, or social event.
- C. BUILDING ELEVATIONS:** Buildings to be constructed on the Property shall be developed in general conformance with the height, materials, and architectural style set forth in the Building

Elevations attached hereto as Exhibit “B” and incorporated herein by reference (“the Building Elevations”).

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

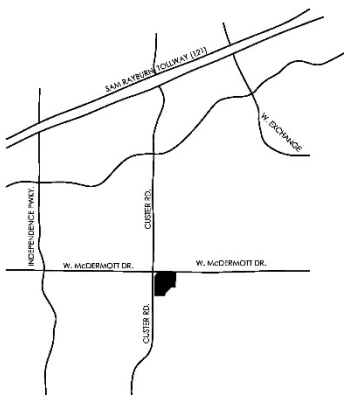
ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:7/23/19:109622)

Shelley B. George, TRMC, CITY SECRETARY

SITE REGULATIONS		
	EXISTING	PROPOSED
BASE ZONING PERMITTED USE	'C' SHOPPING CENTER KORR & HANCOCK RESOLUTION	PROPOSED TO MATCH EXISTING BRANDER HILL
MINIMUM STREETS	FRONT: 25' SID: 25' REAR: 2'	PROPOSED TO MATCH EXISTING
MINIMUM LOT WIDTH, DEPTH, & AREA	WIDTH: N/A DEPTH: N/A AREA: N/A	PROPOSED TO MATCH EXISTING
MAXIMUM HEIGHT	35' ± MAXIMUM HEIGHT	PROPOSED TO MATCH EXISTING
BUILDING MATERIALS	BRICK VENEER, STONE VENEER, CAST STONE, STUCCO	PROPOSED TO MATCH EXISTING

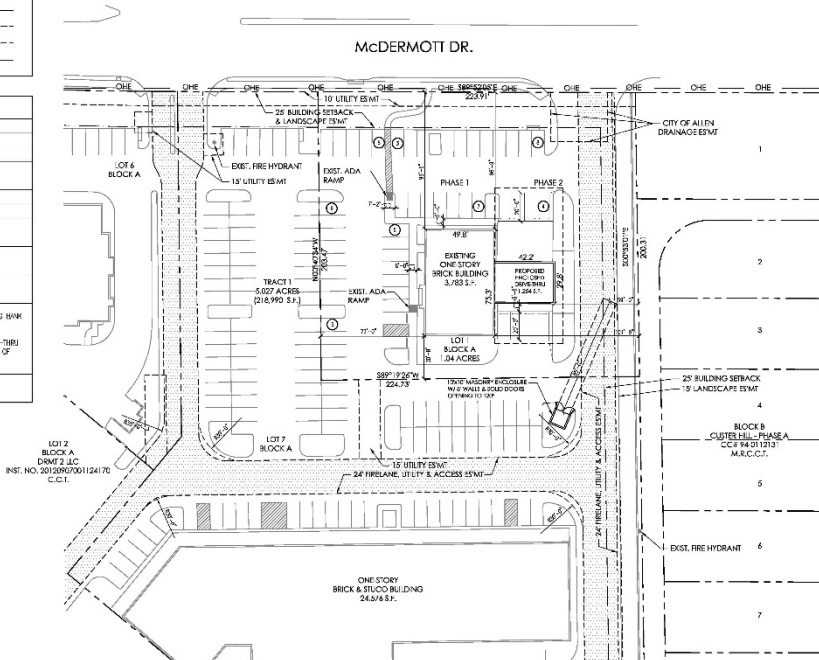
SITE DATA SUMMARY	
LAND USE	INDUSTRIAL
BUILDING STES LOT COVERAGE	104 ACRES, SETBACK 100' NO. SE. SC PROPOSED TO MATCH EXISTING
FLOOR AREA RATIO	PHASE 1: PROPOSED TO MATCH EXISTING @ .083 PHASE 2: FAR = .111
BUILDING STES PARKING RATIO	ONE STORY, 3' @ MINIMUM - 80'± 1 PARKING STALL PER 100 S.F.
PARKING REQUIRED	P-USE ONE: 3,783 SF / 100 = 36 SPOTS P-USE TWO: 5,237 SF / 100 = 51 SPOTS
PARKING PROVIDED	P-USE ONE: 45 SPOTS P-USE TWO: 33 SPOTS
FLOOD PLAIN AREAS	S1: NOT IN FLOOD HAZARD ACCORDING TO CITY OF ALBUQUERQUE
PHASE OF DEVELOPMENT	P-USE 1: SITE IS CURRENTLY UNDER REVIEW ON A C-10 ZONING WORK FORCE TO DETERMINE IF THERE IS A REQUEST FOR P-USE 2: PHASE TWO INCLUDES EXISTING 1-2 EXISTING DRAIN-THRU LIDS FOR ADDITIONAL, SWEET'S HALL SPACE AND THE ADDITION OF TENT (10) PARKING SPACES.
HIGH AND BACK TRAILS	NOT APPLICABLE TO S1:



VICINITY MAP
NOT TO SCALE

LINE TYPE LEGEND

PROPERTY LINE _____
 SETBACK _____
 EASEMENT _____
 PHASE LINE _____
 OVERHEAD EASEMENT _____ ONE _____ ONE _____



01 CONCEPT PLAN

NOTE: $1^\circ = 60'$

PD AMENDMENT CONCEPT PLAN
MCDERMOTT BANQUET HALL
LOT 1, BLOCK A, CUSTER/MCDERMOTT ADDITION
1.04 ACRES
MCDERMOTT COMMONS SHOPPING CENTER
CITY OF ALLEN, COLLIN COUNTY
SUBMITTED: JULY 09, 2019

MCCALLA Design
GROUP

MCCALLA DESIGN GROUP
ARCHITECTURE, P.L.L.C.
780 N. Wallers Rd., Suite 100
Allen, Texas 75013
972.294.2617 972.421.1827/pdxj

MCDERMOTT BANQUET HALL
SE CORNER OF MCDERMOTT & CUSTER
ALLEN, TEXAS

OWNER
GRANDVIEW REAL INVESTMENTS, LLC
Attn: Preston Ellis
8763 Stockard Dr., Suite 501
Frisco, Texas 75034
P: 972.966.7751

McDERMOTT COMMONS
SHOPPING CENTER
ALLEN, COLLIN COUNTY, TEXAS
PARTNER PROJECT NUMBER 15-104448

INTERVIEW REVIEW DOCUMENT
(To be completed by you and your Reviewer)

References

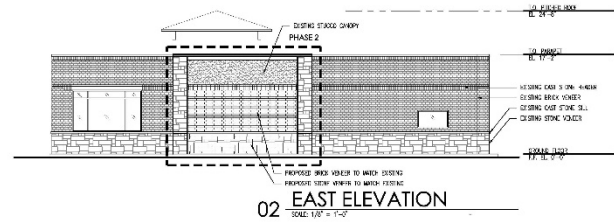
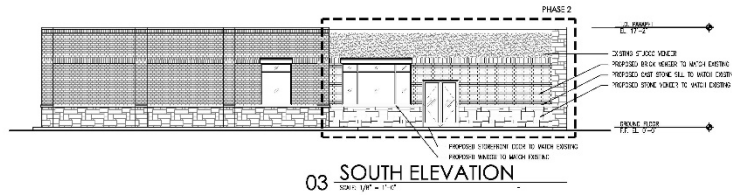
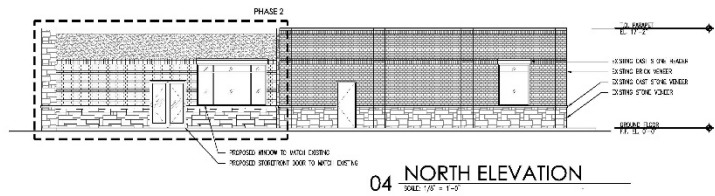
Issue Date:
09 JULY 2019

Project No:
19C51A
Sheet Title:

ATTACHMENT C -
CONCEPT PLAN

Sheet No:
A1.01

EXHIBIT “A”
CONCEPT PLAN



FACADE CALCULATIONS			
FACADE PLAN NOTES:			
1. THE FACADE PLAN IS SUBJECT TO THE CITY OF ALLEN'S BUILDING DEPARTMENT REVIEW AND APPROVAL BY ADDITIONAL SERVICES.			
2. ALL BRICK VENEER AND STONE VENEER ARE SUBJECT TO APPROVAL BY THE CITY OF ALLEN.			
3. FACADE PLAN FOR FACADE PLAN:			
4. NORTH ELEVATION			
BRICK VENEER	1,200 SF	277 SF	100%
STONE VENEER	2,100 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
5. EAST ELEVATION			
BRICK VENEER	1,200 SF	277 SF	100%
STONE VENEER	2,100 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
6. SOUTH ELEVATION			
BRICK VENEER	1,200 SF	277 SF	100%
STONE VENEER	2,100 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
7. WEST ELEVATION			
BRICK VENEER	1,200 SF	277 SF	100%
STONE VENEER	2,100 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%
EXISTING STONE	43 SF	277 SF	100%

PD AMENDMENT ELEVATIONS
MCDERMOTT BANQUET HALL
LOT 1, BLOCK A, CUSTER/MCDERMOTT ADDITION
1.04 ACRES
MCDERMOTT COMMONS SHOPPING CENTER
CITY OF ALLEN, COLLIN COUNTY
SUBMITTED: JUNE 20, 2019

MCCALLA DESIGN GROUP
MCCALLA DESIGN GROUP
ARCHITECTURAL, LLC
700 N. WINTERBURN, SUITE 200
ALLEN, TEXAS 75013
972.343.1887 972.343.1887

MCDERMOTT BANQUET HALL
SE CORNER OF MCDERMOTT & CUSTER
ALLEN, TEXAS

OWNER:
GRAY/DEZEA REALTY, INC.
ATTN: PROPERTY MGR
8700 WINTERBURN DR., SUITE 200
ALLEN, TEXAS 75013
972.343.1887

MCDERMOTT COMMONS
SHOPPING CENTER
ALLEN, COLLIN COUNTY, TEXAS
PROJECT NUMBER: 15-00448
SHEET NUMBER: 1

REVISIONS/REVISIONS

Remarks:

Issue Date:

20 JUNE 2019

Project No:

15-00448

Sheet Title:

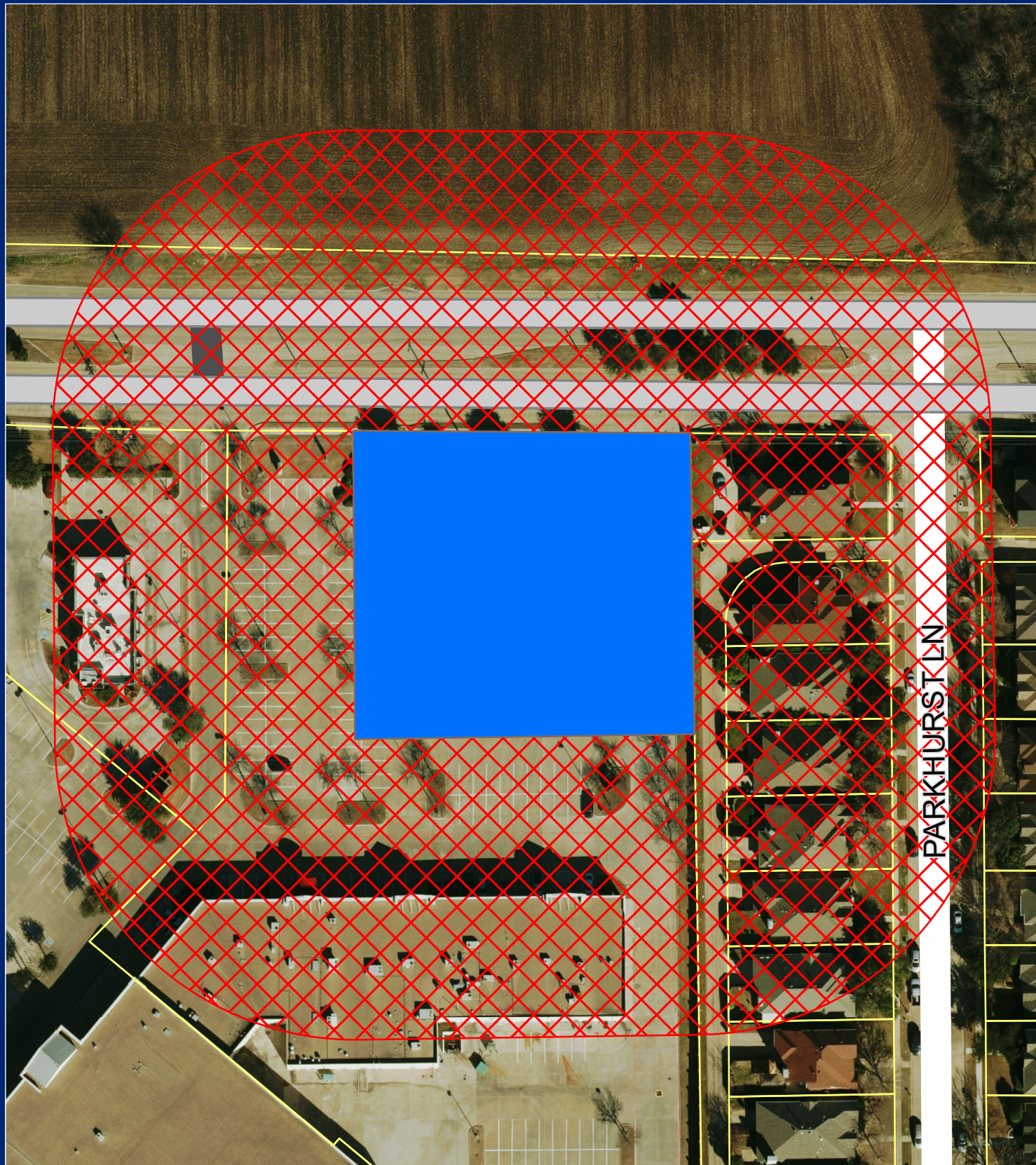
ATTACHMENT E -

ELEVATIONS

Sheet No:

A4.01

EXHIBIT "B"
BUILDING ELEVATIONS



Property Ownership Notification
McDermott Banquet Hall
2021 W McDermott Dr

Map Legend

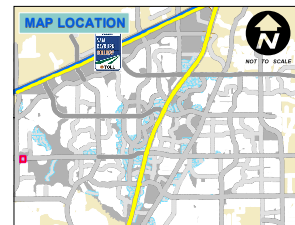
- Public Hearing Property
- 200' Buffer
- Railroad
- CollinCAD Parcels



0 25 50 75
Feet

Community Development - Planning
Date Saved: 7/3/2019

NOTE: This map is only for illustration purpose only, please contact the City of Allen Planning & Development Department for specific rules and regulations.



July 16, 2019 Planning and Zoning Commission Meeting Minutes

Conduct a Public Hearing and Consider a Request to Amend the Development Regulations of Planned Development PD No. 56 Shopping Center "SC" By Adding "Banquet Hall" as a Permitted Use and to Adopt a Concept Plan for Lot 1, Block A, Custer/McDermott Addition; Generally Located 623± Feet East of S. Custer Road and Directly South of W. McDermott Drive (and Commonly Known as 2021 W. McDermott Drive). (ZN-053119-0051) [McDermott Banquet Hall]

Ms. Angel, Planner, presented the item to the Commission.

Ms. Angel noted that staff is in support of the agenda item.

Chair Trahan opened the public hearing.

The following individuals did not speak but wished to record opposition of the item:

- Sreenivasulu Dandu, 2029 Calisto Way, Allen, Texas, and
- Siva Kondru, 4617 Quiet Circle, Allen, Texas

Chair Trahan closed the public hearing.

The Commission discussed the proposed use and overall business operations.

Praveen Billa, the Applicant, stated that there would not be food preparation on site.

Motion: **Upon a motion by 1st Vice-Chair Platt, and a second by Commissioner Shaikh, the Commission voted 6 IN FAVOR and 0 OPPOSED to recommend approval of an ordinance to amend Planned Development PD No. 56 Shopping Center SC for Lot 1, Block A, Custer/McDermott Addition, subject to the Development Regulations, Concept Plan, and Building Elevations, as presented.**

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair
Stephen Platt, Jr., 1st Vice-Chair
Michael Orr, 2nd Vice-Chair
Gene Autrey
Dan Metevier
Elias Shaikh

Absent:

John Ogrizovich

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: August 13, 2019

SUBJECT: Conduct a Public Hearing on the Fiscal Year 2019-2020 Budget as Required by Article IV, Section 4.04 of the Allen City Charter.

STAFF RESOURCE: Eric Cannon, Chief Financial Officer
Chris Landrum, Budget Manager
Rebecca Brack, Budget Officer

PREVIOUS COUNCIL ACTION: On July 23, 2019, City Council Set Tuesday, August 13, 2019, and Tuesday, August 27, 2019, as the Public Hearing Dates Regarding the City Budget.

ACTION PROPOSED: Conduct a Public Hearing on the Fiscal Year 2019-2020 Budget as Required by Article IV, Section 4.04 of the Allen City Charter.

BACKGROUND

The City Charter requires that the City Council set and conduct a Public Hearing on the Budget. This year the City will hold two public hearings to coincide with the two public hearings that are to be held on the tax rate. August 13, 2019, and August 27, 2019, are the dates City Council set for the public hearings on the budget.

The City Charter mandates that no other business may be conducted at these hearings. As stated in the City Charter, a Notice of Public Hearing on the Budget must be published 5-15 days prior to the hearing. The notice for the first public hearing was published on August 1, 2019, in the Allen American newspaper, and the notice for the second public hearing will be published on August 15, 2019, in the Allen American newspaper.

BUDGETARY IMPACT

The FY 2019-2020 Proposed Expenditure Budget totals \$231,184,023 for all funds. The FY 2019-2020 Proposed Revenue Estimate plus beginning Fund Balance totals \$325,928,764 for all funds. Please refer to the attached Combined Budget Summary for further details.

STAFF RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and announce that the City Council will vote on the FY2020 budget at the September 10, 2019, City Council meeting at 7:00 PM at Allen City Hall, 305 Century Parkway, Allen, Texas.

ATTACHMENTS:

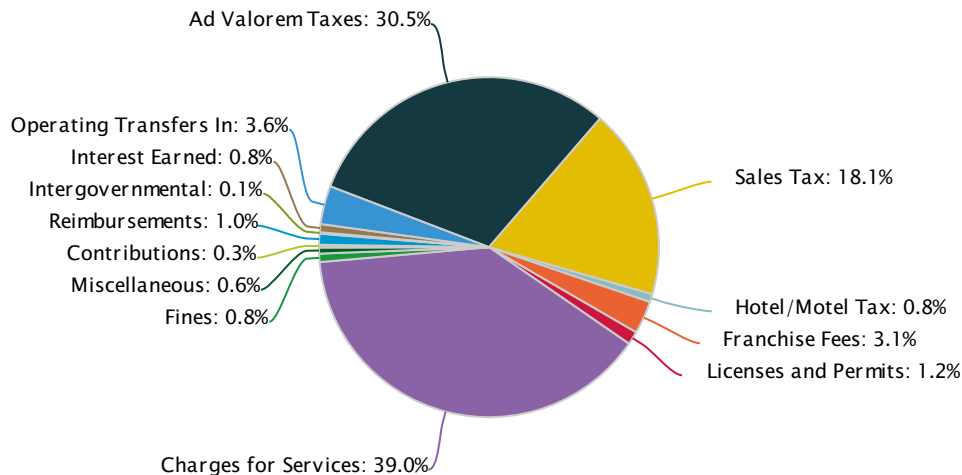
Combined Budget Summary of Revenues and Expenditures for Fiscal Year 2019-2020

COMBINED BUDGET SUMMARY

FISCAL YEAR 2019-2020

	General Fund	Debt Service	TIF Fund	Enterprise Funds				Special Revenue
				Water & Sewer	Solid Waste	Drainage Utility	Golf Course	Hotel Occup. Tax
BEGINNING BALANCE	\$ 25,414,922	\$ 1,474,726	\$ 4,991,595	\$ 9,948,284	\$ 3,296,153	\$ 1,157,389	\$ 10,045	\$ 1,896,797
REVENUES								
Ad Valorem Taxes	56,101,835	14,478,846	1,822,155	-	-	-	-	-
Sales Tax	21,222,759	-	512,616	-	-	-	-	-
Hotel/Motel Tax	-	-	-	-	-	-	-	1,822,178
Franchise Fees	7,241,828	-	-	-	-	-	-	-
Licenses and Permits	2,960,100	-	-	-	-	-	-	-
Charges for Services	13,358,149	-	-	50,436,209	7,084,605	1,810,000	3,237,552	-
Fines	1,709,590	-	-	-	-	-	-	-
Miscellaneous	233,141	-	-	10,000	36,500	-	164,920	-
Contributions	615,070	-	-	-	-	-	-	-
Reimbursements	1,429,708	-	-	385,998	-	5,000	-	-
Intergovernmental	100,000	-	134,302	-	-	-	-	-
Interest Earned	650,000	130,000	61,000	200,000	50,000	17,500	-	30,000
Operating Transfers In	5,013,745	-	-	972,845	-	-	352,152	-
TOTAL REVENUES	110,635,925	14,608,846	2,530,073	52,005,052	7,171,105	1,832,500	3,754,624	1,852,178
TOTAL AVAILABLE	\$ 136,050,847	\$ 16,083,572	\$ 7,521,668	\$ 61,953,336	\$ 10,467,258	\$ 2,989,889	\$ 3,764,669	\$ 3,748,975
EXPENDITURES								
General Government	20,429,453	-	4,825,306	-	-	-	-	-
Public Safety	46,772,680	-	-	-	-	-	-	-
Public Works	7,249,185	-	-	40,701,611	7,134,377	1,608,802	-	-
Culture & Recreation	30,270,802	-	-	-	-	-	3,586,801	1,862,851
Community Development	3,565,474	-	-	-	-	-	-	-
Transfers Out	2,348,331	-	-	4,087,546	275,566	396,802	-	3,310
Debt Service	-	14,444,995	-	1,688,006	-	-	-	-
Capital Projects	-	-	-	3,011,567	300,000	-	-	-
Depreciation	-	-	-	-	-	-	167,823	-
TOTAL EXPENDITURES	110,635,925	14,444,995	4,825,306	49,488,730	7,709,943	2,005,604	3,754,624	1,866,161
ENDING BALANCE	25,414,922	1,638,577	2,696,362	12,464,606	2,757,315	984,285	10,045	1,882,814

DISTRIBUTION OF REVENUES – ALL FUNDS

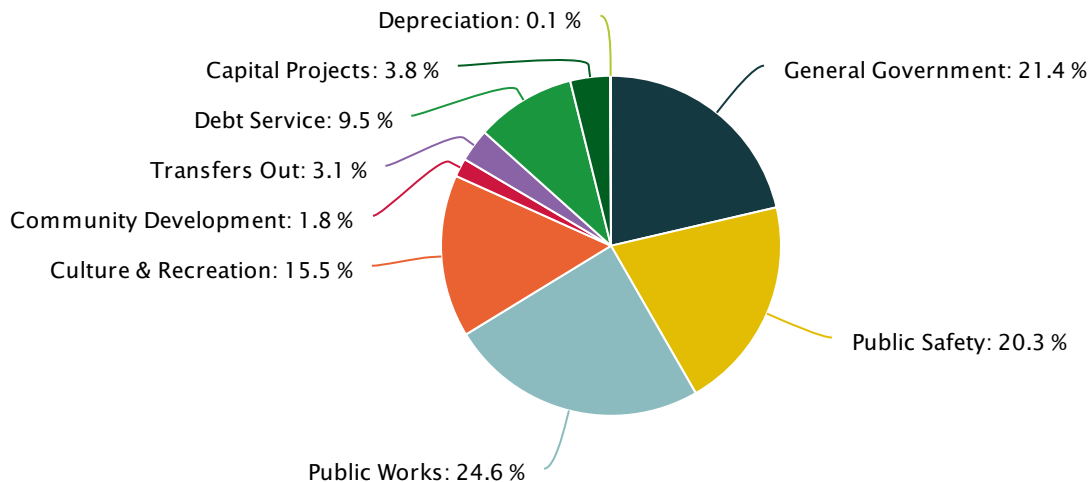


COMBINED BUDGET SUMMARY

FISCAL YEAR 2019-2020

Special Revenue			Internal Service Funds			Component Units		Total
Asset Forfeiture	Special Revenue	Grant Fund	Replacement Fund	Facility Maintenance	Risk Management	Economic Development	Community Development	All Funds 2019-2020
\$251,472	\$1,335,388	\$228,034	\$12,842,201	\$1,549,315	\$5,704,710	\$4,418,432	\$14,116,681	\$88,636,144
-	-	-	-	-	-	-	-	72,402,836
-	-	-	-	-	-	10,643,247	10,643,247	43,021,869
-	-	-	-	-	-	-	-	1,822,178
-	172,999	-	-	-	-	-	-	7,414,827
-	-	-	-	-	-	-	-	2,960,100
-	-	-	3,711,368	-	12,891,081	-	-	92,528,964
-	173,400	-	-	-	-	-	-	1,882,990
190,000	-	598,071	131,000	-	-	-	-	1,363,632
-	-	-	-	-	-	-	-	615,070
-	-	-	147,002	-	520,500	-	-	2,488,208
-	46,824	-	-	-	-	-	-	281,126
3,000	17,500	5,000	192,800	17,500	80,000	227,073	200,000	1,881,373
-	-	55,732	242,246	1,500,000	502,727	-	-	8,639,447
193,000	410,723	658,803	4,424,416	1,517,500	13,994,308	10,870,320	10,843,247	237,302,620
\$444,472	\$1,746,111	\$886,837	\$17,266,617	\$3,066,815	\$19,699,018	\$15,288,752	\$24,959,928	\$325,938,764
-	135,143	-	1,944,638	145,000	13,319,678	6,355,378	2,187,811	49,342,407
127,687	-	27,739	-	-	-	-	-	46,928,106
-	-	43,000	-	-	-	-	-	56,736,975
-	-	4,400	-	-	-	-	-	35,724,854
-	-	540,697	-	-	-	-	-	4,106,171
-	105,423	-	-	-	-	-	-	7,216,978
-	-	-	-	-	-	3,686,997	2,416,890	22,236,888
-	-	-	-	-	-	-	5,412,254	8,723,821
-	-	-	-	-	-	-	-	167,823
127,687	240,566	615,836	1,944,638	145,000	13,319,678	10,042,375	10,016,955	231,184,023
316,785	1,505,545	271,001	15,321,979	2,921,815	6,379,340	5,246,377	14,942,973	94,754,741

DISTRIBUTION OF EXPENDITURES – ALL FUNDS



CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: August 13, 2019

SUBJECT: Conduct a Public Hearing Regarding the Fiscal Year 2019-2020 City Tax Rate.

STAFF RESOURCE: Eric Cannon, Chief Financial Officer
Chris Landrum, Budget Manager
Rebecca Brack, Budget Officer

PREVIOUS COUNCIL ACTION: On July 23, 2019, City Council Set Tuesday, August 13, 2019, and Tuesday, August 27, 2019, as the Public Hearing Dates Regarding the Fiscal Year 2019-2020 City Tax Rate.

ACTION PROPOSED: Conduct a Public Hearing Regarding the Fiscal Year 2019-2020 City Tax Rate.

BACKGROUND

According to the Texas Truth-in-Taxation Law, the City Council is required to set and conduct two Public Hearings on the Tax Rate if the City's proposed tax rate exceeds the lower of the rollback rate (\$0.517168) or the effective rate (\$0.486618). The proposed tax rate is \$0.498000. August 13, 2019, and August 27, 2019, are the dates City Council set for the public hearings on the tax rate.

No other business may be conducted at these hearings. State law also requires that at the end of each hearing the Council announce the date, time and place of the meeting at which it will vote on the tax rate. Since the proposed tax rate of \$0.498000 exceeds the effective tax rate indicated above, two public hearings are mandatory. The City has historically always held two public hearings on the tax rate even when the hearings were not required.

BUDGETARY IMPACT

The City's proposed budget for Fiscal Year 2019-2020 reflects a tax rate of \$0.498000 per \$100 of appraised valuation. Due to continued growth in the City's tax base from new improvements and existing properties, the total tax revenue generated, based on a rate of \$0.498000 per \$100 of the certified appraised values, would be \$72,018,485 which is \$2,470,372 more than last year's budget. Of that amount, \$2,442,898 is attributed to new property added to the tax roll this year.

STAFF RECOMMENDATION

Staff recommends the that City Council conduct a public hearing and set the meeting date of September 10, 2019, at 7:00 PM at Allen City Hall, 305 Century Parkway, Allen, Texas, to vote on the tax rate.

MOTION

I make a motion to set the City Council meeting date of September 10, 2019, at 7:00 PM at Allen City Hall, 305 Century Parkway, Allen, Texas, to vote on the proposed tax rate of 49.8 cents per \$100 of the certified appraised value for the Fiscal Year 2019-2020 budget.