



## AGENDA

### CITY COUNCIL MEETING

**SEPTEMBER 19, 2017 @ 5:00 P.M.**

Notice is hereby given the City Council for the City of Parker will meet in a Regular Meeting on Tuesday, September 19, 2017 at 5:00 P.M. at the Parker City Hall, 5700 E. Parker Road, Parker, Texas, 75002.

#### **CALL TO ORDER – Roll Call and Determination of a Quorum**

#### **PLEDGE OF ALLEGIANCE**

AMERICAN PLEDGE: I pledge allegiance to the flag of the United States of America; and to the republic for which it stands, one nation under God, indivisible with liberty and justice for all.

TEXAS PLEDGE: Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

**PUBLIC COMMENTS** The City Council invites any person with business before the Council to speak to the Council. No formal action may be taken on these items at this meeting. Please keep comments to 3 minutes.

1. PRESENTATION AND INTERVIEW BY ARCHITECTURAL SERVICES FIRM (5-6 p.m.)

**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.

2. DEPARTMENT REPORTS-ANIMAL CONTROL, BUILDING, COURT, POLICE AND WEBSITE
3. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON AMENDING THE CITY SEWER RATES. [BOYD]
4. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION NO. 2017-551, REGARDING AN AGREEMENT WITH TXDOT FOR PARKER ROAD WATER LINE RELOCATION PROJECT. [FLANIGAN]
5. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION NO. 2017-552, APPROVING A MOWING CONTRACT WITH GREENER PASTURES LANDSCAPE MANAGEMENT. [FLANIGAN]
6. REMINDER/DISCUSSION OF HOUSEHOLD HAZARDOUS WASTE (HHW) DISPOSAL EVENT IS SATURDAY, OCTOBER 28, 2017, 10:00 AM – 2:00 PM.

#### **INDIVIDUAL CONSIDERATION ITEMS**

7. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON REPUBLIC SERVICES RATE INCREASE. [BERNAS]

- BULK TRASH – CONSIDERATION AND/OR ANY APPROPRIATE ACTION OF SPLITTING THE CITY'S BULK TRASH INTO SEPARATE WEEKS (EXAMPLE – EAST/WEST OF FM2551)

8. CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON HOME RULE CHARTER COMMITTEE CRITERIA. [SHELBY/LEVINE]
9. DISCUSSION REGARDING BID PROCESS. [SHELBY]
10. PRESENTATION AND INTERVIEW BY ARCHITECTURAL SERVICES FIRM (7-8 p.m.)

## ROUTINE ITEMS

### 11. FUTURE AGENDA ITEMS

- ZONING CODE COMMITTEE UPDATE
- VOLUNTEERS FOR COLLIN CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS [MARSHALL]
- REMINDER NATIONAL NIGHT OUT (NNO) – TUESDAY, OCTOBER 3, 2017, 6:00 P.M. – 9:00 P.M.
- REMINDER FIRE PREVENTION WEEK – OCTOBER 8-14, 2017
- REMINDER NATIONAL PHARMACEUTICAL TAKE BACK INITIATIVE - SATURDAY, OCTOBER 28, 2017, 10:00 A.M. – 2:00 P.M., ALONG WITH EARLY VOTING
- REMINDER OCTOBER 2017 WATER RATES

Water Rates - Residential	Effective Oct. 2016	Effective Oct. 2017	Effective Oct. 2018	Effective Oct. 2019	Effective Oct. 2020
Min Chg. - Includes 1 <sup>st</sup> 4,000 Gal	\$ 40.00	40.00	40.00	40.00	40.00
Volume Rate Per 1,000 Gal.					
4,001	15,000	\$ 3.55	3.85	4.10	4.20
15,000	30,000	\$ 4.35	4.75	5.10	5.25
30,001	50,000	\$ 5.45	5.95	6.35	6.55
50,001	70,000	\$ 8.70	9.50	10.15	10.45
70,001	Above	\$ 12.00	13.10	14.00	14.40

### 12. ADJOURN

In addition to any specifically identified Executive Sessions, Council may convene into Executive Session at any point during the open meeting to discuss any item posted on this Agenda. The Open Meetings Act provides specific exceptions that require that a meeting be open. Should Council elect to convene into Executive Session, those exceptions will be specifically identified and announced. Any subsequent action, as a result of this Executive Session, will be taken and recorded in open session.

I certify that this Notice of Meeting was posted on or before September 15, 2017 by 5:00 p.m. at the Parker City Hall, and as a courtesy, this Agenda is also posted to the City of Parker Website at [www.parkertexas.us](http://www.parkertexas.us).

Date Notice Removed

Patti Scott Grey  
City Secretary

The Parker City Hall is Wheelchair accessible. Sign interpretations or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972 442 6811.

# ANIMAL CONTROL REPORT

## JULY 2017

Call #	Date:	6/22/2017	Caller Remarks:	PERMISSION TO WORK DOG BITE. QUARANTINED AT MURPHY AND RELEASED.VG			<b>Fiscal Year Budget = \$6,000</b> <b>Fiscal Year Charges</b> October = 280.00 November = 580.00 December = 230.30 January = 410.00 February = 50.00 March = 430.00 April = 300.00 May = 200.00 June = 440.00 July = 409.00 August = September = <b>Total = \$3,329.30</b>		
				Service Fee Only		Expected Charge:			
1	Invoice Type:	Service Fee Only		Expected Charge:		\$50.00			
	Call Type	Action Taken By:		Response		Disposition			
	Animal Bite	Murphy Animal Control		Other		Quarantined/Follow Up			
Call #	Date:	6/22/2017	Caller Remarks:	DOG BITE REPORT BEING SENT OVER. WILL SEND TO MURPHY TO WORK. QUARANTINED AT VET AND RELEASED.VG					
2	Invoice Type:	Service Fee Only		Expected Charge:		\$50.00			
	Call Type	Action Taken By:		Response		Disposition			
	Animal Bite	Murphy Animal Control		Other		Quarantined/Follow Up			
Call #	Date:	7/3/2017	Caller Remarks:	STRAY DOG RAL DILLEHAY/PARKER. GAVE PERMISSION TO CALLER TO TAKE TO MURPHY.VG					
3	Invoice Type:	Service Fee + 3 Days		Expected Charge:		\$80.00			
	Call Type	Action Taken By:		Response		Disposition			
	Stray	Murphy Animal Control		Citizen Drop Off		Holding			
Call #	Date:	7/5/2017	Caller Remarks:	BROWN LAB RAL.VG					
4	Invoice Type:	No Charge		Expected Charge:		\$0.00			
	Call Type	Action Taken By:		Response		Disposition			
	Stray	Murphy Animal Control		Murphy Pick Up		Returned to Owner			

# ANIMAL CONTROL REPORT

## JULY 2017

Call #	Date:	7/7/2017	Caller Remarks:	STRAY MALE MIX RAL ON RATHBONE/RIDGEMORE.VG
5	Invoice Type:	Service Fee Only	Expected Charge:	\$50.00
	Call Type	Action Taken By:	Response	Disposition
	Stray	Murphy Animal Control	Other	NA
Call #	Date:	7/7/2017	Caller Remarks:	DEAD RABBIT ON PORCH.VG
6	Invoice Type:	No Charge	Expected Charge:	\$0.00
	Call Type	Action Taken By:	Response	Disposition
	Dead Animal	City Personnel	City Pick Up	Destroyed
Call #	Date:	7/10/2017	Caller Remarks:	REPORT OF DOG ABUSE.VG
7	Invoice Type:	Fee Exception	Expected Charge:	\$29.00
	Call Type	Action Taken By:	Response	Disposition
	Other	Murphy Animal Control	Murphy Pick Up	Holding
Call #	Date:	7/11/2017	Caller Remarks:	STRAY SMALL BLACK/BROWN DOG.VG
8	Invoice Type:	No Charge	Expected Charge:	\$0.00
	Call Type	Action Taken By:	Response	Disposition
	Stray	Murphy Animal Control	Citizen Drop Off	Returned to Owner-No ticket

# ANIMAL CONTROL REPORT

## JULY 2017

Call #	Date:	7/12/2017	Caller Remarks:	LOST 1 YEAR OLD BLACK LAB.VG
9	Invoice Type:	No Charge	Expected Charge:	\$0.00
	Call Type	Action Taken By:	Response	Disposition
	Lost Animal	City Personnel	Other	Other
Call #	Date:	7/14/2017	Caller Remarks:	DEAD SKUNK. TESTED POSITIVE FOR RABIES.VG
10	Invoice Type:	Service Fee Only	Expected Charge:	\$50.00
	Call Type	Action Taken By:	Response	Disposition
	Dead Animal	Murphy Animal Control	Murphy Pick Up	Destroyed
Call #	Date:	7/17/2017	Caller Remarks:	CONCERN-HORSE NEGLECT-3-4 HORSES ON DILLEHAY AT SECOND HOUSE OFF PARKER-(FOR SALE SIGN ON LOT) .VG
11	Invoice Type:	Service Fee Only	Expected Charge:	\$50.00
	Call Type	Action Taken By:	Response	Disposition
	Other	Murphy Animal Control	Other	Other
Call #	Date:	7/17/2017	Caller Remarks:	CONCERN-HORSE NEGLECT-3-4 HORSES ON DILLEHAY AT SECOND HOUSE OFF PARKER-(FOR SALE SIGN ON LOT) .VG
12	Invoice Type:	No Charge	Expected Charge:	\$0.00
	Call Type	Action Taken By:	Response	Disposition
	Other	Murphy Animal Control	Other	Other

# ANIMAL CONTROL REPORT

## JULY 2017

Call #	Date:	7/18/2017	Caller Remarks:	APPROVED 45 DAY HOME QUARENTINE FOR ROTTWEILER MIX THAT WAS EXPOSED TO SKUNK ON 7/14.		
13	Invoice Type:	Service Fee Only	Expected Charge:	\$50.00		
	Call Type	Action Taken By:	Response	Disposition		
	Other	Murphy Animal Control	Other	Quarantined/Follow Up		
<hr/>						
Call #	Date:	7/24/2017	Caller Remarks:	PERMISSION TO SURRENDER 3 YR OLD LAB TO MURPHY.VG		
14	Invoice Type:	No Charge	Expected Charge:	\$0.00		
	Call Type	Action Taken By:	Response	Disposition		
	Other	Murphy Animal Control	Citizen Drop Off	Other		
				<b>TOTAL=</b>	\$409.00	



## **BUILDING PERMIT TOTALS**

**Aug-17**

ACCESSORY/OUTBUILDING PERMITS	3
IRRIGATION/LAWN SPRINKLER PERMITS	4
MISCELLANEOUS PERMITS	15
SWIMMING POOL PERMITS	4
REMODEL/ADDITION PERMITS	2
SINGLE FAMILY RESIDENTIAL PERMITS	6
INSPECTIONS	144

**CITY OF PARKER  
PERMIT LOG  
AUGUST 2017**

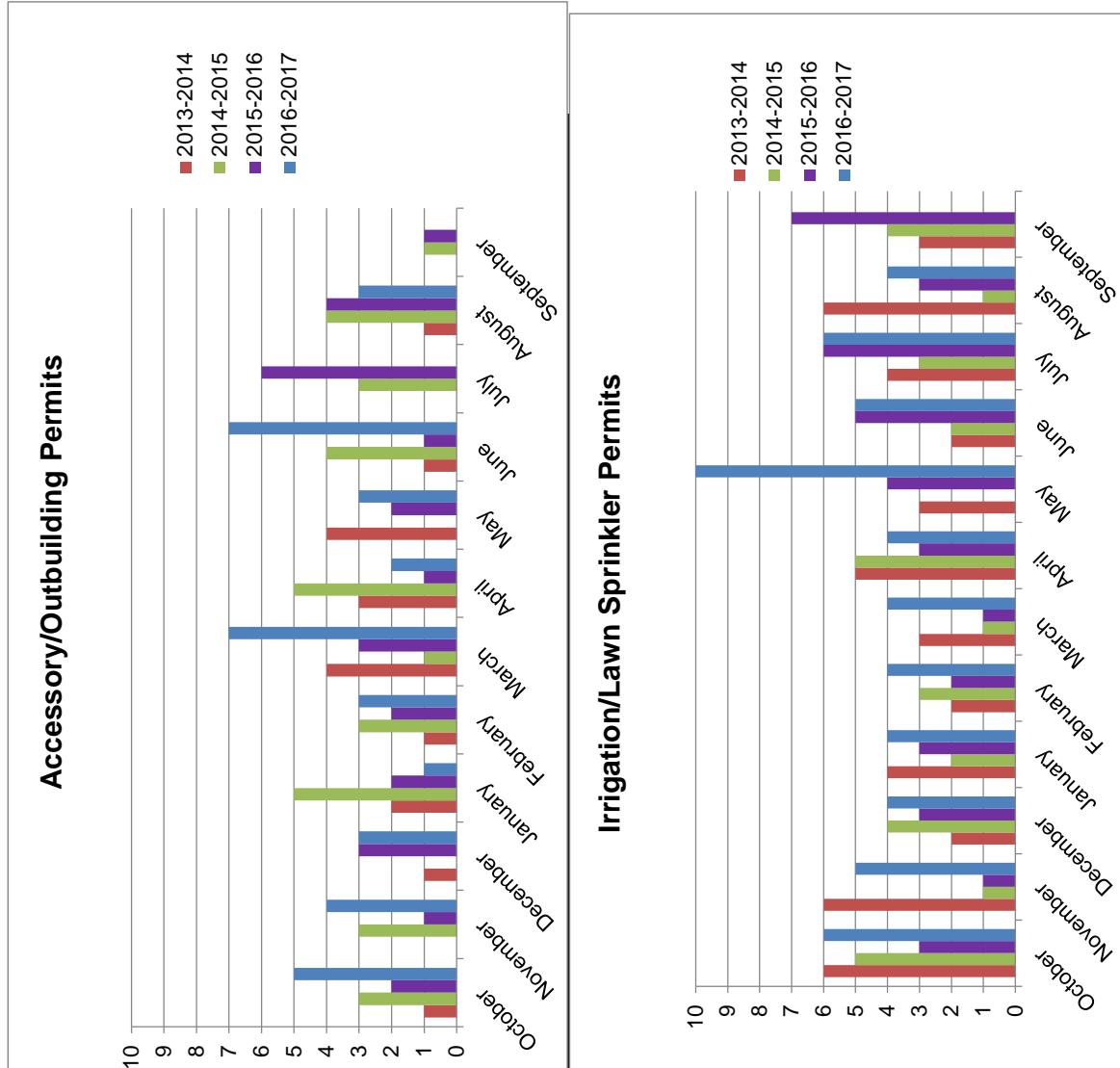
PERMIT NUMBER	ISSUE DATE	TYPE	ADDRESS	CONTRACTOR	DESCRIPTION	ESTIMATED VALUE	TOTAL SQUARE FOOTAGE	PERMIT FEE	DEPOSIT FEE	WATER METER FEE	WATER IMPACT FEE	SEWER TAP FEE
2017-1025	8/4/2017	ACC	2708 MARY CT	TEXAS OUTDOOR OASIS	FIRE PIT/GAS LINE	\$3,850	\$24	\$175	NA	NA	NA	NA
2017-1026	8/11/2017	ACC	5006 HACKBERRY LN	WDL HOME REMODEL	GARAGE	\$23,000	\$480	\$175	NA	NA	NA	NA
2017-1029	8/23/2017	ACC	6804 CHESWICK CT	RIVERBEND	GRILL STATION/FIRE PIT	\$2,000	\$74	\$250	NA	NA	NA	NA
2017-2009	8/9/2017	ELEC	5003 OLD GATE LN	ABR ELECTRIC	PANEL CHANGE	NA	NA	\$75	NA	NA	NA	NA
2017-2010	8/15/2017	ELEC	PARKER RANCH PHASE 2 & 3	BEAN ELECTRICAL	13 METER BASES	NA	NA	\$0	NA	NA	NA	NA
2017-4028	8/10/2017	FENCE	5400 WESTFIELD DR	TAYLOR FENCE & OUTDOORS	FENCE	\$11,000	NA	\$75	NA	NA	NA	NA
2017-6027	8/11/2017	FENCE	5300 BERWICK LN	ACE FENCE DFW	FENCE	\$7,400	NA	\$75	NA	NA	NA	NA
2017-4040	8/14/2017	IRR	4701 SHEFFIELD CT	LAND PRO CREATIONS	IRRIGATION	\$2,000	NA	\$75	NA	NA	NA	NA
2017-4041	8/22/2017	IRR	5925 FRENZEL DR	SPRINKLER DESIGNS AND MOW	IRRIGATION SYSTEM	NA	NA	\$75	NA	NA	NA	NA
2017-4042	8/23/2017	IRR	5405 TENNYSON CT	LAND PRO CREATIONS	IRRIGATION	\$3,000	NA	\$75	NA	NA	NA	NA
2017-4043	8/25/2017	IRR	5006 HACKBERRY LN	WHITAKER IRRIGATION	IRRIGATION	NA	NA	\$75	NA	NA	NA	NA
2017-5019	8/9/2017	MECH	4307 SPRINGHILL ESTATES DR	AIRSTAR SERVICES	5 TON CONDENSER	NA	NA	\$75	NA	NA	NA	NA
2017-5020	8/11/2017	MECH	4504 SPRINGHILL ESTATES DR	A#1 AIR	5 TON COMPLETE SYSTEM	NA	NA	\$75	NA	NA	NA	NA
2017-5021	8/21/2017	MECH	4902 PARKER RD E	A #1 AIR	5 TON COMPLETE SYSTEM	NA	NA	\$75	NA	NA	NA	NA
2017-5022	8/22/2017	MECH	3612 ESTATE LN	ECONOMY A/C & HEATING	CONDENSER & COIL	NA	NA	\$75	NA	NA	NA	NA
2017-5023	8/31/2017	MECH	5006 ENGLENOOK DR	A/C RESCUE, INC.	2.5 TON BOX COIL	NA	NA	\$75	NA	NA	NA	NA
2017-7044	8/18/2017	PLUM	5505 SILVERTON CT	R.L. ALLEN PLUMBING	50 GAL GAS WH	NA	NA	\$75	NA	NA	NA	NA
2017-7045	8/22/2017	PLUM	5805 GLENMORE DR	AJAX PLUMBING	GAS LINE TO STOVE	NA	NA	\$75	NA	NA	NA	NA
2017-7049	8/22/2017	PLUM	6904 STONY OAK CT	MILETONE PLUMBING	2 (50) GAL WH	NA	NA	\$75	NA	NA	NA	NA
2017-7050	8/23/2017	PLUM	5604 RIDGEMORE DR	SAME DAY WATER HEATERS	2 GAS WH	NA	NA	\$75	NA	NA	NA	NA
2017-7051	8/28/2017	PLUM	4508 SYCAMORE LN	ALL MASTERS PLUMBING	REPLACE WH	NA	NA	\$75	NA	NA	NA	NA
2017-10022	8/1/2017	POOL	5806 COX FARM EST	IMPERIAL POOLS	POOL	\$50,000	NA	\$500	NA	NA	NA	NA
2017-10024	8/23/2017	POOL	4102 CHURCH LN	HOBERT POOLS	POOL	\$60,000	NA	\$500	NA	NA	NA	NA
2017-10025	8/23/2017	POOL	6804 CHESWICK CT	RIVERBEND	POOL	\$75,000	NA	\$500	NA	NA	NA	NA
2017-10026	8/23/2017	POOL	4702 SHEFFIELD CT	MIRAGE CUSTOM POOLS	POOL	\$40,000	NA	\$500	NA	NA	NA	NA
2017-80011	8/10/2017	REMOD	4306 WILLOW RIDGE DR	OLE HANDY MAN HOUSEHOLD REPAIR	ADDITION	\$35,100	640	\$558	NA	NA	NA	NA
2017-80010	8/11/2017	REMOD	5003 RIDGEVIEW DR	BOBCAT CUSTOM OUTDOORS	ADDITION	\$12,000	576	\$500	NA	NA	NA	NA
2017-9031	8/10/2017	SFR	5203 BERWICK LN	SHADDOCK HOMES	NEW RESIDENCE	\$819,990	5,658	\$3,588	\$1,000	\$2,000	\$3,938.95	NA
2017-9033	8/11/2017	SFR	5313 WESTFIELD DR	SHADDOCK HOMES	NEW RESIDENCE	\$973,281	7,981	\$4,959	\$1,000	\$2,000	\$3,938.95	\$1,000
2017-9034	8/11/2017	SFR	5300 NORWICK DR	NEWCASTLE HOMES	NEW RESIDENCE	\$500,000	7,611	\$4,740	\$1,000	\$2,000	\$3,938.95	NA
2017-9035	8/11/2017	SFR	4409 SALISBURY DR	NEWCASTLE HOMES	NEW RESIDENCE	\$500,000	7,836	\$5,873	\$1,000	\$2,000	\$3,938.95	NA
2017-9037	8/17/2017	SFR	4301 WHITESTONE DR	GRAND HOMES	NEW RESIDENCE	\$599,616	6,268	\$3,945	\$1,000	\$2,000	\$3,938.95	NA
2017-9036	8/23/2017	SFR	4805 PARKER RD E	WESTBROOK BUILDERS	NEW RESIDENCE	\$400,000	4,838	\$3,104	\$1,000	\$2,000	\$3,938.95	NA
2017-6029	8/4/2017	SIGN	5125 AMHERST DR	FIRST GRAPHIC SERVICES	FENCE	\$500	32	\$75	NA	NA	NA	NA
					<b>TOTAL=</b>	<b>\$4,119,737</b>	<b>\$31,218</b>	<b>\$6,000</b>	<b>\$12,000</b>	<b>\$23,633.70</b>	<b>\$1,000</b>	

# PERMIT GRAPHHS

Accessory/Outbuildings Permits					
Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017	
October	1	3	2	5	
November	0	3	1	4	
December	1	0	3	3	
January	2	5	2	1	
February	1	3	2	3	
March	4	1	3	7	
April	3	5	1	2	
May	4	0	2	3	
June	1	4	1	7	
July	0	3	6	0	
August	1	4	4	3	
September	0	1	1		
Y-T-D Total	18	32	28	38	

Irrigation/Lawn Sprinkler Permits					
Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017	
October	6	5	3	6	
November	6	1	1	5	
December	2	4	3	4	
January	4	2	3	4	
February	2	3	2	4	
March	3	1	1	4	
April	5	5	3	4	
May	3	0	4	12	
June	2	2	5	5	
July	4	3	6	6	
August	6	1	3	4	
September	3	4	7		
Y-T-D Total	46	31	41	58	



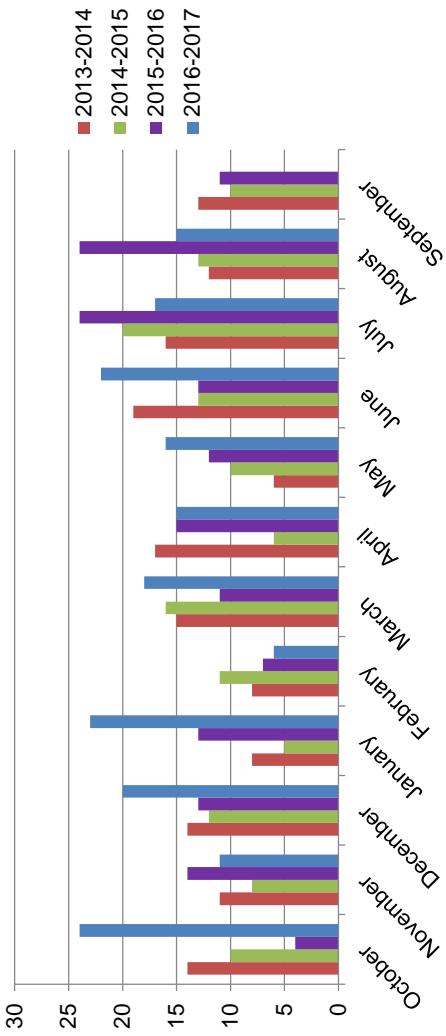
# PERMIT GRAPHHS

Miscellaneous Permits					
Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017	
October	14	10	4	24	
November	11	8	14	11	
December	14	12	13	20	
January	8	5	13	23	
February	8	11	7	6	
March	15	16	11	18	
April	17	6	15	15	
May	6	10	12	16	
June	19	13	13	22	
July	16	20	24	17	
August	12	13	24	15	
September	13	10	11		
Y-T-D Total	153	134	161	187	

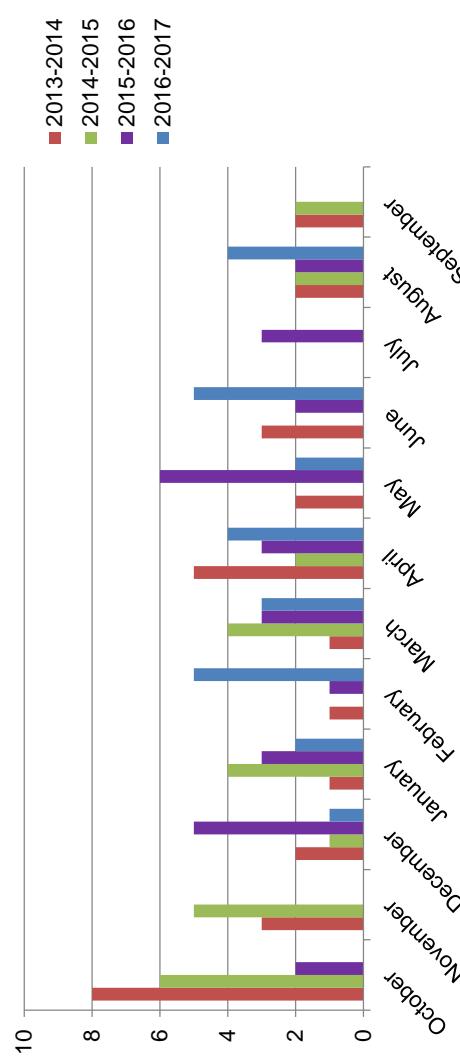
  

Swimming Pool Permits					
Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017	
October	8	6	2	0	
November	3	5	0	0	
December	2	1	5	1	
January	1	4	3	2	
February	1	0	1	5	
March	1	4	3	3	
April	5	2	3	4	
May	2	0	6	2	
June	3	0	2	5	
July	0	0	3	0	
August	2	2	2	4	
September	2	2	0		
Y-T-D Total	30	26	30	26	

## Miscellaneous Permits

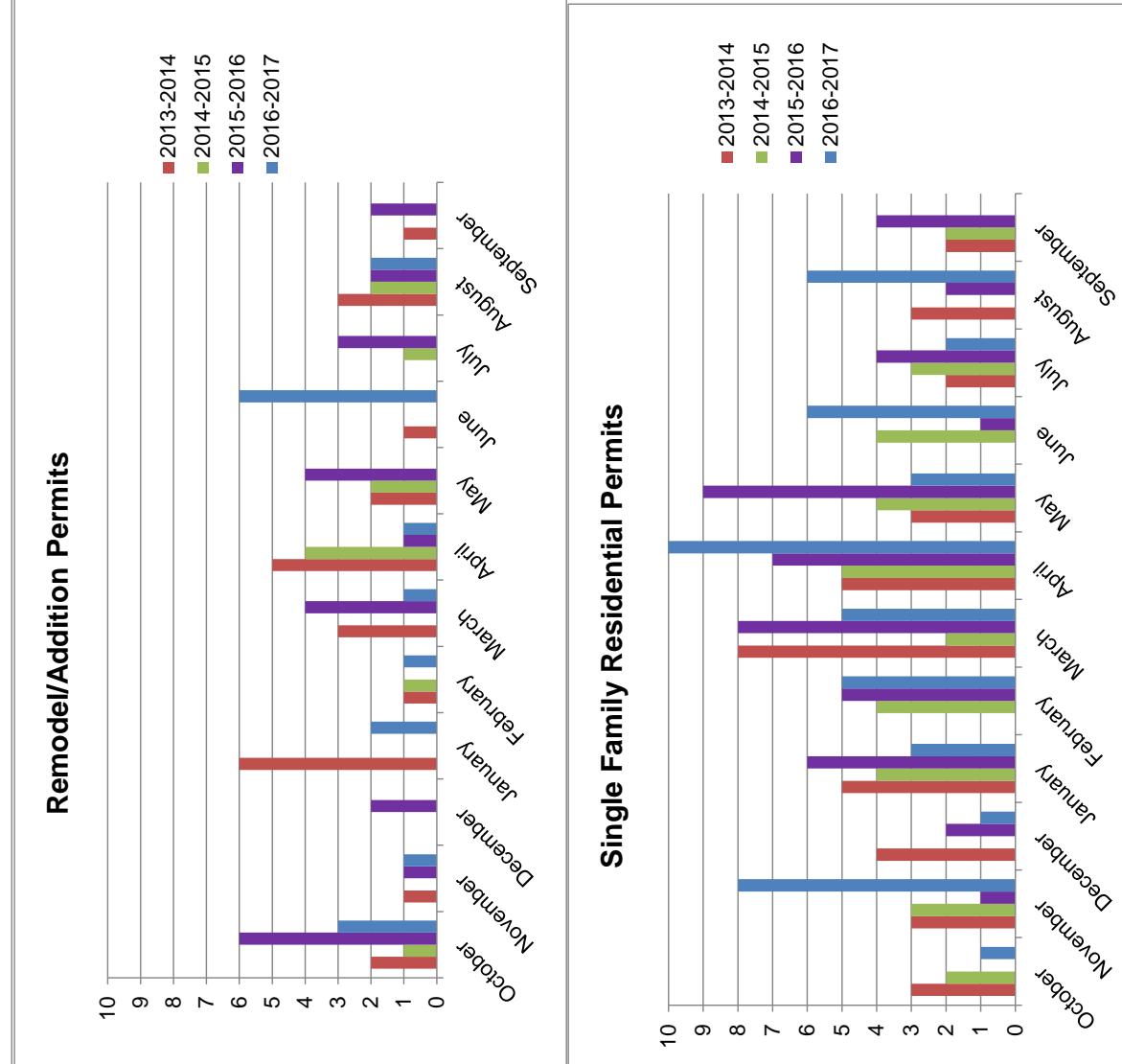


## Swimming Pool Permits



# PERMIT GRAPHHS

Remodel/Addition Permits						Single Family Residential Permits						Single Family Residential Building Permits					
Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017		Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017		Fiscal Year	2013-2014	2014-2015	2015-2016	2016-2017	
October	2	1	6	3		October	3	2	0	1		October	3	2	0	1	
November	1	0	1	1		November	3	3	1	8		November	3	3	1	8	
December	0	0	2	0		December	4	0	2	1		December	4	0	2	1	
January	6	0	0	2		January	5	4	6	3		January	5	4	6	3	
February	1	1	0	1		February	0	4	5	6		February	0	4	5	6	
March	3	0	4	1		March	2	2	4	0		March	2	2	4	0	
April	5	4	1	1		April	1	0	6	6		April	1	0	6	6	
May	2	2	4	0		May	1	1	3	0		May	1	1	3	0	
June	1	0	0	6		June	0	1	3	0		June	0	1	3	0	
July	0	1	3	0		July	3	2	2	2		July	3	2	2	2	
August	3	2	2	2		August	1	0	2	2		August	1	0	2	2	
September	1	0	2	2		September	25	11	25	17		September	25	11	25	17	
Y-T-D Total	25	11	25	17													



# INSPECTION LOG

## AUGUST 2017

PERMIT NUMBER	ADDRESS	TYPE	INSPECTION	SCHEDULED	COMPLETED	RESULT	NOTES	STATUS	#
2017-1011 2607 DUBLIN PARK DR	ACC	Building Final	8/9/2017	8/9/2017	TRUE			FINAL	1
2017-1025 2708 MARY CT	ACC	Other	8/5/2017	8/15/2017	TRUE	GAS TO FIREPIT	ISS	1	
2016-1030 2106 VIRGINIA PL	ACC	Other	8/5/2017	8/15/2017	TRUE	GAS TEST	ISS	1	
2017-1006 6902 STONY OAK CT	ACC	Other	8/6/2017	8/16/2017	TRUE	ELEC FINAL	ISS	1	
2017-1023 7004 STONY OAK CT	ACC	Other	8/8/2017	8/18/2017	TRUE	PIER	ISS	1	
2017-1017 6401 HOLBROOK CIR	ACC	Framing	8/22/2017	8/22/2017	TRUE		ISS	1	
2017-1017 6401 HOLBROOK CIR	ACC	Electrical Rough	8/22/2017	8/22/2017	TRUE		ISS	1	
2017-1026 5006 HACKBERRY LN	ACC	Framing	8/24/2017	8/24/2017	TRUE		ISS	1	
2017-1026 5006 HACKBERRY LN	ACC	Plumbing Top-Out	8/24/2017	8/24/2017	TRUE		ISS	1	
2017-1026 5006 HACKBERRY LN	ACC	Electrical Rough	8/24/2017	8/24/2017	TRUE		ISS	1	
2017-1026 5006 HACKBERRY LN	ACC	Mechanical Rough	8/24/2017	8/24/2017	TRUE		ISS	1	
2017-1021 6802 CHESWICK CT	ACC	Other	8/30/2017	8/30/2017	TRUE	GAS TO GRILL	ISS	1	
2017-3017 5207 WESTFIELD DR	FSPR	Fire Hydro Visual	8/23/2017	8/23/2017	TRUE		ISS	1	
2016-3029 5805 MIDDLETON DR	FSPR	Fire Final	8/25/2017	8/25/2017	TRUE	FINAL WITH HOUSE	FINAL	1	
2017-4037 5407 TENNYSON CT	IRR	Backflow Certificate on File	8/17/2017	8/17/2017	TRUE		FINAL	1	
2017-4040 4701 SHEFFIELD CT	IRR	Backflow Certificate on File	8/23/2017	8/23/2017	TRUE		FINAL	1	
2017-4011 5805 MIDDLETON DR	IRR	Other	8/25/2017	8/25/2017	TRUE	FINAL WITH HOUSE	FINAL	1	
2017-5019 4307 SPRINGHILL ESTATES MECH		Condenser & Coil	8/10/2017	8/10/2017	TRUE		FINAL	1	
2017-5012 4905 WINDMILL CREEK DR	MECH	Final	7/28/2017	8/16/2017	TRUE	FAILED 7/28/17	FINAL	1	
2017-5021 4902 PARKER RD E	MECH	Condenser & Coil	8/25/2017	8/25/2017	TRUE		FINAL	1	
2017-5017 5709 OVERTON DR	MECH	Condenser & Coil	8/29/2017	8/29/2017	TRUE		FINAL	1	
2017-7046 6205 SOUTHridge PKWY	PLUM	Water Heater	8/4/2017	8/4/2017	TRUE		FINAL	1	
2017-7046 5603 KENSINGTON CT	PLUM	Water Heater	8/8/2017	8/8/2017	TRUE		FINAL	1	
2017-7045 5805 GLENMORE DR	PLUM	Plumbing Final	8/23/2017	8/23/2017	TRUE		FINAL	1	
2017-7049 6804 STONY OAK CT	PLUM	Water Heater	8/31/2017	8/31/2017	TRUE		FINAL	1	
2017-10013 5901 MIDDLETON DR	POOL	Pool Final	8/11/2017	8/11/2017	TRUE		FINAL	1	
2017-10016 6703 HAVENHURST CT	POOL	Fence Final	8/22/2017	8/22/2017	TRUE		ISS	1	
2017-10016 6703 HAVENHURST CT	POOL	Pool Protection Certification	8/22/2017	8/22/2017	TRUE		ISS	1	
2017-10021 5807 RIDGEMORE DR	POOL	P-Trap	8/3/2017	8/3/2017	TRUE		ISS	1	
2017-10020 7004 STONY OAK CT	POOL	Gas Line to Pool Heater	8/3/2017	8/3/2017	TRUE	FAILED 7/27/17	FINAL	1	
2017-10012 6403 HOLBROOK CIR	POOL	Pool Final	7/27/2017	8/5/2017	TRUE		ISS	1	
2017-10011 2607 DUBLIN PARK DR	POOL	Pool Protection Certification	8/9/2017	8/9/2017	TRUE		ISS	1	
2017-10015 4606 VISTARIIDGE	POOL	Fence Final	8/10/2017	8/10/2017	TRUE		ISS	1	
2017-10015 4606 VISTARIIDGE	POOL	Pool Protection Certification	8/10/2017	8/10/2017	TRUE		ISS	1	

**INSPECTION LOG**  
**AUGUST 2017**

PERMIT NUMBER	ADDRESS	TYPE	INSPECTION	SCHEDULED	COMPLETED	RESULT	NOTES	STATUS	#
2017-10020 7004 STONY OAK CT	POOL	Deck Steel	8/11/2017	TRUE				ISS	1
2017-10019 6802 CHESWICK CT	POOL	Belly Steel	8/17/2017	TRUE				ISS	1
2016-10017 2106 VIRGINIA PL	POOL	Pool Protection Certification	8/18/2017	TRUE				ISS	1
2017-10021 5807 RIDGEMORE DR	POOL	Deck Steel	8/24/2017	TRUE				ISS	1
2017-10022 5806 COX FARM EST	POOL	Belly Steel	8/28/2017	TRUE				ISS	1
2017-10017 6004 DUMONT CT	POOL	Deck Steel	8/29/2017	TRUE				ISS	1
2017-10019 6802 CHESWICK CT	POOL	Gas Line to Pool Heater	8/30/2017	TRUE				ISS	1
2017-10002 7401 MEADOW GLEN DR	POOL	Pool Final	8/18/2017	FALSE	FAILED 7/21/17 & 8/18			ISS	1
2017-10011 2807 DUBLIN PARK DR	POOL	Pool Final	8/9/2017	FALSE	FAILED 8/9/17			ISS	1
2016-10017 2106 VIRGINIA PL	POOL	Pool Final	8/18/2017	FALSE	FAILED 8/18			ISS	1
2017-80009 4903 RIDGEVIEW DR	REMOD	Electrical Rough	8/4/2017	TRUE				ISS	1
2017-80009 4903 RIDGEVIEW DR	REMOD	Framing	8/4/2017	TRUE				ISS	1
2017-80008 4308 SPRINGHILL ESTATES REMOD		Framing	8/7/2017	TRUE				ISS	1
2017-80008 4308 SPRINGHILL ESTATES REMOD		Electrical Rough	8/7/2017	TRUE				ISS	1
2017-80006 3100 BLUFFS LN	REMOD	Electrical Rough	8/7/2017	TRUE	FAILED 8/7			ISS	2
2017-80006 3100 BLUFFS LN	REMOD	Framing	8/9/2017	TRUE				ISS	1
2017-80005 4606 VISTA RIDGE	REMOD	Framing	8/9/2017	TRUE				ISS	1
2017-80005 4606 VISTA RIDGE	REMOD	Electrical Rough	8/9/2017	TRUE				ISS	1
2015-80005 5310 ESTATE LN	REMOD	Building Final	8/14/2017	TRUE				FINAL	1
2017-80010 5003 RIDGEVIEW DR	REMOD	Other	8/22/2017	TRUE	PIER			ISS	1
2017-9028 5300 ASHFORD CT	SFR	Plumbing Rough	8/2/2017	TRUE				ISS	1
2017-9028 5300 ASHFORD CT	SFR	Form Survey	8/2/2017	TRUE				ISS	1
2017-9024 5304 NORWICK DR	SFR	Plumbing Top-Out	8/2/2017	TRUE				ISS	1
2017-9024 5304 NORWICK DR	SFR	Electrical Rough	8/2/2017	TRUE				ISS	1
2017-9024 5304 NORWICK DR	SFR	Mechanical Rough	8/2/2017	TRUE				ISS	1
2017-9024 5304 NORWICK DR	SFR	Framing	8/2/2017	TRUE				ISS	1
2017-9011 4701 SHEFFIELD CT	SFR	Meter Release - Electric	8/2/2017	TRUE				ISS	1
2017-9025 4701 BRYCE DR	SFR	Meter Release - Gas	8/2/2017	TRUE				ISS	2
2017-9022 6807 GREENHILL CT	SFR	Foundation	8/3/2017	TRUE				ISS	1
2017-9032 3600 JEFFREY DR	SFR	T-Pole	8/3/2017	TRUE				ISS	1
2017-9025 4701 SHEFFIELD CT	SFR	Plumbing Rough	7/27/2017	TRUE	FAILED 7/27 & 8/2			ISS	2
2017-9027 6507 ERIN LN	SFR	Plumbing Rough	7/7/2017	TRUE	FAILED 7/7 & 7/27 & 8/2			ISS	2
2016-9035 7703 WINDOMERE DR	SFR	Building Final	8/1/2017	TRUE	FAILED 8/1			FINAL	2
2016-9031 3002 DUBLIN RD	SFR	Driveway Approach	8/8/2017	TRUE				ISS	1
2016-9032 3000 DUBLIN RD	SFR	Meter Release - Electric	8/9/2017	TRUE				ISS	1
2017-9021 7707 WINDOMERE DR	SFR	Plumbing Top-Out	7/21/2017	TRUE	FAILED 7/21, 8/2, 8/7 & 8/8			ISS	4

**INSPECTION LOG**  
**AUGUST 2017**

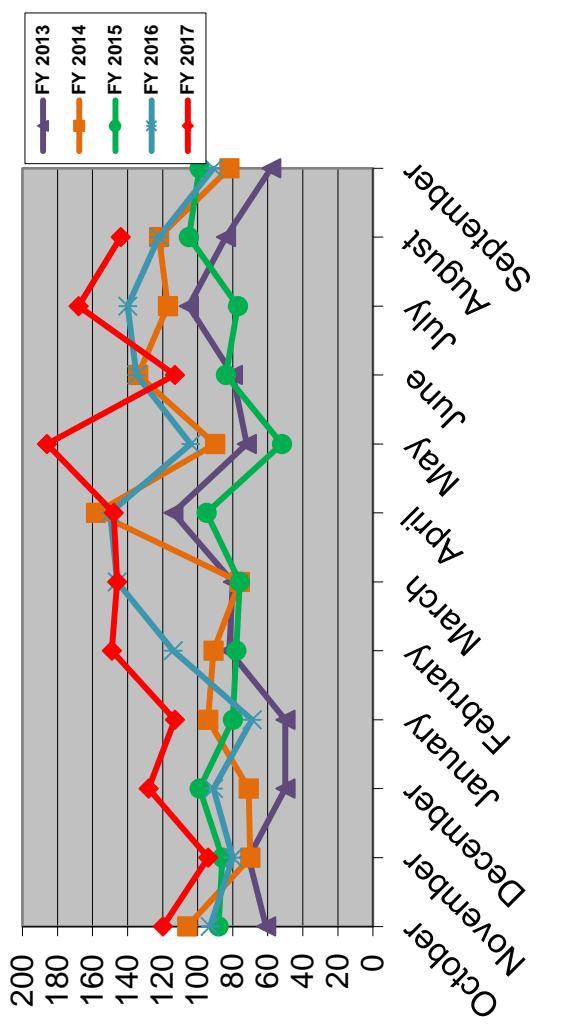
PERMIT NUMBER	ADDRESS	TYPE	INSPECTION	SCHEDULED	COMPLETED	RESULT	NOTES	STATUS	#
2017-9021 7707 WINDMORE DR	SFR	Electrical Rough	7/21/2017	8/9/2017	TRUE	FAILED 7/21, 8/2, 8/7 & 8/8	ISS	4	
2017-9021 7707 WINDMORE DR	SFR	Mechanical Rough	7/21/2017	8/9/2017	TRUE	FAILED 7/21, 8/2, 8/7 & 8/8	ISS	4	
2017-9021 7707 WINDMORE DR	SFR	Framing	7/21/2017	8/9/2017	TRUE	FAILED 7/21, 8/2, 8/7 & 8/8	ISS	4	
2017-9021 6702 ERIN LN	SFR	Meter Release - Electric	8/1/2017	8/11/2017	TRUE	FAILED 8/9	ISS	1	
2017-9006 6702 HOLBROOK CIR	SFR	Plumbing Top-Out	8/9/2017	8/11/2017	TRUE	FAILED 8/9	ISS	2	
2017-9018 6501 HOLBROOK CIR	SFR	Electrical Rough	8/9/2017	8/11/2017	TRUE	FAILED 8/9	ISS	2	
2017-9018 6501 HOLBROOK CIR	SFR	Mechanical Rough	8/9/2017	8/11/2017	TRUE	FAILED 8/9	ISS	2	
2017-9018 6501 HOLBROOK CIR	SFR	Framing	8/9/2017	8/11/2017	TRUE	FAILED 8/9	ISS	2	
2017-9026 5209 WESTFIELD DR	SFR	Foundation	8/11/2017	8/11/2017	TRUE		ISS	1	
2016-9049 4607 BRYCE DR	SFR	Survey Plat	8/15/2017	8/15/2017	TRUE		FINAL	1	
2016-9049 4607 BRYCE DR	SFR	Building Final	8/15/2017	8/15/2017	TRUE		FINAL	1	
2017-9032 3600 JEFFREY DR	SFR	Form Survey	8/15/2017	8/15/2017	TRUE		ISS	1	
2016-9049 4607 BRYCE DR	SFR	Plumbing Top-Out	3/7/2017	8/15/2017	TRUE	FAILED 3/7/17	FINAL	1	
2016-9049 4607 BRYCE DR	SFR	Electrical Rough	3/7/2017	8/15/2017	TRUE	FAILED 3/7/17	FINAL	1	
2016-9049 4607 BRYCE DR	SFR	Mechanical Rough	3/7/2017	8/15/2017	TRUE	FAILED 3/7/17	FINAL	1	
2017-9008 5405 BARRINGTON DR	SFR	Driveway Approach	8/16/2017	8/16/2017	TRUE		ISS	1	
2017-9031 5203 BERWICK LN	SFR	T-Pole	8/16/2017	8/16/2017	TRUE		ISS	1	
2017-9031 5203 BERWICK LN	SFR	Plumbing Rough	8/17/2017	8/21/2017	TRUE	FAILED 8/17	ISS	2	
2017-9025 4701 BRYCE DR	SFR	Foundation	8/21/2017	8/21/2017	TRUE		ISS	1	
2017-9034 5300 NORWICK DR	SFR	Plumbing Rough	8/21/2017	8/21/2017	TRUE		ISS	1	
2017-9035 4409 SALISBURY DR	SFR	Plumbing Rough	8/21/2017	8/21/2017	TRUE		ISS	1	
2017-9035 4409 SALISBURY DR	SFR	Form Survey	8/21/2017	8/21/2017	TRUE		ISS	1	
2017-9029 4610 SALISBURY DR	SFR	Foundation	8/21/2017	8/21/2017	TRUE		ISS	1	
2017-9016 5405 TENNYSON CT	SFR	Driveway Approach	8/17/2017	8/21/2017	TRUE	FAILED 8/17	ISS	2	
2017-9006 6702 ERIN LN	SFR	Meter Release - Gas	8/11/2017	8/22/2017	TRUE	FAILED 8/11	ISS	2	
2017-9023 5207 WESTFIELD DR	SFR	Plumbing Top-Out	8/21/2017	8/23/2017	TRUE	FAILED 8/21	ISS	2	
2017-9023 5207 WESTFIELD DR	SFR	Electrical Rough	8/21/2017	8/23/2017	TRUE	FAILED 8/21	ISS	2	
2017-9023 5207 WESTFIELD DR	SFR	Mechanical Rough	8/21/2017	8/23/2017	TRUE	FAILED 8/21	ISS	2	
2017-9023 5207 WESTFIELD DR	SFR	Framing	8/21/2017	8/23/2017	TRUE	FAILED 8/21	ISS	2	
2017-9032 3600 JEFFREY DR	SFR	Foundation	8/24/2017	8/24/2017	TRUE		ISS	1	
2017-9028 5300 ASHFORD CT	SFR	Foundation	8/25/2017	8/25/2017	TRUE		ISS	1	
2016-9032 3000 DUBLIN RD	SFR	Driveway Approach	8/25/2017	8/25/2017	TRUE		ISS	1	
2016-9024 5805 MIDDLETON DR	SFR	Building Final	8/25/2017	8/25/2017	TRUE		FINAL	1	
2016-9024 5805 MIDDLETON DR	SFR	Survey Plat	8/25/2017	8/25/2017	TRUE		FINAL	1	

**INSPECTION LOG**  
**AUGUST 2017**

PERMIT NUMBER	ADDRESS	TYPE	INSPECTION	SCHEDULED	COMPLETED	RESULT	NOTES	STATUS	#
2017-9030 4704 SHEFFIELD CT	SFR	Foundation		8/28/2017		TRUE		ISS	1
2017-9016 5405 TENNYSON CT	SFR	Meter Release - Electric		8/28/2017		TRUE		ISS	1
2017-9016 5405 TENNYSON CT	SFR	Meter Release - Gas		8/28/2017		TRUE		ISS	1
2017-9007 5403 WESTFIELD DR	SFR	Driveway Approach		8/29/2017		TRUE		ISS	1
2017-9003 4705 BRYCE DR	SFR	Meter Release - Electric		8/30/2017		TRUE		ISS	1
2017-9003 4705 BRYCE DR	SFR	Meter Release - Gas		8/30/2017		TRUE		ISS	1
2016-9028 5315 WESTFIELD DR	SFR	Survey Plat		8/30/2017		TRUE		ISS	1
2017-9037 4301 WHITESTONE DR	SFR	T-Pole		8/30/2017		TRUE		ISS	1
2017-9037 4301 WHITESTONE DR	SFR	Plumbing Rough		8/30/2017		TRUE		ISS	1
2017-9037 4301 WHITESTONE DR	SFR	Form Survey		8/30/2017		TRUE		ISS	1
2017-9033 5313 WESTFIELD DR	SFR	T-Pole		8/30/2017		TRUE		ISS	1
2017-9032 3600 JEFFREY DR	SFR	Plumbing Rough		8/15/2017		FALSE	FAILED 8/15	ISS	1
2016-9028 5315 WESTFIELD DR	SFR	Building Final		8/30/2017		FALSE	FAILED 8/30	ISS	1
								TOTAL =	144

# Monthly Inspection Report

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
October	61	106	88	93	120
November	71	70	86	80	94
December	50	71	99	91	128
January	50	94	80	69	113
February	82	91	78	114	149
March	80	76	76	146	146
April	114	158	95	150	148
May	72	90	52	104	186
June	80	134	84	135	113
July	105	117	77	140	168
August	84	122	105	122	144
September	58	82	99	91	
<b>Year Total</b>	<b>907</b>	<b>1211</b>	<b>1019</b>	<b>1335</b>	<b>1509</b>



# CODE ENFORCEMENT REPORT 2016-2017

Violation Description	2023												YTD Totals
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
High Grass					5	4	10	10	8				37
Illegal Dumping	1	2			1	1							5
Illegal Structure													0
Illegal Vehicle	1												1
Junked Vehicles	1								2				3
Lot Maintenance	2	5	6	3	4	6	5	10	10	6	3		60
Trash and Debris	5	6	4	10	15	10	6	6	4	3	2		71
<b>ITEM TOTALS</b>	<b>9</b>	<b>12</b>	<b>10</b>	<b>15</b>	<b>19</b>	<b>16</b>	<b>17</b>	<b>21</b>	<b>24</b>	<b>21</b>	<b>13</b>	<b>0</b>	<b>177</b>

Officer Actions	2015												YTD Totals
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
Verbal Warnings	9	10	10	15	19	14	15	19	20	21	6		158
Complied/Resolved	9	10	10	15	19	14	15	19	20	20	6		157
10 Day Notice (Letters Mailed)	2	2			2		2	4					12
Extension Granted				1	2								3
Complied/Resolved	2	2		1	2	2	4						13
Citations Issued													0
Stop Work Order													0
Misc													0
<b>ITEM TOTALS</b>	<b>22</b>	<b>24</b>	<b>20</b>	<b>30</b>	<b>38</b>	<b>32</b>	<b>34</b>	<b>42</b>	<b>48</b>	<b>41</b>	<b>12</b>	<b>0</b>	<b>343</b>

## City of Parker Municipal Court Monthly Report

August, 2017	Traffic Misdemeanors	Non-Traffic Misdemeanors
<b>New Cases Filed</b>	109	21
Total Pending Cases	963	361
Uncontested Dispositions	50	26
<b>Compliance Dismissals</b>		
After Driver Safety Course	12	
After Deferred Disposition	10	4
After Proof of Insurance	3	
Other Dismissals	6	0
<b>Total Cases Disposed</b>	<b>81</b>	<b>30</b>
Arrest Warrants Issued	0	
Warrants Cleared	12	
<b>Total Outstanding Warrants</b>	<b>613</b>	
Show Cause Hearings Held	10	0
Trials	0	0
<b>Fines, Court Costs &amp; Other Amounts Collected:</b>		
Retained by City	\$16,145.00	
Remitted to State	\$11,873.00	
<b>Total</b>	<b>\$28,018.00</b>	

**Definitions:**

**Show Cause Hearing** - A court hearing that is held for a defendant who has been granted a Driving Safety Course or Deferred Disposition to Show Cause for Non-Compliance

All cases heard in Municipal Court are Class C Misdemeanors Only.

**PARKER POLICE DEPARTMENT**  
**REPORT OF MONTHLY STATISTICS YEAR TO DATE**

August 2017	THIS MONTH	THIS MONTH LAST YEAR	% CHANGE	YTD 2017	YTD 2016	% CHANGE
for Service Traffic	1390			6888		
Calls for Service	251			1617		
Traffic Contacts - All Units	200			926		
House Watch	453			2156		
Other Service Response Incidents	486			2189		
<b>Reported Incidents - Part 1</b>	<b>3</b>			<b>18</b>		
Homicide	0			0		
Theft (Includes:)	1			12		
Larceny/Theft	0			8		
BMV's	1			2		
Auto Theft	0			2		
Residential Burglary	2			3		
Business Burglary	0			2		
Robbery	0			0		
Aggravated Assault	0			0		
Sexual Assault	0			1		
<b>Part 2 Offenses</b>	<b>9</b>			<b>91</b>		
Simple Assault	0			9		
Vandalism	1			4		
Narcotics	0			5		
Fraud (Forgery, ID Theft, etc.)	1			10		
Harassment	3			5		
Other Offenses	0			0		
Incident Reports	4			49		
Mental Health	0			9		
<b>Adult Arrests</b>	<b>2</b>			<b>8</b>		
Males	2			7		
Females	0			1		
<b>Juvenile Detentions</b>	<b>0</b>			<b>4</b>		
Males	0			3		
Females	0			1		
<b>Traffic Enforcement</b>	<b>200</b>			<b>937</b>		
Citations	125			567		
Warnings	75			370		
<b>Accidents</b>	<b>10</b>			<b>51</b>		
Injury	3			14		
Non-Injury	6			32		
FLID	1			5		
<b>Investigations</b>	<b>84</b>			<b>495</b>		
Cases Assigned	10			89		
Clearances	8			66		
Cases Filed with DA	2			15		
Follow-Ups	64			322		
<b>Alarm Activations</b>	<b>20</b>			<b>162</b>		
Residential	18			150		
Chargeable	15			121		
Non-Chargeable	3			29		
Business	2			12		
Chargeable	1			8		
Non-Chargeable	1			4		
<b>Outside Agency Activities</b>	<b>8</b>			<b>139</b>		
Murphy PD	2			78		
Collin County SO	2			33		
Wylie PD	0			5		
Allen PD	1			9		
Other	3			14		
<b>Staff</b>	<b>Sworn</b>	<b>Civilian</b>	<b>Reserve</b>			
Authorized	9	1	2			
Current Strength	9	1	2			
In Training	0	0	0			
Openings	0	0	0			
% Staffed	100%	100%	100%			
<b>Reserve Hours</b>	<b>32</b>					

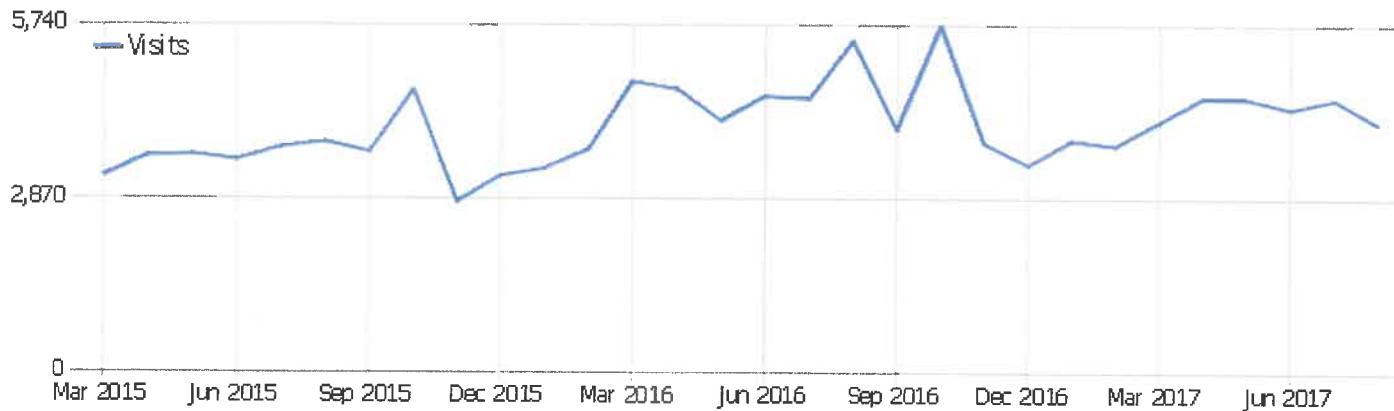
# PIWIK

Parker, TX

Date range: August 2017

Monthly Web Report

## Visits Summary



Name	Value
Unique visitors	3,205
Visits	4,112
Actions	15,199
Maximum actions in one visit	312
Actions per Visit	4
Avg. Visit Duration (in seconds)	00:03:47
Bounce Rate	50%

## Site Search Keywords

Keyword	Searches	Search Results pages	% Search Exits
bid posting	3	1	67%
map	3	3	33%
zoning	3	2	33%
167	2	2	50%
accident report	2	1	0%
contact	2	1	50%
contractor registration	2	1	100%
ebill	2	2	0%
feature links	2	2	0%
frm_swimming pool	2	1	50%
permits	2	2	0%
"3453 mcreary"	1	1	0%
"building code"	1	1	0%
"donna jenkins"	1	1	100%
5k	1	2	0%
117 heritage	1	1	0%
167 or	1	1	100%
497	1	1	0%
0711 ord749 2017 kings crossing phase 4 annexation w-ex	1	4	100%
0720 ord737 2016 subdivision regs amendment-final	1	2	0%
2016 water rate comparison	1	2	0%
3453 mcreary	1	3	0%
4903 windmill	1	1	100%
Others	111	151	25%

## Referrer Type

Referrer Type	Visits	Actions	Actions per Visit	Avg. Time on Website	Bounce Rate	Revenue
Direct Entry	2,401	8,594	4	00:04:28	57%	\$ 0
Search Engines	1,355	5,515	4	00:03:00	38%	\$ 0
Websites	356	1,090	3	00:02:14	40%	\$ 0

## Country

Country	Visits	Actions	Actions per Visit	Avg. Time on Website	Bounce Rate	Revenue
United States	3,731	14,639	4	00:04:05	46%	\$ 0
Philippines	89	121	1	00:00:57	84%	\$ 0
Canada	57	64	1	00:00:15	91%	\$ 0
India	42	82	2	00:00:58	76%	\$ 0
Nigeria	13	21	2	00:03:11	69%	\$ 0
France	11	57	5	00:04:20	18%	\$ 0
Germany	11	11	1	00:00:00	100%	\$ 0
Russia	11	11	1	00:00:00	100%	\$ 0
United Kingdom	10	14	1	00:00:05	70%	\$ 0
Malaysia	9	11	1	00:00:51	78%	\$ 0
South Africa	9	10	1	00:01:36	89%	\$ 0
South Korea	6	9	2	00:00:06	67%	\$ 0
China	5	6	1	00:00:01	80%	\$ 0
Ghana	5	6	1	00:00:00	80%	\$ 0
Kenya	5	5	1	00:00:00	100%	\$ 0
Namibia	5	6	1	00:00:01	80%	\$ 0
United Arab Emirates	5	7	1	00:02:58	60%	\$ 0
Unknown	5	8	2	00:03:05	60%	\$ 0
Japan	4	4	1	00:00:00	100%	\$ 0
Papua New Guinea	4	11	3	00:01:47	25%	\$ 0
Saudi Arabia	4	7	2	00:00:02	25%	\$ 0
Togo	4	5	1	00:00:00	75%	\$ 0
Bahrain	3	3	1	00:00:00	100%	\$ 0
Others	64	81	1	00:00:50	83%	\$ 0

## Device type

Device type	Visits	Actions	Avg. Time on Website	Bounce Rate	Conversion Rate
Desktop	2,705	10,820	4	00:04:32	48%
Smartphone	1,057	3,020	3	00:02:05	55%
Tablet	277	1,163	4	00:03:42	43%
Unknown	49	59	1	00:00:33	88%
Phablet	24	137	6	00:03:24	38%



## Council Agenda Item

Item 3  
C Sec Use Only

Budget Account Code:	2-75-4060	Meeting Date:	September 19, 2017
Budgeted Amount:	\$248,000	Department/ Requestor:	City Council
Fund Balance-before expenditure:		Prepared by:	Finance/HR Manager Boyd
Estimated Cost:		Date Prepared:	September 14, 2017
Exhibits:	<ul style="list-style-type: none"><li>1) Ord. No. 650 (Revising Sewer Service Rates)</li><li>2) 2017 Sewer Rate increase analysis</li><li>3) Proposed Ordinance</li></ul>		

### AGENDA SUBJECT

CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON AMENDING THE CITY SEWER RATES. [FLANIGAN/BOYD]

### SUMMARY

Sewer rates have not been adjusted in several years. Since that time North Texas Municipal Water District's (NTMWD's) rates have increased by 58.51%. An increase is required to meet costs in the upcoming budget.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter – Office Use			
Approved by:			
Department Head/ Requestor:	<i>Johnna Boyd</i>	Date:	09/14/2017
City Attorney:		Date:	
City Administrator:	<i>Jeff Flanigan</i>	Date:	09/15/2017

**ORDINANCE NO. 650**  
*(Revising Sewer Service Rates)*

**AN ORDINANCE OF THE CITY OF PARKER, TEXAS,  
REVISING THE RATES FOR RESIDENTIAL SANITARY SEWER  
SERVICE; PROVIDING A REPEALING CLAUSE; PROVIDING A  
SEVERABILITY CLAUSE; PROVIDING AN EMERGENCY CLAUSE;  
PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE  
DATE.**

**WHEREAS**, the majority of the residents of the citizens of the City of Parker are connected to on site septic systems;

**WHEREAS**, a revision in rates for the residences in the City of Parker with the availability of sanitary sewer systems is necessary for the financial requirements of the system;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, TEXAS AS FOLLOWS:**

**SECTION 1.** All residential customers connected to the City of Parker's sanitary sewer system shall pay the minimum sum of \$46.53 per month for the Sanitary Sewer service, effective April 1, 2010. All customers shall comply with all the rules, requirements and regulations of the North Texas Municipal Water District, Collin County, the State of Texas, and the City of Parker with respect to discharge and effluent placed by the customer into the system. No person shall discharge any substance, liquid, or material into the system which is prohibited by applicable state, federal or county law, or the rules of the North Texas Municipal Water District. The prior minimum rate of \$34.50 established by Ordinance No. 593 is revoked.

**SECTION 2.** Sanitary sewer fees are due monthly on the same terms and conditions as the City of Parker's water bills.

**SECTION 3.** That all provisions of the ordinances of the City of Parker in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Parker not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** Any person, firm, company, partnership, corporation, or association violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount of not less than One Hundred dollars (\$100.00) nor more than one Thousand Dollars (\$1,000.00) for each such violation, and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

**SECTION 6.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED** by the City Council of the City of Parker, Texas, on the 16<sup>th</sup> day of March, 2010.

AGREED:

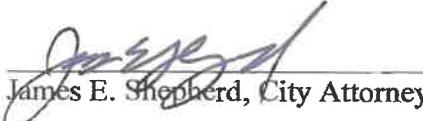
  
Carrie Smith, City Secretary



APPROVED:

  
Joe Ordina, Mayor

APPROVED AS TO FORM:

  
James E. Shepherd, City Attorney

Current Rates						
Month	Gallons	Trans	WW Treat	Total	# homes	Avg per home
October	4,505,000	10,775.00	6,799.85	17,574.85	323	54.41
November	5,131,000	12,202.78	7,744.73	19,947.52	327	61.00
December	4,251,000	10,195.68	6,416.46	16,612.14	328	50.65
January	5,252,000	12,478.76	7,927.37	20,406.13	328	62.21
February	5,417,000	12,855.09	8,176.42	21,031.51	332	63.35
March	4,050,000	9,737.24	6,113.07	15,850.31	335	47.31
April	5,134,000	12,209.63	7,749.26	19,958.89	333	59.94
May	3,747,000	9,046.16	5,655.72	14,701.88	340	43.24
June	5,378,000	12,766.14	8,117.55	20,883.70	334	62.53
July	5,151,000	12,248.40	7,774.92	20,023.32	341	58.72
August	4,799,000	11,445.56	7,243.61	18,689.17	340	54.97
September					618.33	56.21152
Monthly costs - Other		2,687.00			340	7.90
						7.9

NTMWD Rates			
	Transportation	WW Treat	Total
2011	1.0267	1.6987	2.7254
2012	0.9885	1.7668	2.7553
2013	1.0802	1.8950	2.9752
2014	1.1581	1.9185	3.0766
2015	1.4056	2.3478	3.7534
2016	1.5094	2.2808	3.7902
2017	1.7806	2.5393	4.3199
			58.51% Increase

ORDINANCE NO. 754  
(*Revising Sewer Service Rates*)

**AN ORDINANCE OF THE CITY OF PARKER, TEXAS, REVISING  
THE RATES FOR RESIDENTIAL SANITARY SEWER SERVICE;  
PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY  
CLAUSE; PROVIDING AN EMERGENCY CLAUSE; PROVIDING A  
PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the majority of the residents of the citizens of the City of Parker are connected to on-site septic systems;

**WHEREAS**, a revision in rates for the residences in the City of Parker with the availability of sanitary sewer systems is necessary for the financial requirements of the system;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, TEXAS AS FOLLOWS:**

**SECTION 1.** All residential customers connected to the City of Parker's sanitary sewer system shall pay the minimum sum of \$XXXX per month for the Sanitary Sewer service, effective October 1, 2017. All customers shall comply with all the rules, requirements and regulations of the North Texas Municipal Water District, Collin County, the State of Texas, and the City of Parker with respect to discharge and effluent placed by the customer into the system. No person shall discharge any substance, liquid, or material into the system which is prohibited by applicable state, federal or county law, or the rules of the North Texas Municipal Water District. The prior minimum rate of \$46.53 established by Ordinance No. 650 is revoked.

**SECTION 2.** Sanitary sewer fees are due monthly on the same terms and conditions as the City of Parker's water bills.

**SECTION 3.** That all provisions of the ordinances of the City of Parker in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Parker not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** Any person, firm, company, partnership, corporation, or association violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount of not less than One Hundred dollars (\$100.00) nor more than one Thousand Dollars (\$1,000.00) for each such violation, and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

**SECTION 6.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED** by the City Council of the City of Parker, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

APPROVED:

\_\_\_\_\_  
Z Marshall, Mayor

AGREED:

\_\_\_\_\_  
Patti Scott Grey, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Brandon S. Shelby, City Attorney



## Council Agenda Item

Item 4  
C Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Administrator Flanigan
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	<ul style="list-style-type: none"><li>Resolution No. 2017-551 and Draft Agreement with Birkhoff's scope of work description and construction plans.</li></ul>	

### AGENDA SUBJECT

CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION NO. 2017-551, REGARDING AN AGREEMENT WITH TXDOT FOR PARKER ROAD WATER LINE RELOCATION PROJECT. [FLANIGAN]

### SUMMARY

TXDOT is currently in the process of widening certain portions of Parker Road. As a result of this project, the City of Parker must relocate portions of the City's water utility main. TXDOT has agreed to reimburse the City for the cost of the relocation. The formal agreement must be approved by the Council before construction may begin. TXDOT refused to accept any of the suggested changes to the terms of the agreement. The scope of work described in the agreement was prepared by John Birkhoff, the City's engineer.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter - Office Use			
Approved by:			
Department Head/ Requestor:		Date:	
City Attorney:	<i>Brandon S. Shelby</i>	Date:	09/14/2017 via email
City Administrator:	<i>Jeff Flanigan</i>	Date:	09/15/2017

**RESOLUTION NO. 2017-551**  
*(TXDOT Standard Utility Agreement)*

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE A STANDARD UTILITY AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE REIMBURSEMENT OF COSTS TO RELOCATE PORTIONS OF THE CITY OF PARKER'S WATER UTILITY MAIN ADJACENT TO PARKER ROAD.**

**WHEREAS**, the City of Parker provides water utility service to its residents; and

**WHEREAS**, the Texas Department of Transportation (TXDOT) is currently in the process of widening certain portions of Parker Road; and,

**WHEREAS**, as a result of this project, the City of Parker must relocate portions of the City's water utility main; and,

**WHEREAS**, TXDOT has agreed to reimburse the City for the cost of said relocation; and,

**WHEREAS**, the Parker City Council deems it in the best interest of the citizens of the City of Parker to enter into a Standard Utility Agreement with TXDOT for the reimbursement of said funds; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, AS FOLLOWS:**

**SECTION 1.** The terms of the Standard Utility Agreement provided by TXDOT are generally acceptable and the scope of work provided by the City Engineer accurately describes the scope of work of the relocation project.

**SECTION 2.** The Parker City Council authorizes the Mayor to execute the Agreement with TXDOT, and all other necessary documents in connection therewith on behalf of the City of Parker. A copy of the Agreement is attached to this Resolution as Exhibit A.

**DULY RESOLVED** by the City Council of the City of Parker, Collin County, Texas on this the 19th day of September, 2017, effective this date.

APPROVED:  
CITY OF PARKER

Z Marshall, Mayor

ATTEST:

Patti Scott Grey, City Secretary

APPROVED AS TO FORM:

Brandon Shelby, City Attorney

Proposed

## STANDARD UTILITY AGREEMENT

District: Dallas  
Federal Project No.: STP 2015 (430)  
ROW CSJ: 2679-02-009  
Highway Project Letting Date:  
8/1/2018

U-Number: **U15097**  
County: Collin  
Highway: FM 2514  
From: FM 2551  
To: West of FM 1378

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, ("State"), and City of Parker, ("Utility"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **State**.

**WHEREAS**, the **State** has deemed it necessary to make certain highway improvements as designated by the **State** and approved by the Federal Highway Administration within the limits of the highway as indicated above;

**WHEREAS**, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: The City of Parker has numerous water mains located along FM 2514 from FM 2551 to FM 1378. These waterlines were located and constructed in waterline easements. TxDot has acquired Rights of Way over these easements and TxDot Improvements are in conflict with the City of Parkers Waterlines between FM 2514 and McCreary Road. To minimize the number of waterlines in this corridor, a single 18 inch waterline will be constructed in a waterline easement adjacent to the recently acquired TxDot south right of way line along FM2514. The reduction in the number of waterlines, requires approximately 11 water service line crossings of FM 2514. These crossing at the direction of TxDot will be located 4 feet below TxDot's proposed storm sewer at depths up to 15 feet. Waterlines along this route that are no longer in service will be abandoned in place to reduce the construction time of the utility relocation project. Removal if required will be completed during roadway construction. The project also includes the relocation of an 18 inch water line at Muddy Creek to facilitate construction of a TxDot bridge. The existing waterline is in a waterline easement that has been acquired through TxDot Rights of way acquisition and will need to be relocated into a new easement. Also included is one 18 inch waterline lower at outfall of TxDot double 7 x 5 box culvert.; and more specifically shown in **Utility's** plans, specifications and estimated costs, which are attached hereto as Attachment "A".

**WHEREAS**, the **State** will participate in the costs of the adjustment, removal, and/or relocation of certain facilities to the extent as may be eligible for State and/or Federal participation.

**WHEREAS**, the **State**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

### NOW, THEREFORE, BE IT AGREED:

The **State** will pay to **Utility** the costs incurred in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **State** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. **Utility** shall supply, upon

Initial \_\_\_\_\_ Date \_\_\_\_\_  
TxDOT

Initial \_\_\_\_\_ Date \_\_\_\_\_  
Utility

request by the **State**, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **State**, or may, with the **State's** approval, accumulate actual direct and related indirect costs in accordance with an established accounting procedure developed by **Utility**. Bills for work hereunder will be submitted to **State** not later than 90 days after completion of the work.

When requested, the **State** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

Alternatively, **State** agrees to pay **Utility** an agreed lump sum of \$2.1 million as supported by the attached estimated costs. The **State** will, upon satisfactory completion of the adjustments, removals, and/or relocations and upon receipt of a final billing, make payment to **Utility** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **State** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **State** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **State** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **State** reimbursement.

This agreement in its entirety consists of the following elements:

1. Standard Utility Agreement;
2. Plans, Specifications, and Estimated Costs (Attachment "A");
3. Utility's Accounting Method (Attachment "B");
4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C");
5. Statement Covering Contract Work – ROW-U-48 (Attachment "D");
6. Eligibility Ratio (Attachment "F");
7. Betterment Calculation and Estimates (Attachment "G");
8. Proof of Property Interest – ROW-U-1A, ROW-U-1B, or ROW-U-1C (Attachment "H");
9. Inclusion in Highway Construction Contract (if applicable) (Attachment "I"); and
10. Utility Joint Use Acknowledgment - ROW-U-JUA and/or Utility Installation Request - Form 1082 (Attachment "E").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **State and Utility**.

This agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **State**. However, the **State** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

Initial \_\_\_\_\_ Date \_\_\_\_\_  
TxDOT

Initial \_\_\_\_\_ Date \_\_\_\_\_  
Utility

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. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that TxDOT makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

## UTILITY

Utility: \_\_\_\_\_  
*Name of Utility*

By: \_\_\_\_\_  
*Authorized Signature*

\_\_\_\_\_  
*Print or Type Name*

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXECUTION RECOMMENDED:

\_\_\_\_\_  
*Director of TP&D (or designee), Dallas District*

### THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: \_\_\_\_\_  
*District Engineer (or designee)*

Date: \_\_\_\_\_

Initial \_\_\_\_\_ Date \_\_\_\_\_  
TxDOT

Initial \_\_\_\_\_ Date \_\_\_\_\_  
Utility

**ATTACHMENT "I"**  
**(to be used only for Inclusion in Highway Construction Contract)**

In the best interest of both the **State** and the **Utility**, the **Utility** requests the **State** to include the plans and specifications for this work in the general contract for construction of Highway \_\_\_\_\_ in this area, so that the work can be coordinated with the other construction operations; and the construction contract is to be awarded by the **State** to the lowest qualified bidder who submits a proposal in conformity with the requirements and specifications for the work to be performed.

Utility: \_\_\_\_\_  
*Name of Utility*

By: \_\_\_\_\_  
*Authorized Signature*

\_\_\_\_\_  
*Print or Type Name*

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Initial \_\_\_\_\_ Date \_\_\_\_\_  
TxDOT

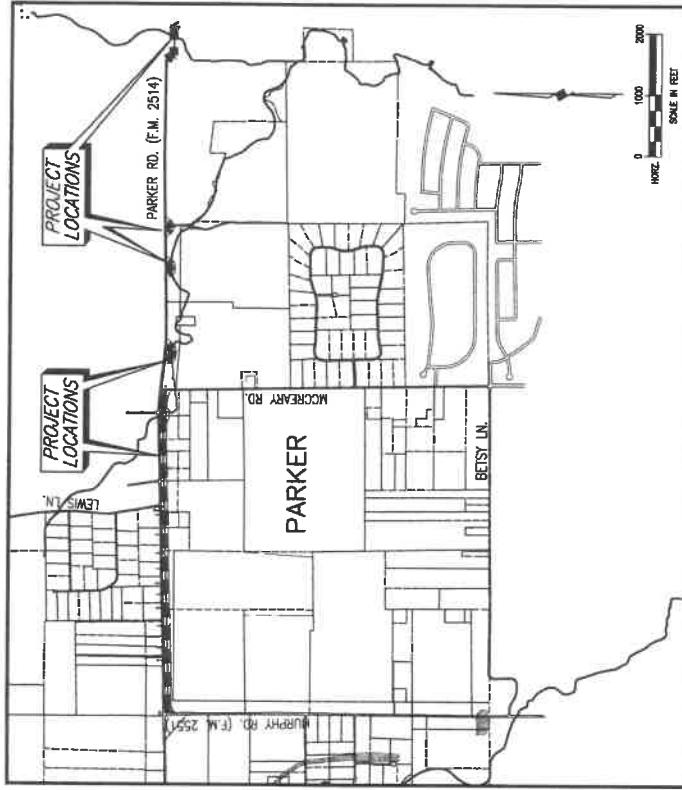
Initial \_\_\_\_\_ Date \_\_\_\_\_  
Utility

# CITY OF PARKER, TEXAS

CONSTRUCTION PLANS FOR

## PARKER ROAD (F.M. 2514) UTILITY RELOCATIONS

FROM: MURPHY ROAD (F.M. 2551)  
TO: MUDDY CREEK



LOCATION MAP

SHEET INDEX

1	COVER
2	GENERAL NOTES
3	COORDINATE CONTROL PLAN
4	PROPOSED EASEMENT STRIP MAP
5-16	PARKER ROAD WATER LINE PLAN & PROFILE
17	PARKER ROAD WATER LINE PLAN & PROFILE - CROSSING STRUCTURE NO. 2
18-19	PARKER ROAD WATER LINE PLAN & PROFILE - CROSSING BRIDGE
20-22	SERVICE WATER LINES PLAN & PROFILE
23-24	DETAILS
25-28	EROSION CONTROL PLAN

BIRKHOFF, HENDRICKS & CARTER, L.L.P.

PROFESSIONAL ENGINEERS  
Texas Firm #526 TPLS Firm No. 10031800  
11910 Greenville Ave, Suite 600, Dallas, Texas 75243  
Phone: 214-361-7900

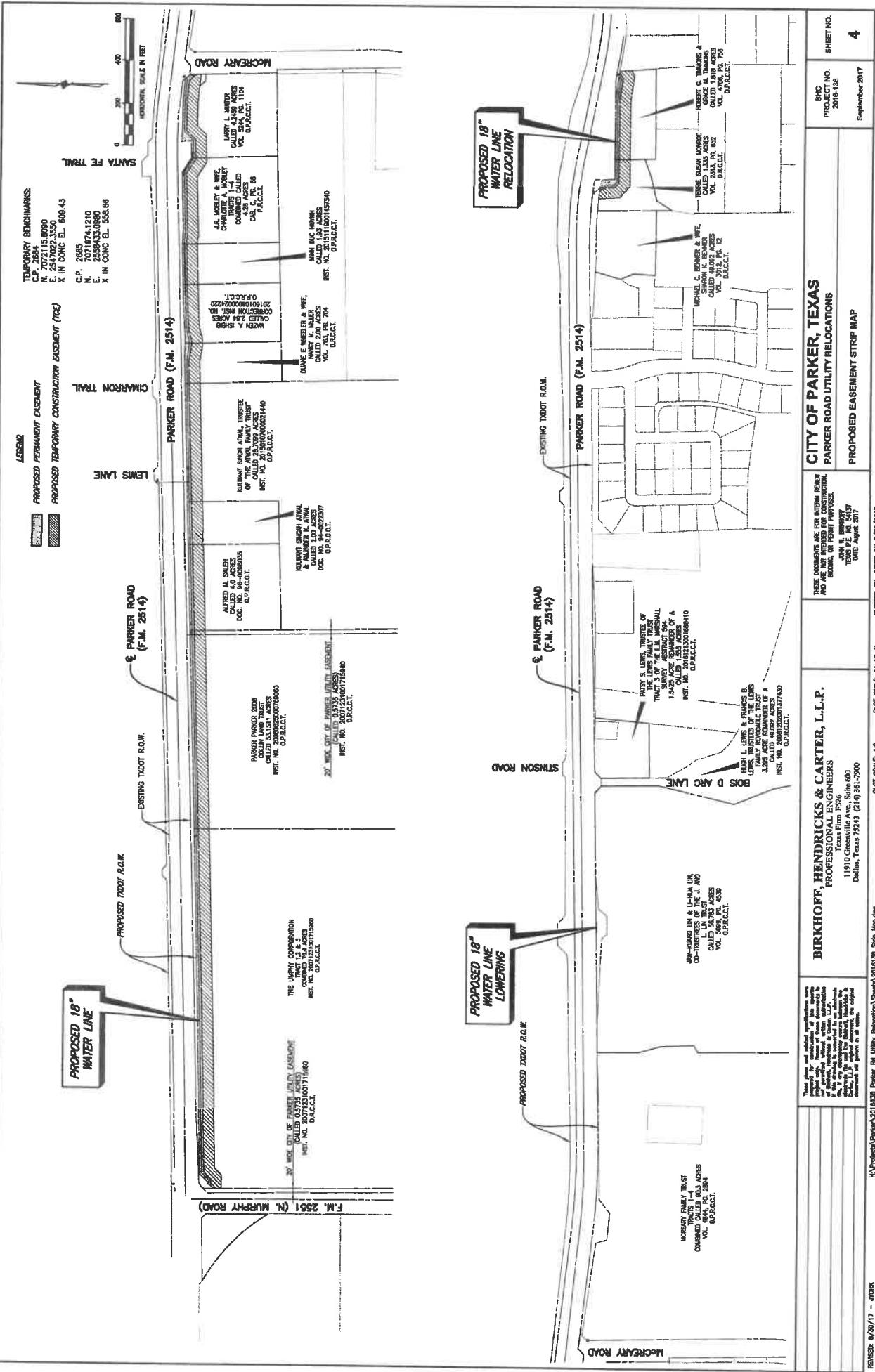
SEPTEMBER 2017

CITY ADMINISTRATOR/DIRECTOR OF PUBLIC WORKS  
SCOTT LEVINE, MAYOR PRO TEM  
ED STANDRIDGE  
CLEBURNE RANEY  
CINDY MEYER  
LEE PETTLE

THESE DOCUMENTS ARE FOR INTERNAL REVIEW  
AND ARE NOT INTENDED FOR CONSTRUCTION,  
BUILDING, OR OTHER PUBLIC PURPOSES.  
TYPED BY: BIRKHOFF, HENDRICKS & CARTER, L.L.P.  
DATE: August 2017



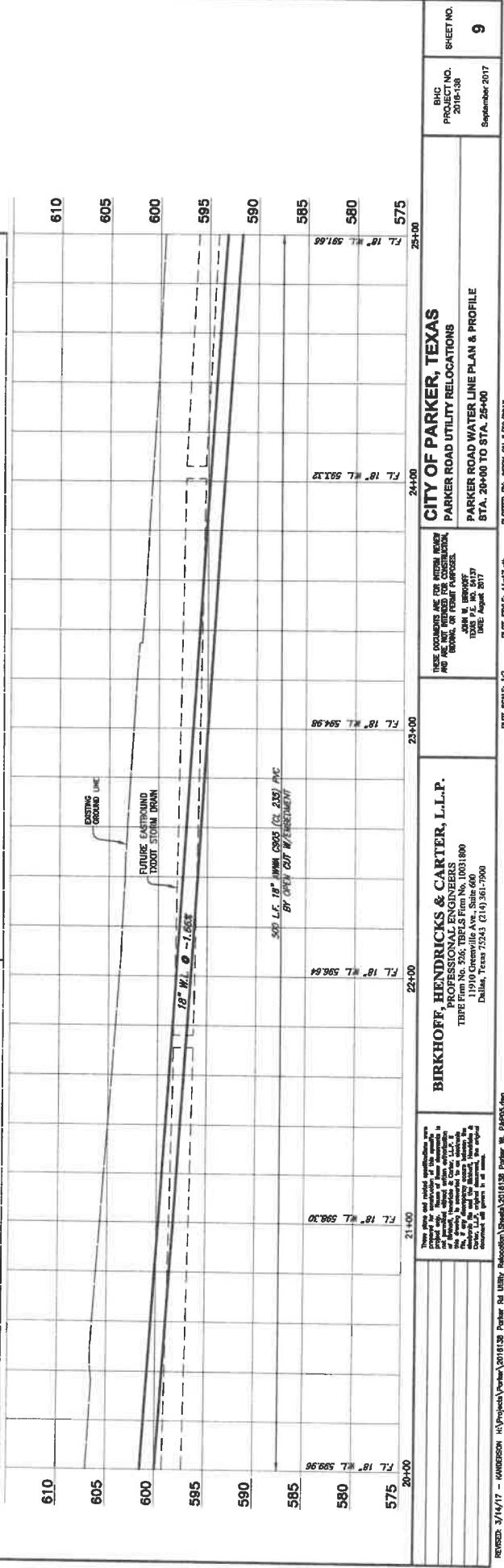
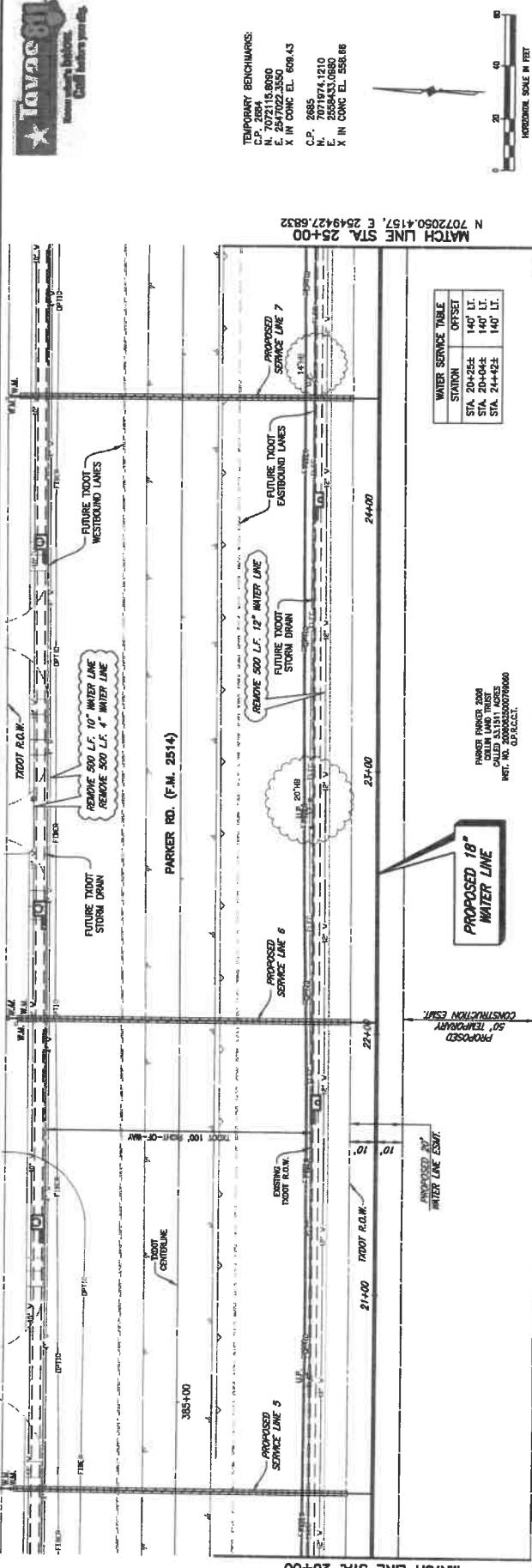










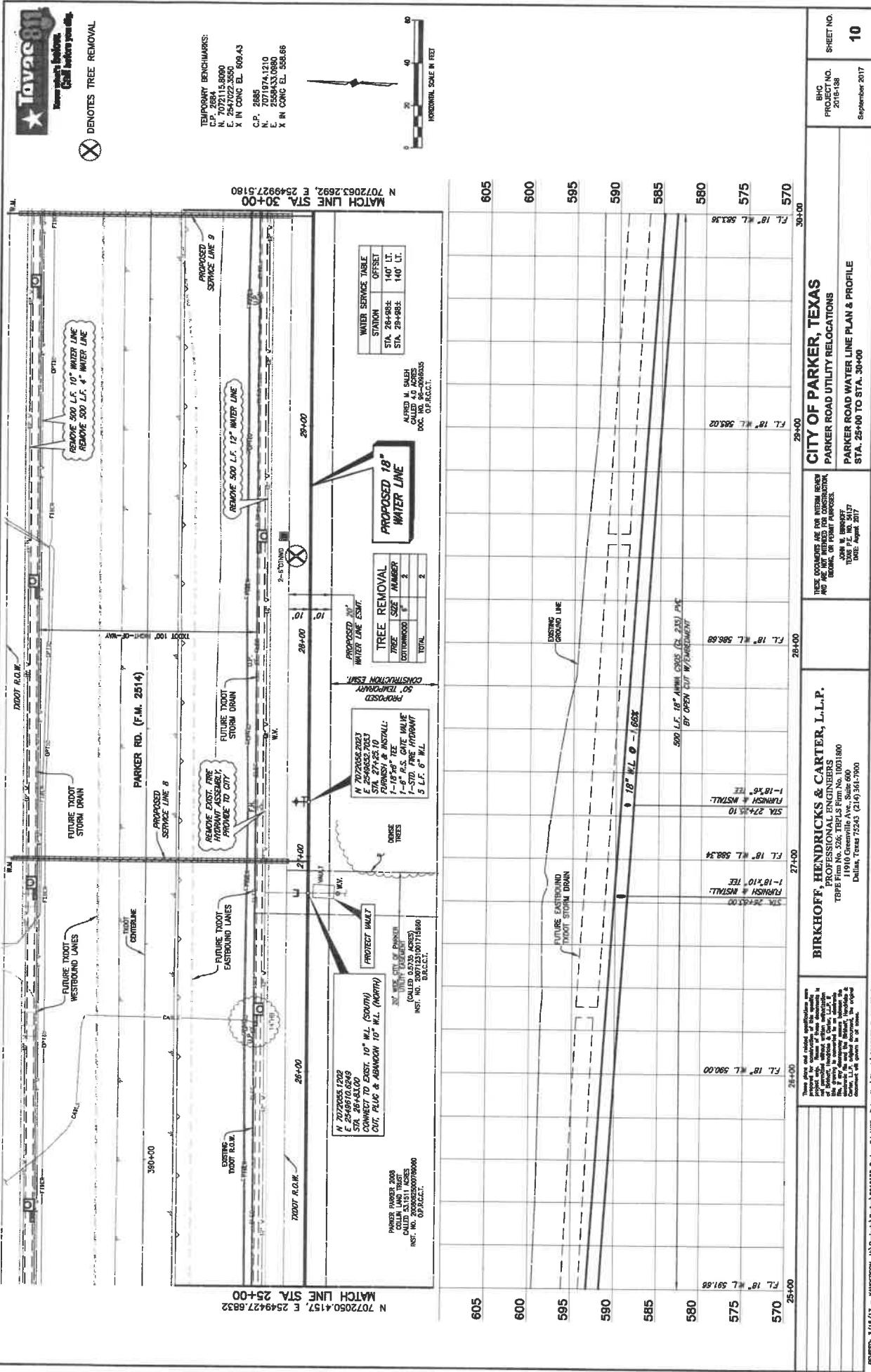


REVERSE: 3/16/17 - KANNEDONI HAD BONDED WITH THE ANGELS. 3/16/17



ROBERTS TREE REMOVAL  
800-877-7676

 DENOTES TREE REMOVAL



DISCUSSION: 9:45 A.M. — 10:45 A.M. — 11:45 A.M. — 12:45 P.M.









G

PARKER RD. (F.M. 2514)

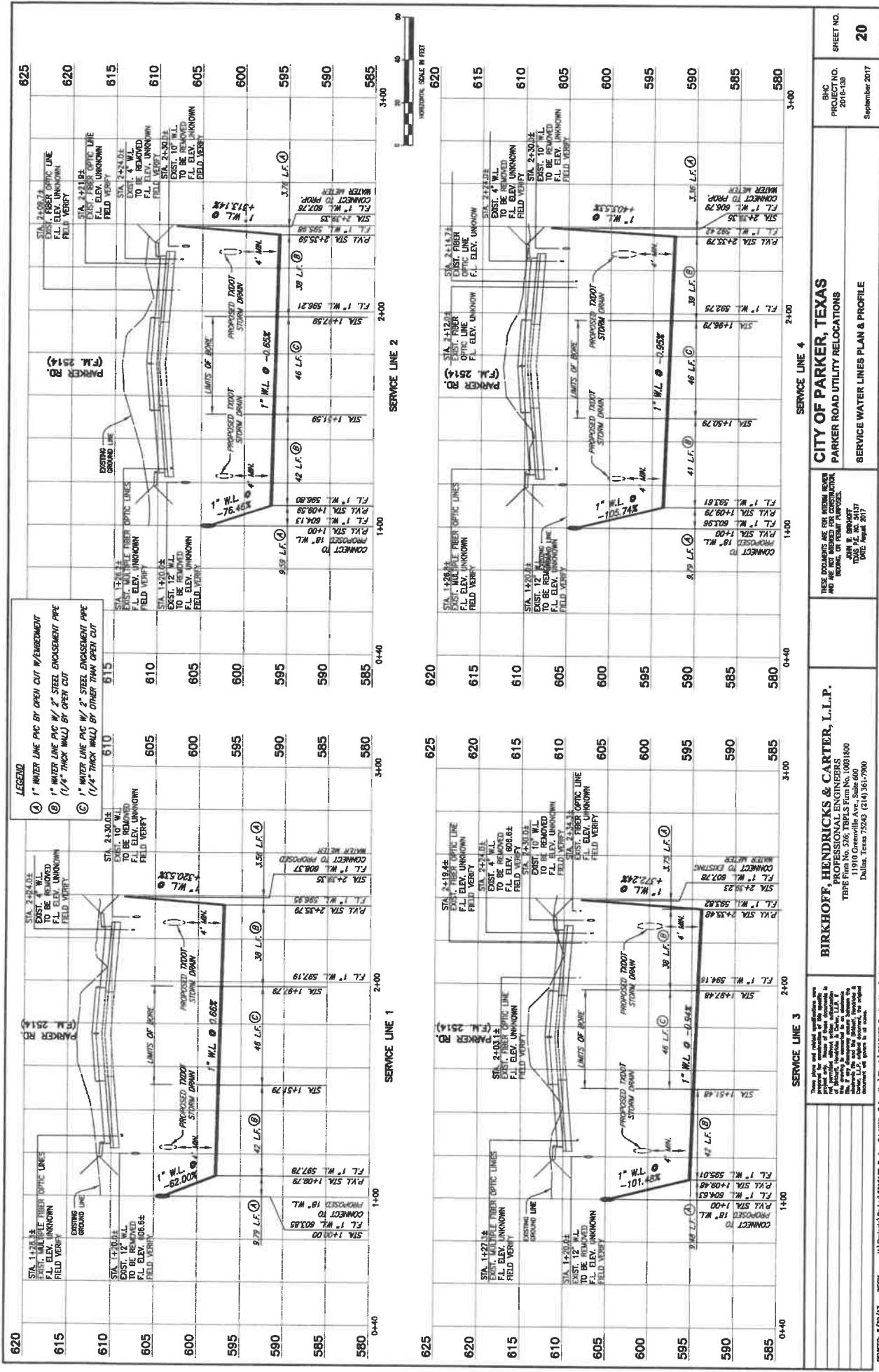


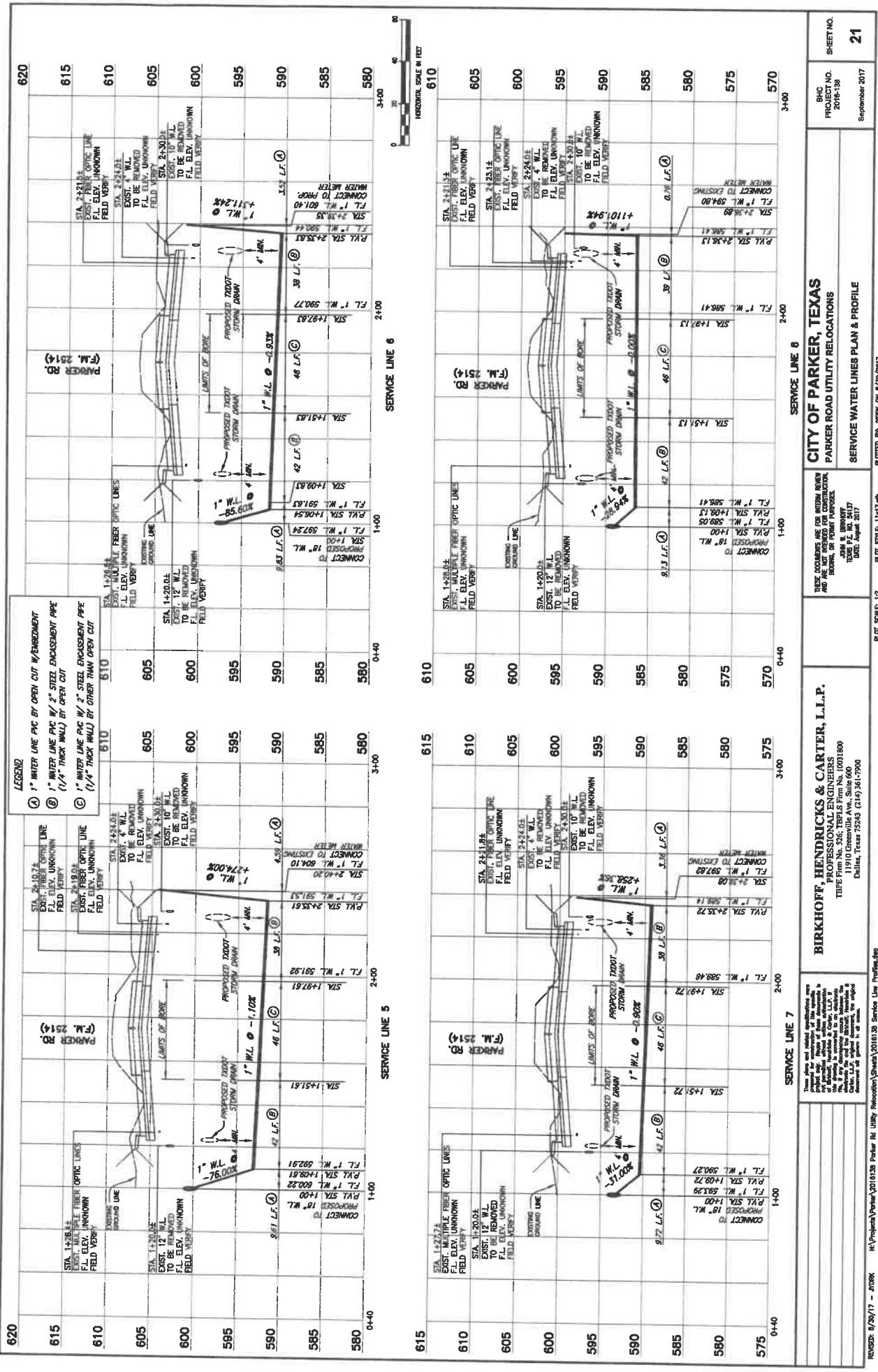


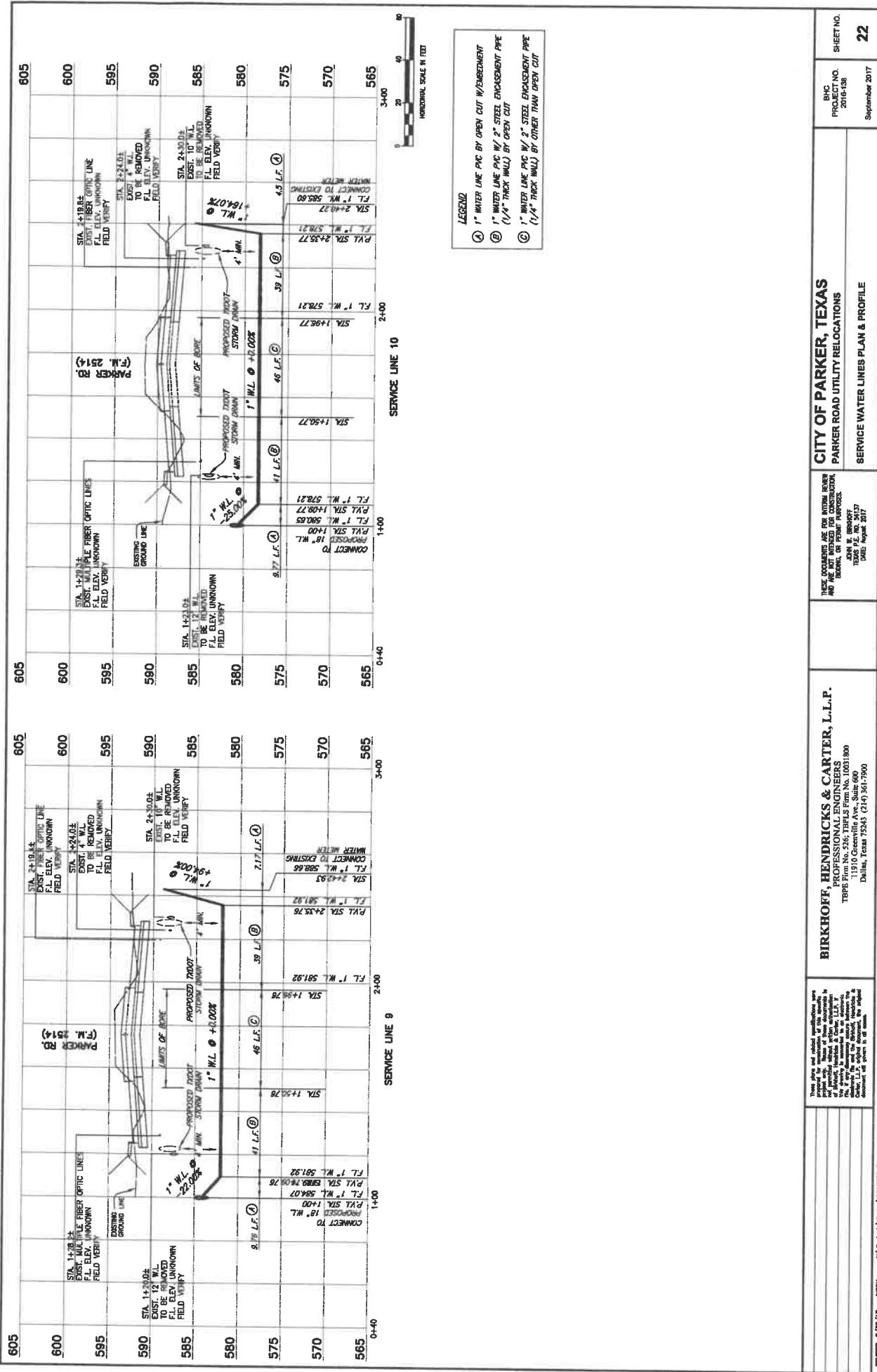




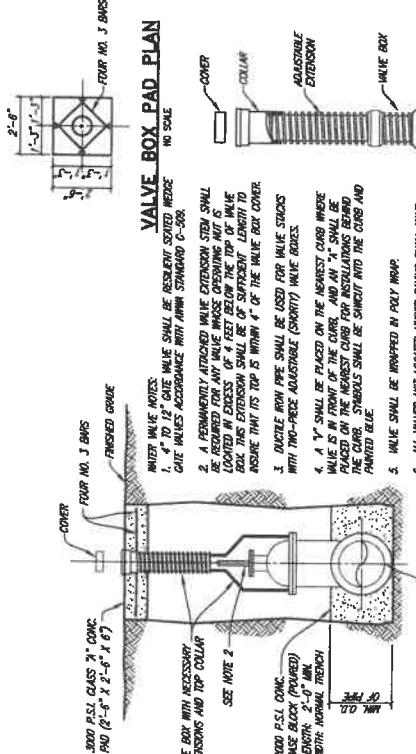






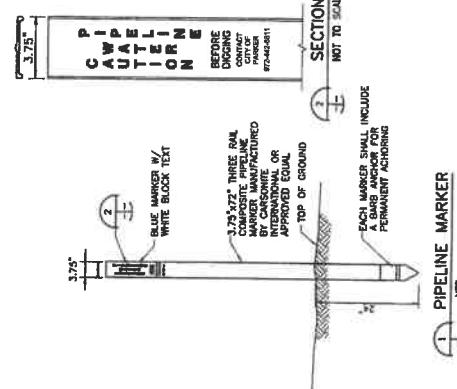






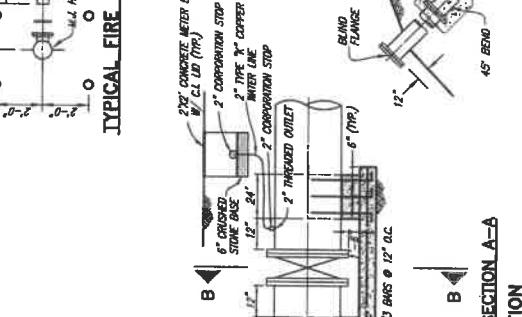
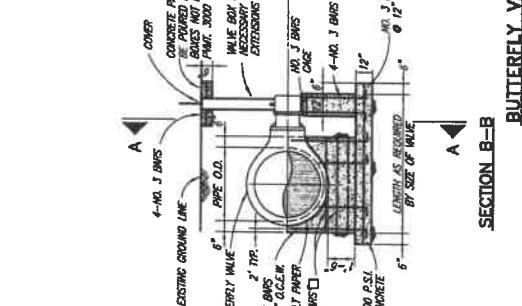
## VALVE BOX PAD PLAN

## VALVE BOX WITH EXTENSION

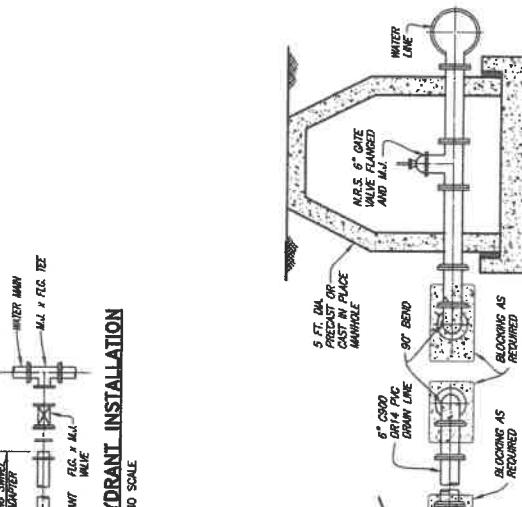


**1 PIPELINE MARKER**

MARKER SHALL BE LOCATED ON BOTH SIDES OF CULVERTS AND AT ALL VALVE VALVES, AIR WAVES, AND BLOWOFF VALVES. MARKER SHALL ALSO BE PLACED AT ALL HORIZONTAL BENDS AT CREEK CROSSINGS. EACH MARKER SHALL HAVE A STICKER WITH THE FOLLOWING INFORMATION



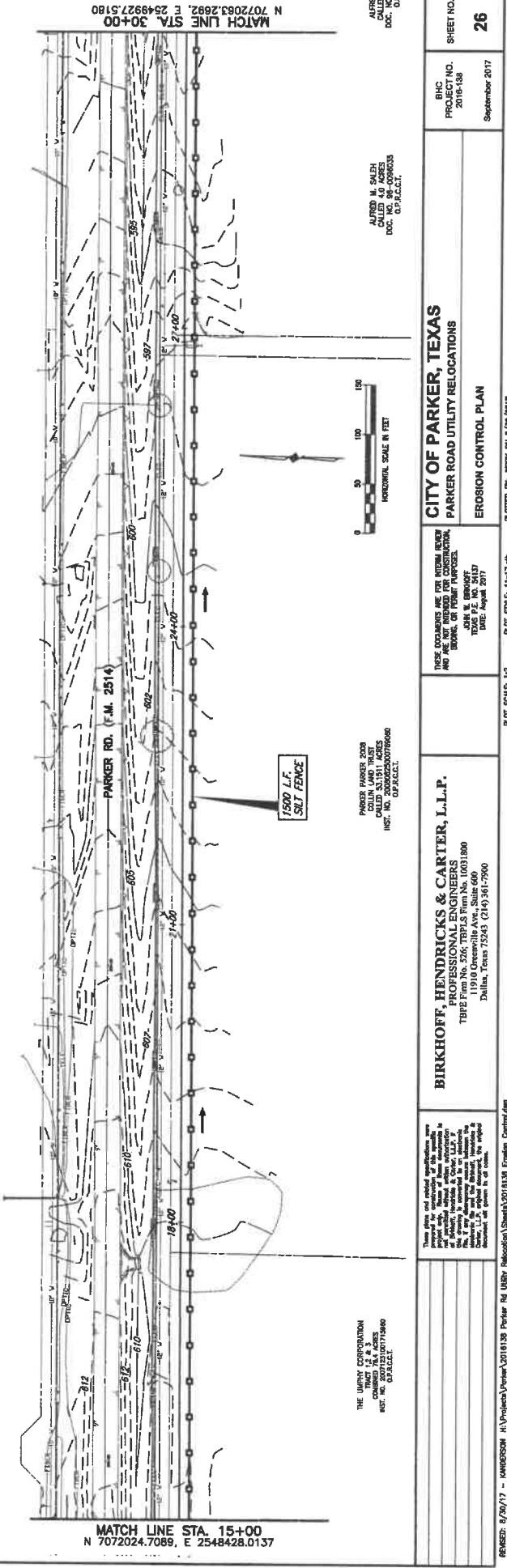
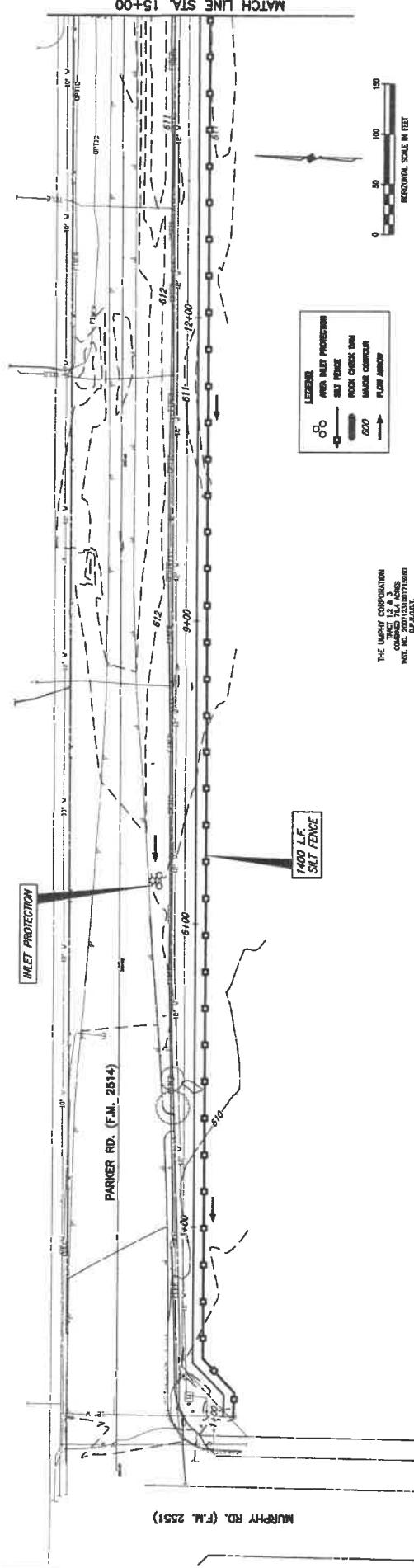
## TYPICAL FIRE HYDRANT INSTALLATION

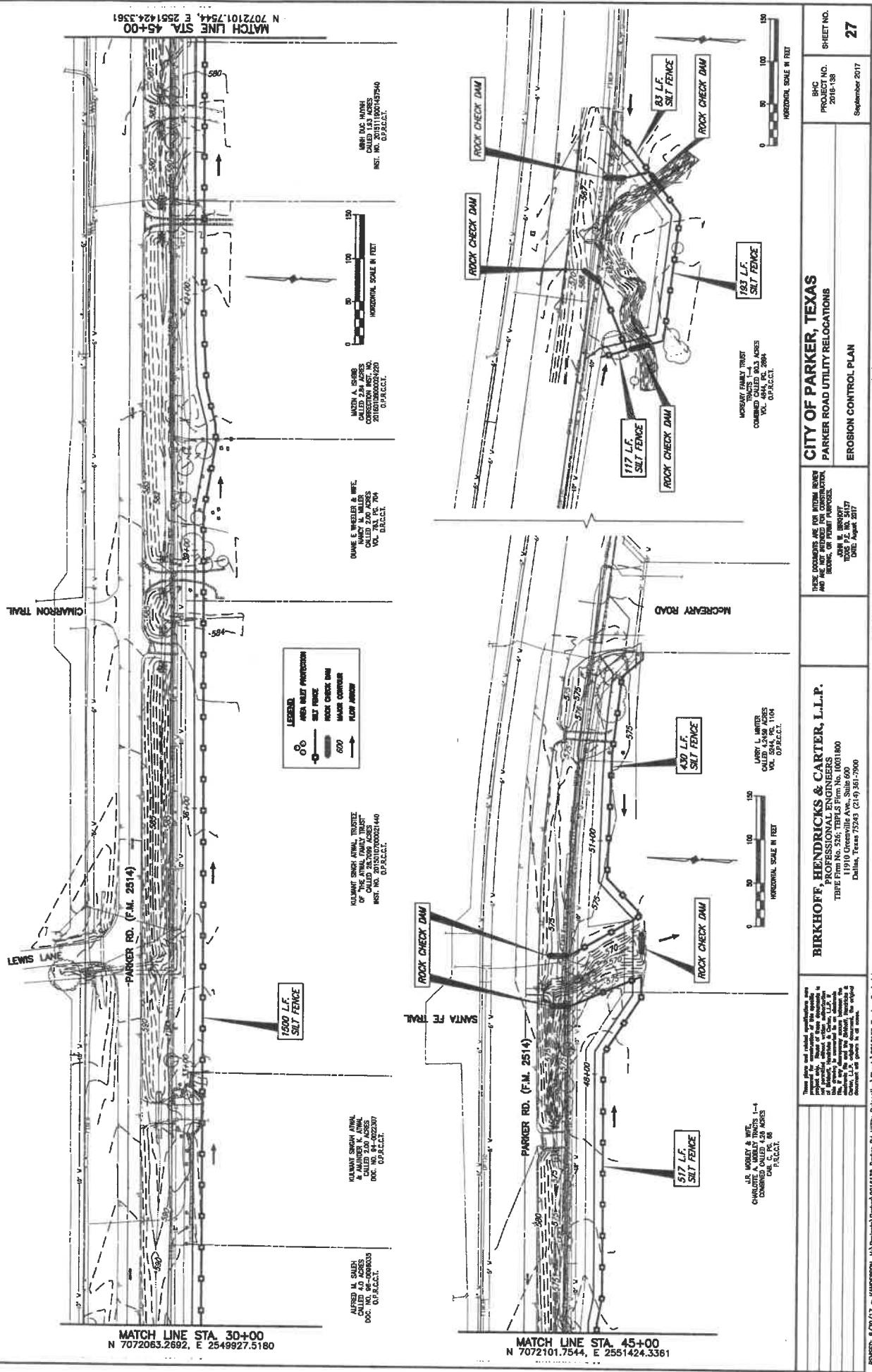


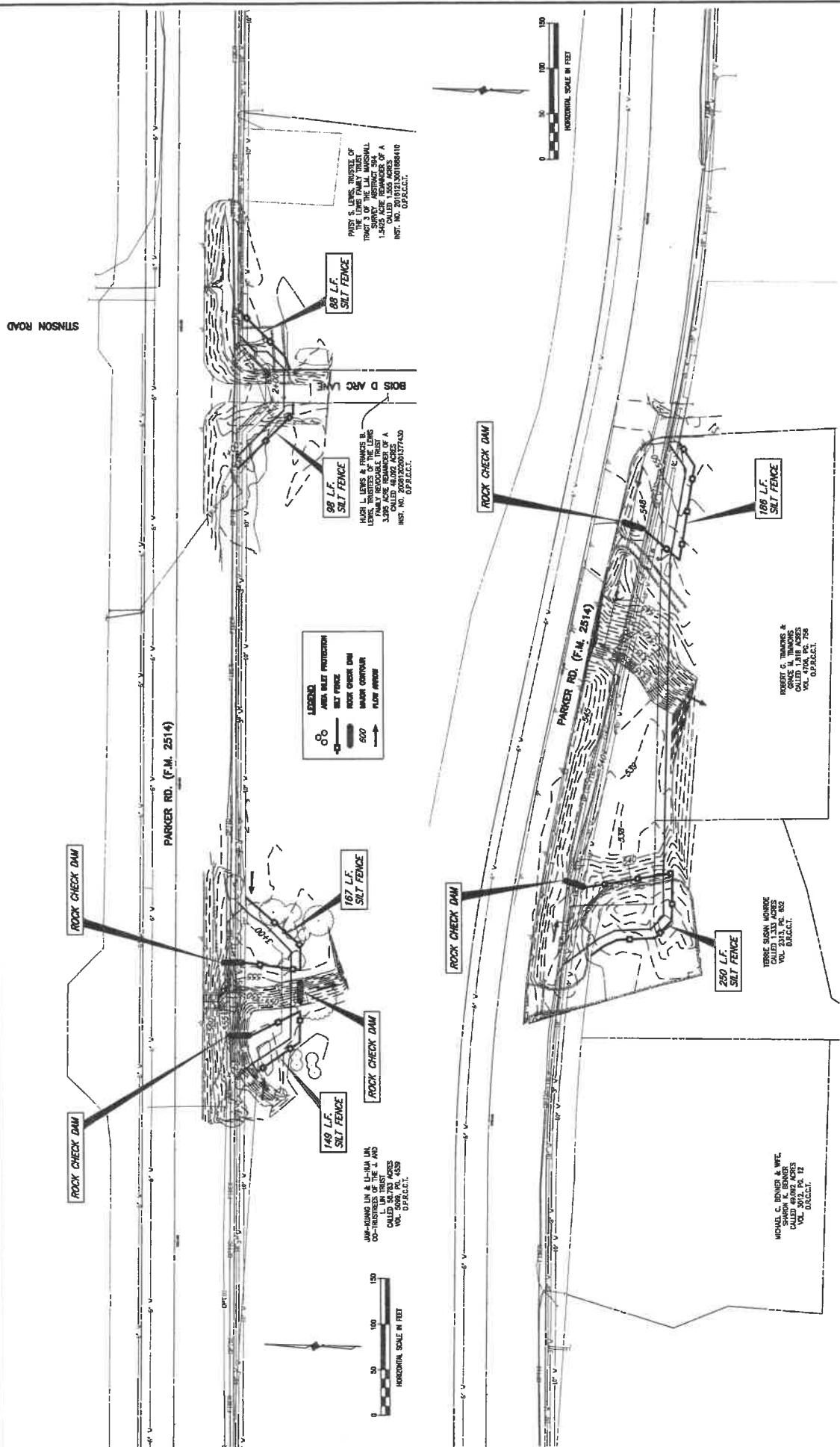
**CITY OF PARKER, TEXAS**  
PARKER ROAD UTILITY RELOCATIONS

<b>BIRKHOF, HENDRICKS &amp; CARTER, L.L.P.</b> <b>PROFESSIONAL ENGINEERS</b> <b>TYPE Firm No. 526, TPLB Firm No. 10031800</b> <b>1111 University Ave., Suite 600</b> <b>Dallas, Texas 75201-5700</b>		<b>THIS DOCUMENT IS FOR INTERNAL USE ONLY, AND IS NOT TO BE COPIED, MAILED, OR MADE PUBLIC FOR ANY PURPOSES.</b> <b>JOHN W. BIRKHOF</b> <b>TPLB, Inc.</b> <b>DATE: April 17, 2017</b>
<b>CITY OF PARKER, TEXAS</b> <b>PARKER ROAD UTILITY RELOCATIONS</b>		<b>DETAILS</b>
<b>BHC</b> <b>PROJECT NO.</b> <b>2016-98</b> <b>SHEET NO.</b> <b>24</b> <b>September 2017</b>		











## Council Agenda Item

Item 5  
C/Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Administrator Flanigan
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	<ol style="list-style-type: none"><li>1. Proposed Resolution</li><li>2. Mowing contract</li><li>3. Annual Mowing Contract 2017 – Letter, notice and Tabulation of Bids</li></ol>	

### AGENDA SUBJECT

CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON RESOLUTION NO. 2017-552, APPROVING A MOWING CONTRACT WITH GREENER PASTURES LANDSCAPE MANAGEMENT. [FLANIGAN]

### SUMMARY

The Annual Mowing Contract 2017 was advertised in the Dallas Morning News on July 27, 2017 and August 3, 2017. The bids were opened, reviewed, evaluated at 10:00 a.m., Thursday, August 17, 2017.

Please review the information provided.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter – Office Use			
Approved by:			
Department Head/ Requestor:			Date:
City Attorney:	<i>Brandon S. Shelby</i>	Date:	09/14/2017 via email
City Administrator:	<i>Jeff Flanigan</i>	Date:	09/15/2017

**RESOLUTION NO. 2017-552**  
*(2017-2018 Annual Mowing Contract)*

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, AWARDING THE BID FOR THE CITY OF PARKER'S 2017-2018 ANNUAL MOWING CONTRACT TO GREENER PASTURES LANDSCAPE MANAGEMENT, OF DALLAS, TEXAS.**

**WHEREAS**, the City of Parker desires to protect the health, safety and welfare of its citizens; and

**WHEREAS**, the Parker City Council deems it in the best interest of the citizens of the City of Parker to accept a bid from Greener Pastures Landscape Management of Dallas, Texas for the City of Parker's annual mowing contract; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS, AS FOLLOWS:**

**SECTION 1.** The bid of Greener Pastures Landscape Management, in the Total Amount of \$59,017.52 is approved, and is in conformance with the requirements for such approval.

**SECTION 2.** The Parker City Council authorizes the Mayor to execute the Contract with Greener Pastures Landscape Management, and all other necessary documents in connection therewith on behalf of the City of Parker. A copy of the Contract is attached to this Resolution as Exhibit A.

**DULY RESOLVED** by the City Council of the City of Parker, Collin County, Texas on this the 19th day of September, 2017, effective this date.

APPROVED:  
CITY OF PARKER

Z Marshall, Mayor

ATTEST:

Patti Scott Grey, City Secretary

APPROVED AS TO FORM:

Brandon Shelby, City Attorney

Resolution No. 2017-552  
*(2017-2018 Annual Mowing Contract)*

**CITY OF PARKER  
ANNUAL MOWING CONTRACT**

This Agreement is made by and between the City of Parker, Texas, a Type-A General Law municipality, hereinafter referred to as "Buyer", and the hereinafter named SELLER, referred to as the "Seller," for the sale of services specified hereinafter, and the Buyer and Seller hereby agree as follows:

**Seller:**

Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Email \_\_\_\_\_

**DESCRIPTION OF SERVICES**

This Contract is for the purchase by the City of Parker, Texas, of the services described hereinafter as the "services" or the subject of this Contract. The Services are more specifically described as follows:

1. mowing, weed eating, edging center median
2. trash and debris pick up as needed
3. spring, winter, and fall; Pre-emergent weed control
4. 3 fertilizations per year

Location of project

1. 3900-6400 block of Parker Road
2. 3200-4000 block of Hogge Drive (FM2551)
3. 3200-4000 block of McCreary Road
4. 4900-5400 block of Betsy Lane

This Contract is for a specific duration wherein the Seller will supply, furnish and deliver at the designated point or points of delivery the specified Services as requested by Buyer.

**DURATION: From October 1, 2017 to September 30, 2018**

## **PAYMENT TERMS**

Seller shall submit itemized invoices for Services provided, mailed to the City of Parker, 5700 E Parker Road, Parker, TX 75002. Payment shall not be due until the above instruments are submitted, until the Services have been received by Buyer, and until Buyer has had sufficient opportunity to inspect and exercise its right to accept or reject. Seller shall keep Buyer advised of any changes in their remittance addressees. In no event shall Buyer be responsible for interest of any kind on any funds due to Seller, and no term or provision contained in any Seller's invoice shall in any way modify, vary or alter the provisions hereof.

Buyer's obligation is payable solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void and to the extent funds are not available.

## **CONTRACT TERMS AND CONDITIONS**

This Contract is made and entered into between the parties hereto in accordance with and subject to the following additional terms and conditions:

1. **SPECIAL TOOLS AND TEST EQUIPMENT:** If the price stated on the face hereof includes the cost of any special tooling or any special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.
2. **WARRANTY – PRICE:** The price to be paid by the Buyer shall be that contained in the Seller's bid which Seller warrants to be no higher than Seller's current prices on orders for services of the kind and specification covered by the agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability for breach or Seller's actual expense.

The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

3. **SAFETY WARRANTY:** Seller warrants the product sold to the Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event that the products do not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event that Seller fails to make the appropriate correction within a reasonable time, any correction made by Buyer will be at Seller's expense.

4. **CANCELLATION:** Buyer shall have the right to cancel for default on all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies which Buyer may have at law or equity. The Buyer may for any reason whatsoever terminate performance under this Contract by the Seller for convenience at any time. The Buyer shall give notice of such termination to the Seller specifying when termination becomes effective. Buyer will, in the event of termination, remit such sums to Seller as may be due only for those services actually performed to the satisfaction of Buyer.
5. **FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligation under the Agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as is effected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereafter provided, but for no longer periods and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbance, act of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force majeure shall be remedied with all reasonable dispatch shall not require the settlements of strikes and lockouts by exceeding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

6. **ASSIGNMENT – DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. An attempted assignment or delegation of Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
7. **MODIFICATIONS:** This contract can be modified or rescinded only in writing signed by both parties and their duly authorized agents.
8. **WAIVER:** No claim or right arising out of a breach in contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
9. **INTERPRETATION-PAROL EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this

agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

10. **APPLICABLE LAW:** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.
11. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior written consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
12. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
13. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services, except on behalf of the City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the governing body of the City shall render the contract involved voidable by the City Administrator or the City Council.
14. **ENTIRE AGREEMENT:** This Contract, and all Specifications and Addenda attached thereto, constitute the entire and exclusive agreement between the Buyer and Seller with reference to the Services. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Buyer and Seller not expressly made a part hereof.

**INDEMNITY AND DISCLAIMER:** BUYER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, HELD HARMLESS AND RELEASED BY SELLER 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 SELLER, OR PROPERTY, ARISING OUT OF, OR OCCASIONED BY, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF SELLER UNDER THIS CONTRACT, INCLUDING CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF BUYER, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE BUYER 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 AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS AN INDEMNITY EXTENDED BY SELLER TO INDEMNIFY AND PROTECT BUYER FROM THE CONSEQUENCES OF THE SELLER'S AS WELL AS THE BUYER'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE. IN ADDITION, CONTRACTOR SHALL OBTAIN AND FILE WITH OWNER CITY OF PARKER A STANDARD CERTIFICATE OF INSURANCE AND APPLICABLE POLICY ENDORSEMENT EVIDENCING THE REQUIRED COVERAGE AND NAMING THE OWNER CITY OF PARKER AS AN ADDITIONAL INSURED ON THE REQUIRED COVERAGE.

- 15. GOVERNING LAW:** 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 Goods to be delivered hereunder shall be in the courts of Collin County, Texas.
- 16. SUCCESSORS AND ASSIGNS:** The Buyer and Seller bind themselves, their 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 Seller shall not assign this Contract without written consent of the Buyer.
- 17. SEVERABILITY:** The provisions of this Contract are herein declared to be severable; in the event that 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.
- 18. NOTICES:** All notices required by this Contract shall be presumed received when deposited in the mail properly addressed to the other party at the address set forth herein or set forth in a written designation of change of address delivered to all parties.

EXCUTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
**SELLER:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type/Print Name and Title/Position)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

**CITY OF PARKER:**

By: \_\_\_\_\_  
Z Marshall, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Patti Scott Grey, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Brandon Shelby, City Attorney



Jeff Flanigan, City Administrator

September 14, 2017

City Council,

Re: Mowing Contract

The City of Parker advertised for the annual mowing contract on July 27, 2017 and August 3, 2017 as required. The bids were opened publicly on August 17, 2017 at 10:00 a.m.

Please review the attached bid tabulation, based on the information provided and the references. We recommend the City accept the bid from Greener Pastures in the amount of \$ 59,017.52.

Respectfully,

A handwritten signature in black ink that reads "Jeff Flanigan".

Jeff Flanigan  
City Administrator  
City of Parker  
[jflanigan@parkertexas.us](mailto:jflanigan@parkertexas.us)  
(972) 442-6811

**CITY OF PARKER, TEXAS**  
**ANNUAL MOWING CONTRACT 2017**

**NOTICE TO BIDDERS**

Sealed bids will be received in the office of the Director of Public Works of the City of Parker, 5700 E. Parker Road, Parker, Texas 75002 until **10:00 a.m., August 17, 2017** then publicly opened and read for furnishing all necessary materials, machinery, equipment, superintendence, and labor for **Annual Mowing Contract 2017** for the City of Parker, from October 1, 2017 thru September 30, 2018.

This project includes

1. mowing, weed eating, edging center median
2. trash and debris pick up as needed
3. spring, winter, and fall; Pre-emergent weed control
4. 3 fertilizations per year

Location of project

1. 3900-6400 block of Parker Road
2. 3200-4000 block of Hogge Drive (FM2551)
3. 3200-4000 block of McCreary Road
4. 4900-5400 block of Betsy Lane

All lump sum and unit prices must be stated in both script and figures on the forms provided. The City of Parker reserves the right to reject any or all bids and to waive formalities. In case of ambiguity or lack of clearness in stating prices in the bids, the City of Parker reserves the right to consider the most advantageous maintenance project thereof, or to reject the bid. Unreasonable (or "unbalanced") unit prices will authorize the City of Parker to reject any bid.

Bidders are expected to inspect the site of work and to inform themselves regarding all local conditions.

General Liability insurance for personal injury (including death) and property damage with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate with City named as additional insured.

Contract Documents, Instructions to Bidders, and Specifications are on file and copies may be picked up at Parker City Hall, 5700 E. Parker Rd., Parker, Texas 75002, (972) 442-6811. Questions may be faxed to (972) 442-2894 or emailed to [jflanigan@parkertexas.us](mailto:jflanigan@parkertexas.us).

Advertisement Dates: July 27, 2017  
August 3, 2017

**2017 ANNUAL MOWING BIDS**

Company	Received	Time	Item 1	Item 2	Item 3	Item 4	Total Bid
Greener Pastures 2550 Manana Dr. Dallas, TX 75220 214-634-0806	8/16/2017	1:54 PM	✓	✓	✓	✓	\$ 59,017.52
Hunter Landscape Co. 9 Hickory Hill St. Lucas, TX 75002 972-429-7700	8/15/2017	8:50 AM	✓	✓	✓	✓	\$ 74,940.00
Allen J&M Enterprises LLC 1205 Troy Rd Wylie, TX 75098 214-794-1712	8/14/2017	10:21 AM	✓	✓	✓	✓	\$ 66,500.00
Keane Landscaping, Inc. PO Box 940486 Plano, TX 75094-0486 972-424-4851	8/2/2017	11:25 AM	✓	✓	✓	✓	\$126,000.00



## Council Agenda Item

Item 6  
C Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Administrator Flanigan
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	None	

### AGENDA SUBJECT

REMINDER/DISCUSSION OF HOUSEHOLD HAZARDOUS WASTE (HHW) DISPOSAL  
EVENT IS SATURDAY, OCTOBER 28, 2017, 10:00 AM – 2:00 PM.

### SUMMARY

#### HOUSEHOLD HAZARDOUS WASTE (HHW EVENT) - SATURDAY, OCTOBER 28, 2017

On Saturday, October 28 from 10:00 a.m.—2:00 p.m., Republic Waste will be collecting home hazardous waste materials at Parker City Hall, 5700 E. Parker Road, Parker, Texas.

**HHW Accepted Waste** are aerosols; batteries; bulbs-4', 8' and small bulbs; anti-freeze; pesticides/herbicides; latex paint; oil based paint, paint related material; used oil; used gasoline; non-hazardous chemicals; pool chemicals, and used tires (car, truck, riding lawnmower— **No large tractor tires**).

**HHW Unacceptable Waste** are E-Waste; radioactive compounds; smoke detectors; ammunition; explosives; PCB's (Polychlorinated Biphenyls); pharmaceuticals or controlled substances; biological or infectious waste; trash; and/or appliances.

This is our annual event so drive up and drop off. Please bring your driver's license or water bill for proof of Parker residence.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter - Office Use			
Approved by:			
Department Head/ Requestor:		Date:	
City Attorney:		Date:	
City Administrator:	Jeff Flanigan	Date:	09/15/2017



## Council Agenda Item

Item 7  
C/Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Administrator Flanigan
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	1) Republic Services, Inc. Manager Rick Bernas' Request 2) Res. No. 2016-503 (2016 Solid Waste Agreement)	

### AGENDA SUBJECT

CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON REPUBLIC SERVICES RATE INCREASE. [BERNAS]

- BULK TRASH – CONSIDERATION AND/OR ANY APPROPRIATE ACTION OF SPLITTING THE CITY'S BULK TRASH INTO SEPARATE WEEKS (EXAMPLE – EAST/WEST OF FM2551)

### SUMMARY

City Council approved Resolution No. 2016-503 (2016 Solid Waste Agreement) February 16, 2016. The Waste Collection and Disposal Agreement, Section 4. Charges, B. states;

B. Base Rate Adjustments: Upon request by Contractor but not more often than once per calendar year, the City will consider adjustments to the monthly service charge and schedule of monthly customer charges above the levels then in effect, to reflect changes in operating costs of Contractor or increased costs due to changes in location of disposal facilities and / or increase in disposal costs after the first year of the contract. Any proposed increase will be subject to the City Council approval.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter – Office Use			
Approved by:			
Department Head/ Requestor:		Date:	
City Attorney:		Date:	
City Administrator:	<i>Jeff Flanigan</i>	Date: 	09/15/2017



August 7, 2017

Jeff Flanigan  
City of Parker  
5700 East Parker Road  
Parker, TX. 75002

Re: Price Increase Request

Dear Jeff,

Republic Services wishes to thank the City of Parker for the opportunity to be the provider of choice for your solid waste, recycling and disposal services. We enjoy working with the community and look forward to continuing our partnership for years to come.

This letter is to notify you of the annual rate adjustment for your city. Per the terms of the contract, we may request an adjustment to reflect changes in cost of doing business, and operating cost from year over year.

Per our agreement, we have utilized the Consumer Price Index ( table water sewer trash).. The index this year is at 3.25%.

I have attached a copy of the Consumer Price Index Indicator for 2016 and 2017.

We trust that you will agree that our service provides your community with superior quality solid waste and recycling collection. We look forward to our continued partnership.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bernas".

Rick Bernas  
Division Municipal Services Manager

CC: Mr. Brady Loesch  
General Manager

## Consumer Price Index - All Urban Consumers

### Original Data Value

**Series Id:** CUUR0000SEHGG  
**Not Seasonally Adjusted**  
**Area:** U.S. city average  
**Item:** Water and sewer and trash collection services  
**Base Period:** DECEMBER 1997=100  
**Years:** 2007 to 2017

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2007	140.634	141.349	141.806	142.184	142.552	142.805	144.181	144.972	145.246	145.488	146.376	146.878
2008	148.277	149.057	149.315	149.536	150.069	150.554	152.063	154.134	154.264	155.557	156.193	156.390
2009	157.275	157.638	158.052	158.698	159.517	159.831	161.403	163.136	163.429	164.591	164.962	165.204
2010	166.857	168.078	168.521	169.116	169.825	169.745	171.156	172.491	172.833	173.360	174.094	174.543
2011	175.754	177.194	177.694	178.033	178.521	178.640	179.820	180.762	181.569	181.916	182.254	182.758
2012	183.984	185.499	186.280	187.473	187.788	188.489	189.750	191.927	191.833	192.370	192.921	193.237
2013	194.553	195.505	195.981	196.319	196.727	196.989	198.173	198.736	198.804	199.759	200.004	200.203
2014	201.169	202.149	202.657	203.084	203.124	203.396	205.022	206.171	206.363	207.633	208.562	209.414
2015	210.243	211.397	211.738	212.153	212.542	212.863	213.873	215.844	216.173	216.380	217.004	217.386
2016	218.370	219.036	219.649	220.506	221.360	221.396	221.358	222.554	223.111	223.420	224.399	224.745
2017	226.411	227.277	227.553	228.133	228.396	228.599						

Indices	2016	2017				103.25%
CPI - w/s/t 100%	221.396	228.599	7.203	3.25%	3.25%	
Totals 100%				Increase		3.25%

Services	Current	Inc/dec	New Rate	
MSW	\$ 11.11	\$ 0.36	\$ 11.47	
Recycle	\$ 3.74	\$ 0.12	\$ 3.86	New
Brush/Bulk	\$ 1.98	\$ 0.06	\$ 2.04	Monthly
				\$ 17.38
Extra cart	\$ 7.70	\$ 0.25	\$ 7.95	
Carryout	\$ 18.70	\$ 0.61	\$ 19.31	
Extra cart	\$ 10.31	\$ 0.34	\$ 10.65	
Add'l				
Rolloff	\$ 390.00	\$ 12.69	\$ 402.69	

**RESOLUTION NO. 2016-503**  
*(2016 Solid Waste Agreement)*

**A RESOLUTION OF THE CITY OF PARKER, COLLIN COUNTY, TEXAS,  
PROVIDING FOR THE EXECUTION OF CONTRACT SOLID WASTE  
SERVICES WITH REPUBLIC SERVICES INC. d/b/a ALLIED WASTE  
SERVICES OF PLANO**

**WHEREAS**, the City of Parker issued a request for proposals for solid waste services and received several responses for review; and

**WHEREAS**, the City of Parker has carefully considered the proposals received and wishes to proceed to execute a contract; and

**WHEREAS**, The City of Parker has budgeted sufficient funds to make the required payments;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF PARKER,  
COLLIN COUNTY, TEXAS:**

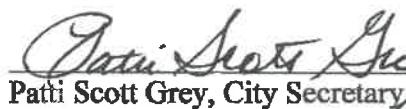
**SECTION 1.** The negotiated contract with REPUBLIC SERVICES INC. d/b/a ALLIED WASTE SERVICES OF PLANO, A DELAWARE CORPORATION, hereafter referred to as "Contractor" is approved in the form attached hereto as Exhibit A.

**SECTION 2.** The Parker City Council does authorize the Mayor to execute the contract on approval of this resolution, and take such other action as may be needed to have the terms of the contract performed by the city and the Contractor, as stated in the contract.

**SECTION 3.** This resolution shall be effective upon its passage.

**APPROVED AND ADOPTED** this 16<sup>th</sup> day of February, 2016.

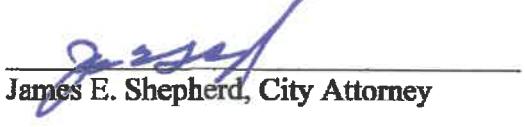
ATTEST:

  
Patti Scott Grey, City Secretary



  
Z. Marshall, Mayor

APPROVED AS TO FORM:

  
James E. Shepherd, City Attorney

## **WASTE COLLECTION AND DISPOSAL AGREEMENT**

**STATE OF TEXAS**

\$  
\$  
\$

**COUNTY OF COLLIN**

**THIS WASTE COLLECTION AND DISPOSAL AGREEMENT** (this "Agreement") is entered into as of that date set forth on the signature page hereto (the "Effective Date"), by and between the City of Parker, Collin County, Texas ("City"), and Allied Waste Systems, Inc., a Delaware corporation d/b/a Allied Waste Services of Plano // Republic Services of Plano ("Contractor").

**A.** Contractor and City entered into an Agreement for the collection and disposal of residential waste as of December 1, 2009 (the "Original Agreement").

**B.** Contractor and City have entered into a series of amendments to the Original Agreement.

**C.** The latest amendment to the Original Agreement is due to expire on December 31, 2015. The Original Agreement and all prior agreements and amendments between the parties are terminated on the effective date of this Agreement.

**D.** Contractor and City desire to enter into this Agreement for services as provided below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor and City hereby agree as follows:

### **SECTION 1.**

#### **GRANT**

City hereby grants to Contractor an exclusive contract (save and except the City performing its own service) to engage in the business of collecting and disposing of residential Garbage, Trash, Brush, Rubbish, debris, and other Refuse and residential Recyclable Materials within the corporate limits of the City and, further, hereby grants to Contractor permission to use the public streets, alleys, easements and thoroughfares within the limits of the City for the purpose of collection and removal of Garbage, Trash, Brush, debris and other Refuse and residential Recyclable Material, subject to the limitations, terms and conditions hereinafter specified and contained in this Agreement. In the event that any commercial (i.e., business) customers are established within City limits, Contractor shall have the right of first refusal to negotiate a commercial waste collection and disposal agreement.

**WASTE COLLECTION AND DISPOSAL AGREEMENT**

11110566.3

## SECTION 2.

### DEFINITIONS

Wherever used herein, the hereinafter listed terms shall have the following meanings:

- A. Brush: Tree and shrub trimmings, which are not easily placed in disposable containers.
- B. Bulky Wastes: Stoves, refrigerators, water tanks, washing machines, furniture, Construction Debris (generated from the Residential Unit only) and other waste materials other than Dead Animals, Excluded Waste, or Stable Matter with weights or volumes greater than those allowed for the applicable Bins or polycarts. Customer shall be responsible for the proper removal of refrigerants and other hazardous wastes from Bulky Wastes and shall properly tag Bulky Wastes as being free of refrigerants and other hazardous wastes prior to removal by Contractor.
- C. Bundle: Tree, shrub and Brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length, six inches in diameter, or fifty (50) lbs. in weight.
- D. City: The City of Parker, Texas, a municipal corporation in Collin County, Texas.
- E. City Council: The Parker City Council.
- F. Construction Debris: Waste building materials resulting from construction, remodeling, repair or demolition operations.
- G. Contractor: Allied Waste Systems, Inc., a Delaware corporation d/b/a Allied Waste Services of Plano // Republic Services of Plano, and its successor(s) and/or affiliates under this Agreement.
- H. Curbside Service: Garbage, Trash and Recyclable Materials to be picked up by Contractor, which will be located at the curbside of the street bearing the Customer's address.
- I. Customer: An occupant of a Residential Unit who generates Refuse.
- J. Dead Animals: Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause except those slaughtered or killed for human use.
- K. Disposable Containers: Any plastic bag or cardboard box with a capacity or volume of thirty (30) gallons or less and which is capable of containing Garbage or Trash without leaking remitting odors, and which weighs, when loaded, less than fifty (50) pounds.

L. Excluded Waste: Hazardous Waste, , radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by applicable law or any otherwise regulated waste.

M. Garbage: Any and all dead animals of less than ten (10) lbs. in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescent or easily decomposable waste animal or vegetable matter, which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals, Excluded Waste, Rubbish or Stable Matter.

N. Handicapped Customers: A residential household in which all members of the household are physically handicapped to the extent that they are unable to place Garbage at curbside. The fact of such handicap must be certified to Contractor by the Mayor of the City.

O. Hazardous Waste: Solid waste, in any amount, identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. Section 6901), or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of this Agreement, the term Hazardous Waste shall also include motor oil, gasoline, paint and paint cans.

P. Landfill: A facility used by Contractor where Trash and Garbage are disposed of by burying between layers of earth.

Q. Permanent Containers: Closed, waterproof, plastic container with a capacity of 95 gallons provided by Contractor for containing Garbage or Trash.

R. Recyclable Materials: Material that has been recovered or diverted from the nonhazardous waste stream for the purposes of reuse, recycling, or reclamation, including, but not limited to, newspapers (including glossy inserts); plastic jugs and bottles; aluminum and metal cans; and glass food and beverage containers.

S. Recycling Container: A plastic receptacle, designed for the purpose of curbside collection of recycling commodities, with a capacity of ninety-five (95) gallons provided by Contractor. The Contractor shall be entitled to charge the Customer a \$5.00 replacement cost for each Recycling Container that is lost, stolen, destroyed or requested after a residential Customer is initially provided a Recycling Container. Residential Customers may purchase one additional container for an additional fee of \$5.00.

T. Refuse: Residential Refuse and Bulky Waste, Construction Debris and Stable Matter generated at a Residential Unit, unless the context otherwise requires. Refuse does not include Excluded Waste.

U. Residential Refuse: All Garbage and Rubbish generated by a Customer at a Residential Unit.

V. Residential Unit: A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, shall be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit shall be billed separately as a Residential Unit.

W. Rubbish: All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp, and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweeping, glass mineral or metallic substances, and any and all other waste materials not included in the definition of Bulky Waste, Construction Debris, Dead Animals, Garbage, Excluded Waste or Stable Matter.

X. Stable Matter: All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry, or livestock.

Y. Trash: All household Refuse other than Garbage, debris, Brush and Bulky Wastes; trash shall include grass, yard clippings, weeds, heavy accumulations of newspapers and magazines, Recyclable Materials, old clothes, and other household trash of the like kind, but shall not include Excluded Waste or special waste.

Z. Hazardous Household Waste Green Event - Contractor will donate services once per year for a household hazardous waste (HHW) /green event. The event will last 4 hours at the location and date chosen by the City. Contractor will provide information on what type of household hazardous waste is acceptable for disposal at such event.

### SECTION 3.

#### CONTRACTOR'S DUTIES AND OBLIGATIONS

It shall be the duty and obligation of Contractor to perform the following services:

A. Contractor agrees to furnish and maintain trucks, equipment, machinery, tools, labor and Landfill site, at its own expense, to collect and dispose of Garbage, Trash, Brush and Recyclable Materials from Residential Unit premises within the corporate limits of the City in a clean and sanitary manner. Contractor shall provide Curbside Service to residential Customers and service to Handicapped Customers. If the street address is not safely accessible or is determined to be dangerous to the Contractor, or collection may cause damage to the street, then an alternate point of collection will be determined by the City, and reasonable notice of such an alternate point shall be provided to Contractor by City.

B. Title to Refuse, Dead Animals and Recyclable Materials shall pass to Contractor when placed in Contractor's collection vehicle. Title to and liability for Excluded Waste shall not pass to Contractor, but shall remain with the Customer that generated such waste.

C. Contractor agrees to establish daily routes and special schedules for the collection of Garbage, Trash, Brush and Recyclable Materials as necessary to fulfill the requirements of this Agreement. Further, Contractor will utilize written route books for use in the collection of Refuse from all residential and commercial Customers. Contractor agrees to make one Garbage collection each week for each residential Customer and will collect Recyclable Materials at the same time. Hours of service shall be from 7:00 a.m. to 7:00 p.m. for residential Customers. No collections will be made on Sundays. Contractor shall be exempt from making collections on the following holidays: New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, and Christmas Day. Contractor may decide to observe any or all of the above-mentioned holidays by suspension or collection service on the holiday, but the Contractor shall continue with its other regularly scheduled collections during such holiday weeks.

D. Contractor shall provide a special collection service for Brush, Bulky Wastes and/or Bundles monthly to all residential Customers, unless otherwise specified. Contractor agrees to collect such large objects and quantities of 10 (ten) yards of waste per month as described in definitions for Brush, Bulky Waste, and Bundles on the third Thursday of each month. Additional volumes that exceed the ten yard limit may be called into Contractor for a special pick up at \$95.00 per hour. Contractor will arrange the additional services with the customer directly.

E. Contractor agrees, at its own expense, to provide a telephone answering service from 8:00 a.m. to 5:00 p.m. daily, Monday through Friday, excluding legal holidays, for the purpose of handling complaints and other calls regarding Refuse collection service provided by Contractor. Contractor agrees to secure an annual listing in at least one telephone directory covering Collin County under the name by which it conducts business in the community.

F. Contractor agrees that Customer complaints shall be addressed and resolved within forty-eight (48) hours of receipt of such complaint. Any missed pickups of Residential Garbage will be collected within 24 hours after notice to Contractor.

G. Contractor will provide curbside collection of residential items, which are not disposed of during normal residential pickup. The residential Customer shall pay the Contractor directly for this service. Such service will be quoted on a time and material basis agreed upon between Contractor and City.

H. Contractor shall not be obligated to pick up Excluded Waste including, but not limited to, refrigeration appliances that have not had CFC's removed by a certified technician, tires, automobile/vehicle batteries, petroleum products, paints and other chemicals and solvents identified as hazardous by the U.S. Environmental Protection Agency.

I. Contractor shall comply with all municipal, county, state and federal laws in its performance of this Agreement.

## SECTION 4.

### CHARGES

A. Residential: City and Contractor agree that the initial residential monthly service charge for household waste, monthly recycling charge and monthly brush and bulky waste charge shall be as provided in Attachment 1 to this Agreement, which is attached hereto and incorporated herein by reference.

B. Base Rate Adjustments: Upon request by Contractor but not more often than once per calendar year, the City will consider adjustments to the monthly service charge and schedule of monthly customer charges above the levels then in effect, to reflect changes in operating costs of Contractor or increased costs due to changes in location of disposal facilities and / or increase in disposal costs after the first year of the contract. Any proposed increase will be subject to the City Council approval.

C. Government Fees: Contractor shall be entitled to petition the City Council for an immediate pass through of any fees or taxes hereafter imposed by federal, state, or local government agencies, which are payable to said agency by reason of the nature of the operations conducted by Contractor in the operation of a sanitary Landfill.

D. Approval Required: Except as provided above, the City Council shall be the final authority in granting any and all rate increases and adjustments.

E. Customer Billing: City agrees to bill all residential Customers serviced by Contractor in the City limits of Parker, Texas.

F. Payment to Contractor: City shall bill the Customers, and shall pay Contractor such remittance to be received by Contractor within 30 days of the City's receipt of the invoice.

## SECTION 5.

### SPILLAGE

Contractor shall not be responsible for scattered Refuse unless the same has been caused by Contractor's acts or those of any of Contractor's employees, in which case all scattered Refuse shall be picked up promptly by the Contractor. Contractor will not be required to clean up or collect loose Refuse or spillage not caused by the acts of its employees, but shall report the location of such conditions to the Utility Department of the City so that proper notice can be given to the Customer at the premises to properly contain Refuse.

## SECTION 6.

### NON-COLLECTION

Should a dispute arise between City, Contractor, and/or a Customer as to whether the Contractor actually failed to make a collection (whether the Contractor missed a pickup), the

decision of the City Administrator of City on such matter shall be final and City and Contractor agree to abide by said decision. However, it is understood and agreed by and between City and Contractor that if any Customer fails to timely place Brush, Permanent Containers or Disposable Containers out, maintains improper or inadequate containers for the nature, volume or weight of Garbage and Trash to be removed from one's premises, or places improper Bundles or volumes of Brush or Trash for collection or places Excluded Waste out for collection, Contractor may refrain from collecting all or a portion of such Brush, Garbage and Trash or Excluded Waste and shall notify City of the reason for such non-collection. Contractor shall also provide notice to the Customer of the reason for such non-collection (unless such non-collection is the result of the Customer's failure to timely place the Brush or containers out for collection). Contractor's notice to the Customer shall be in writing, attached to the container or the front door of the residence and shall indicate the nature of the problem and the correction required, and such Garbage may then be collected at the next regular collection date (provided, however, that Contractor shall never be required to collect Excluded Waste). The City may investigate when notified by a Customer that Garbage, Trash or Brush have not been removed from his premises on the scheduled collection day, and where no notice of non-collection nor a change in collection schedule has been received from Contractor. If the investigation discloses that Contractor has failed to collect Garbage, Trash or Brush from the subject premises without cause, Contractor shall collect same within twenty-four (24) hours after a collection order is issued by City.

## **SECTION 7.**

### **INDEMNIFICATION**

**Contractor will indemnify and save harmless the City, its officers, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees arising out of a willful or negligent act or omission of Contractor in the performance of this Agreement. City will not be responsible for the negligence of Contractor, or any of its agents, employees, or customers.**

All provisions of this Agreement shall be interpreted to preserve the governmental immunities of the City, and the independent contractor status of Contractor. The governmental immunities of the City shall include, and not be limited to, those applicable to the Contractor's operation of vehicles within the City, all issues which may arise as to the Contractor's and the Contractor's employees, and/or the Contractor's obligations to other governmental agencies, or the affiliates, parent corporations, and subsidiaries of Contractor.

## **SECTION 8.**

### **INSURANCE**

Contractor agrees to carry, at a minimum, the following types of insurance:

<b>Worker's Compensation</b> (or other State-approved program)	<b>Statutory</b>
---	------------------

Employer's Liability	\$500,000
Bodily Injury Liability Except automobile	\$1,000,000 each occurrence \$1,000,000 aggregate
Automotive Bodily Injury Liability	\$1,000,000 each person \$1,000,000 each occurrence
Automotive Property Damage Liability	\$500,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

To the extent permitted by law, all or any part of any required insurance may be provided under a plan of self-insurance. The coverage may be provided by Contractor's parent corporation with appropriate documentation and approval of the City. Certificates evidencing such insurance contracts shall be deposited with City prior to the commencement of this Agreement, and thereafter on request. A lapse in approved insurance coverage at any time during the term of this Agreement is cause for immediate termination of service by City, with such damages, if any, paid by Contractor. The City shall provide Contractor with at least twenty days' notice prior to a vote of the City Council on the question of termination. The Contractor shall have the opportunity to present proof of insurance to cure the default prior to the Council meeting. Contractor will provide proof of insurance of the coverage and minimums specified above prior to the effective date of this Agreement, and on each anniversary date of this Agreement. The City may request additional proof of insurance at any time during the term of this agreement, and the Contractor agrees to provide endorsements evidencing such coverage within 10 days of the request.

## SECTION 9.

### TERM

The term of this Agreement shall begin as of the Effective Date (defined on the signature page below) and shall continue through December 31, 2021, except as it may be extended as provided below. On or before October 1, 2021 (the "Termination Notice Deadline"), either party may provide written notice to the other party that it intends to terminate this Agreement (a "Termination Notice") effective December 31, 2021 (the "Termination Date"). If no Termination Notice is given on or before October 1, 2021, then the term of this Agreement shall be extended until December 31, 2026.

## SECTION 10.

### TERMINATION

If at any time Contractor shall fail to substantially perform terms, covenants or conditions herein set forth, City shall notify Contractor by registered or certified mail addressed to

Contractor at the address, set forth below in Section 11, of specific reasons in support of City's claim that Contractor has substantially breached the terms and provisions of this Agreement.

Contractor shall be allowed a *ten* (10) day period from the date of receipt of said written notice from City to remedy any failure to perform. Should City deem the failure to perform remedied, no hearing shall be held.

Should Contractor fail to remedy its performance, after a hearing described herein, the City may terminate this Agreement and the rights and privileges granted to Contractor herein. A notice shall be sent to Contractor no earlier than *ten* days before a hearing is scheduled. The notice shall specify the time and place of the hearing and shall include the specific reasons in support of City's claim that Contractor has substantially breached the terms and provisions of the Contract. Should City still deem Contractor to have failed in its performance, said hearing shall be conducted in public by the City Council and Contractor shall be allowed to be present and shall be given full opportunity to answer such claims as are set out against it in the aforesaid notice. If, after said public hearing, the City Council makes a finding that Contractor has failed to provide adequate waste collection service for City, or has otherwise substantially failed to perform its duties hereunder, the City Council may terminate this Agreement as of the date of the hearing, or as otherwise determined by the Council. Upon termination or expiration of this Agreement, all amounts due hereunder (to the date of the hearing, or the termination date set by the Council) by either party to the other shall be paid in accordance with the provisions of this Agreement, less any damages of the City incurred as a result of the breach of this Agreement.

## SECTION 11.

### MISCELLANEOUS

A. Assignment: This Agreement and any and all rights and obligations of Contractor hereunder may be assigned by Contractor to any parent company or subsidiary of Contractor with written notice to the City as long as all obligations of Contractor in this Agreement are assumed in writing by the assignee, and proof of insurance is provided, and all other obligations of the Contractor are performed by the Assignee in accordance with this Agreement. The Agreement may be assigned to any other third party with the prior written consent of the City Council, which shall not be unreasonably withheld.

B. Authority: Contractor and City agree that, except as otherwise provided herein, the City Administrator of the City of Parker will be authority for the approval of charges or any service not contemplated by this Agreement, and for the disposition of any dispute between a Customer and Contractor. The City Administrator of the City of Parker may designate a City employee to act as an enforcement officer hereunder and to act as a liaison between City and Contractor. Any provisions contained herein to the contrary notwithstanding, Contractor shall not be required under this Agreement to collect and remove debris or other Trash resulting from construction, major remodeling, general cleanup of property, or resulting from a sizable amount of Trash and debris being cleared in preparation for construction. Provided, however, upon the request of any residential or commercial Customer, Contractor shall collect and remove such Trash and debris and shall receive for such services a fee or charge mutually acceptable to

Contractor and the requesting Customer. Contractor shall have exclusive rights to hauling and disposal of such Trash and debris for an agreed-upon fee.

C. Compliance with Laws: Contractor shall comply with all rules and regulations of the Texas Commission on Environmental Quality and the Environmental Protection Agency. In this regard, Contractor shall not be required to collect and dispose of any oil, sludge, fecal material, or any radioactive, pathological, toxic, acidic, or volatile material, or other hazardous, medical, non-conforming or other Excluded Waste. City agrees to pass such ordinances as are necessary in the discretion of the City Council to effectuate all terms of this Agreement including all duties and obligations required of residential Customers. Both parties and their officers, agents, employees, representatives, contractors and subcontractors shall abide by and comply with all applicable laws in the performance of this Agreement.

D. Inspection: City and its representatives shall have the right to inspect and examine the books and records of Contractor relating to the services performed by it under this Agreement during normal business hours upon reasonable notice.

E. Counterparts: This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

F. Force Majeure: Notwithstanding anything herein to the contrary, Contractor shall not be liable for the failure, or delay of, performance of its duties if such failure is caused by a catastrophe, riot, public disturbance, accidents, military authority, war, act of terrorism, governmental order or regulation, fire, act of God or other similar or different contingency beyond the reasonable control of Contractor. The services required by this Agreement do not include the collection and disposal of significantly increased volumes of Residential Refuse resulting from a tornado, severe straight winds or severe storms. City shall pay Contractor \$60/hour for all work necessary to collect additional volumes of Garbage and Rubbish resulting from severe weather conditions, or may take any alternative actions deemed necessary by the Council under federal, state or county emergency rules or regulations.

G. Notice: Any notice, communication, request, reply or advice herein provided or permitted to be given, made or accepted by either party to the other party must be in writing, mailed postage prepaid, certified mail, return receipt requested or sent by fax, to:

If to City:

Mayor  
City of Parker  
5700 East Parker Road  
Parker, Texas 75002  
Telephone: 972.442.4922  
Fax: 972.442.2894

If to Contractor:

General Manager  
Allied Waste Systems, Inc.  
4200 E. 14<sup>th</sup> St.  
Plano, Texas 75074  
Telephone: 469.443.7019  
Fax: 972.881.9077

The parties will each notify the other in writing of any changes to the notification and contact information above.

H. Annual Increase - Contractor may request at the councils discretion an annual adjustment of fees in an amount equal to the percentage increases in the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by United States Department of Labor, Bureau of Statistics (the "CPI"). A twelve (12) month average of that CPI will be utilized from October of the prior year to October of the year of the request. No decreases shall be made to the rates for service if the CPI decreases.

H. No Third Party Beneficiary: This Agreement does not create, and shall not be construed as creating, any right enforceable by any person not a party to this Agreement.

I. Severability: If any provision of this Agreement is held to be void, illegal or unenforceable under present or future laws effective during the term hereof, or for any reason or in any respect, such provision shall be fully severable and this Agreement shall be construed and enforced as if such void, illegal or unenforceable provision never comprised a part hereof, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected in any way by the void, illegal or unenforceable provision or by its severance. Furthermore, in lieu of such severed provision, there shall be added automatically as part of this Agreement a provision as similar in its terms to such severed provision as may be possible and be valid, legal and enforceable.

J. Entire Agreement: This Agreement (together with any exhibits, attachments, or appendices attached hereto) constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein. No changes in or additions to this Agreement shall be recognized unless incorporated herein by amendment, as

provided herein, such amendment(s) to become effective on the date stipulated in such amendment(s).

**K. Governing Law, Venue and Consent to Jurisdiction:** This Agreement, and the rights, remedies, obligations, and duties of the parties shall be governed by, construed in accordance with and enforced under the laws of the State of Texas, without giving effect to the principles of conflict of laws of such state. If any action is brought to enforce or interpret this Agreement, exclusive venue for such action shall be proper in the state district courts of Collin County, Texas. The parties irrevocably (i) submit to the exclusive jurisdiction of the state courts of the State of Texas over any action or proceeding arising out of a breach of this Agreement, (ii) agree that all claims in respect of such action or proceeding may be heard and determined in such courts, (iii) waive, to the fullest extent they may effectively do so, the defense of an inconvenient or inappropriate forum to the maintenance of such action or proceeding, and (iv) waive any defense based on lack of personal jurisdiction of any such purpose.

**L. Non-Appropriation:** In the event that no funds or insufficient funds are collected, appropriated and budgeted for payment of amounts due hereunder by City to Contractor, City shall notify Contractor and this Contract shall terminate on the last day of the fiscal period for which appropriations were made without penalty or expense to City of any kind whatsoever, except as to the payment of amounts due and payable for which appropriations have been made for said fiscal period. City covenants that it will provide Contractor as much notice as possible of this contingency.

(Signatures begin on next page)

Executed to be effective from and after the 16<sup>th</sup> day of February, 2016 (the "Effective Date").

**ALLIED WASTE SYSTEMS, INC., a**  
Delaware corporation

BY: Jason Shear  
Jason Shear, General Manager

**CITY OF PARKER,**  
Collin County, Texas

BY: Z Marshall  
Z Marshall, Mayor

ATTEST:

Boatman Shear  
City Secretary

**Attachment 1**

<b>Solid Waste Collection</b>	<b>\$11.11</b>
1 x wk: 2 carts MSW	
<b>Recycle Collection</b>	<b>\$3.74</b>
1 x wk: 1 cart	
<b>Brush/Bulk Collection</b>	<b>\$1.98</b>
Monthly	
<b>Total Monthly Service</b>	<b>\$16.83</b>
 Extra Cart	 <b>\$7.70</b>
 Carryout Service	 <b>\$18.70</b>
1 x wk: 2 cart MSW	
Extra carry out cart	<b>\$10.31</b>
 City Hall - 4 Rolloffs per year/city event	 <b>No Cost</b>
30 yard rolloff city hall use	<b>No Cost</b>
Additional Rolloff containers	<b>\$390.00</b>
 Bulk over 10 Yard limit	 <b>\$95.00 / Hour</b>
 HHW Event - Annual	 <b>No Cost</b>

## **CERTIFICATE OF INTERESTED PARTIES**

**FORM 1295**

1 of 1

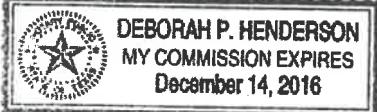
Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**5 Check only if there is NO Interested Party.**

X

## 6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Jesse Stein, this the 29 day of Feb  
20 16, to certify which, witness my hand and seal of office.

Deborah Henderson Deborah Henderson  
Signature of officer administering oath Printed name of officer administering oath

**Signature of officer administering oath**

**Printed name of officer administering oath**

**Title of officer administering oath**



## Council Agenda Item

Item 8  
C'Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Attorney Shelby
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	• Draft	

### AGENDA SUBJECT

CONSIDERATION AND/OR ANY APPROPRIATE ACTION ON HOME RULE CHARTER COMMITTEE CRITERIA. [SHELBY/LEVINE]

### SUMMARY

See Attached.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter - Office Use			
Approved by:			
Department Head/ Requestor:		Date:	
Mayor Pro Tem Levine:	<i>Scott Levine</i>	Date:	09/14/2017 via email
City Administrator:	<i>Jeff Flanigan</i>	Date:	09/15/2017

The City of Parker has determined that a committee should be formed to explore the option of becoming a "home rule" city, governed by a City Charter, which would be adopted by the citizens. The committee, established by the City Council, shall be tasked with the creation of a preliminary draft charter, or charters, to be presented, considered and potentially revised by the City Council and then presented to the citizens of the City of Parker for approval, through a City-wide election. To facilitate an efficient and meaningful process, the Council has determined committee shall be comprised of five members, including the Mayor, the Mayor Pro-Tem, and three citizens of the City of Parker. It is also recommended that there be two alternate citizens on the committee. The City Administrator will serve in an advisory role. All meetings will be posted and open to the public, with quorum's required for official business to be conducted.

In order to promote genuine thought, discussion and debate, the committee shall reflect the natural diversity of our citizenry so as to encompass the uniqueness that embodies the City of Parker. It is the goal of the Mayor, as the representative appointed by the City Council to select the committee, to assemble a committee which reflects City residents diverse in location, age, affiliation and perspective, but who are unified in, and committed to, a single goal and purpose, the long term best interests of all who reside in our great city.

We expect this process to take a significant amount of time and it will not be a ballot initiative until November 2018 or May 2019.



## Council Agenda Item

Item 9  
C Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Attorney Shelby
Estimated Cost:	Date Prepared:	September 15, 2017
Exhibits:	<ul style="list-style-type: none"><li>1) City Attorney's Research – Legal Q &amp; A</li><li>2) Texas Municipal Procurement Laws Made Easy</li></ul>	

### AGENDA SUBJECT

DISCUSSION REGARDING BID PROCESS. [SHELBY]

### SUMMARY

The City Attorney will give a brief presentation outlining the basics of municipal procurement including the necessity of bidding and the rules and requirements of the bid process itself.

### POSSIBLE ACTION

Council may direct staff to take appropriate action.

Inter – Office Use			
Approved by:			
Department Head/ Requestor:		Date:	
City Attorney:	<i>Brandon S. Shelby</i>	Date:	09/15/2017 via email
City Administrator:	<i>Jeff Flanigan</i>	Date:	09/15/2017

## Legal Q&A

By Scott Houston  
TML Deputy Executive Director and General Counsel

### **When is a city required to competitively procure goods and services?**

With limited exceptions, before a city enters into a contract that requires an expenditure of more than \$50,000, it must comply with the procedures for competitive sealed bidding or competitive sealed proposals in Chapter 252 of the Texas Local Government Code. As an alternative to competitive sealed bidding or proposals, a city may use the following procurement methods: (1) the reverse auction procedure for purchasing in Section 2155.062(d) of the Government Code; (2) a cooperative purchasing program under Subchapters D and F of Chapter 271 of the Local Government Code; or (3) a method described by Chapter 2269 of the Government Code (alternative procurement methods for city construction projects). TEX. LOC. GOV'T CODE at §252.022(a).

Note that a city may use competitive sealed proposals for the purchase of any goods or services, including high technology items and insurance. However, construction projects must generally be procured using competitive bidding or specific alternative methods (discussed below). *Id.* §252.021(b).

### **What criteria may a city use when competitively procuring a contract?**

For general procurement of goods or services (as discussed below, special rules may apply to construction procurement), a contract must be awarded to: (a) the lowest responsible bidder, or (b) the bidder who provides goods or services at the “best value.” TEX. LOC. GOV’T CODE §252.043. When determining “best value,” the city may consider factors other than the purchase price of the goods and services, including among other things: (1) the reputation of the bidder and the bidder’s goods or services; (2) the quality of the bidder’s goods or services; (3) the bidder’s past relationship with the city; and/or (4) any other lawful criteria. *Id.*

The city must indicate in the bid specifications and requirements that the contract will be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the “best value” for the city. *Id.*

In addition, two provisions authorize the use of local preference when awarding a contract. A city may consider a bidder’s principal place of business when a city awards a contract for real or personal property. *Id.* §271.905. The provision provides that if a city receives one or more bids from a bidder whose principal place of business is in the city and whose bid is within three percent of the lowest bid price of a non-resident, the city may pick the resident bidder after a written determination that the decision is in the best interests of the city. *Id.* This is a useful provision for awarding contracts, but it appears to be directed towards the purchase of tangible items rather than services. Section 271.9051 authorizes a city to give a preference to a local bidder when awarding a contract for personal property *or services* if: (1) the local bid is within five percent of the lowest bid that isn’t local, and (2) the city’s governing body finds in writing

that the local bid offers the best combination of price and economic development factors such as local employment and tax revenues. Note that Section 271.9051 is limited to a contract for construction services in an amount of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000. *Id.* §271.9051.

### **What are common exemptions from the competitive procurement requirements?**

A city does not have to comply with competitive procurement requirements for certain expenditures, even if the expenditure is over \$50,000. The most common exemptions are as follows (see Section 252.022(a) of the Local Government Code for a complete list of exemptions):

- A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality. TEX. LOC. GOV'T CODE §252.022(a)(1).
- A procurement necessary to preserve or protect the public health or safety of the municipality's residents. *Id.* §252.022(a)(2).
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property. *Id.* §252.022(a)(3).
- A procurement for personal, professional, or planning services. (Note: Certain professional services, however, must be procured through a competitive selection process under Chapter 2254 of the Government Code (the Professional Services Procurement Act)). *Id.* §252.022(a)(4).
- A purchase of land or a right-of-way. *Id.* §252.022(a)(6).
- A procurement of items that are available from only one source. *Id.* §252.022(a)(7).

Whether or not to use any of the exemptions is up to each city, and the decision should be made based on the advice of local legal counsel.

### **When is a city required to contact historically underutilized businesses (HUBs) when making a purchase?**

A city, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two HUBs on a rotating basis, based on information provided by the Texas Comptroller's Office pursuant to Chapter 2161 of the Government Code (<http://cpa.state.tx.us/procurement/prog/hub>). If the list fails to identify a HUB in the county in which the city is located, the city is exempt. TEX. LOC. GOV'T CODE §252.0215.

### **What are the purchasing rules regarding city construction projects?**

For construction projects that involve the construction of a municipal facility (defined as any improvement to real property), a city may use any of the alternative procurement methods set out in Chapter 2269 of the Texas Government Code. TEX. LOC. GOV'T CODE §252.043. The only limitation is that design-build and job order contracting may not be used to procure civil engineering projects, except in limited circumstances. The alternative methods are:

- Competitive bidding (which is different than the “standard” competitive bidding processes in Chapter 252/Chapter 271, Subchapter B). TEX. GOV’T CODE §2269.101.
- Competitive sealed proposals. *Id.* §2269.151 et seq.
- Construction manager agent. *Id.* §2269.201 et seq.
- Construction manager at risk. *Id.* §2269.251 et seq.
- Design-build. *Id.* §2269.301. et seq. (A handful of very large cities – those over 100,000 in population – may use design-build for a limited number of civil engineering projects. *Id.* §2269.351 et seq.)
- Job order contract. (May be used only for buildings, and not be used for civil engineering projects.) *Id.* §2269.401 et seq.

For each of the methods listed above, a city awards the contract to the contractor who provides the “best value” to the city based on the selection criteria established by the city in its procurement documents. The selection criteria may generally include factors other than the construction cost, including among other things: (1) the reputation of the contractor and the contractor’s goods or services; (2) the quality of the contractor’s goods or services; and (3) the contractor’s past relationship with the city. *Id.* §2269.055.

#### **What effect does a home rule charter provision have on state purchasing rules?**

Any provision in the charter of a home rule city that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts that is in conflict with Chapter 252 controls unless the governing body elects to have Chapter 252 supersede the charter. TEX. LOC. GOV’T CODE §252.022.

#### **What is a cooperative purchasing program?**

Chapter 271, Subchapters D and F, of the Local Government Code (Cooperative Purchasing Programs) authorize cities to enter into cooperatives with the state or other local governments for the purpose of procuring goods and services. The state purchasing cooperative is online at <http://www.window.state.tx.us/procurement/>, and a joint TML/Texas Association of School Board cooperative is online at [www.tml.org](http://www.tml.org). In addition, several councils of governments offer cooperative purchasing.

#### **What is reverse auction procurement?**

Section 2155.062(d) of the Texas Government Code authorizes the use of the reverse auction method for the purchase of goods and services. A reverse auction procedure is: (1) real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or (2) a bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services. TEX. GOV’T CODE §2155.062(d).

**What are the penalties for failing to comply with competitive procurement laws?**

A contract made without compliance with competitive procurement laws is void, and performance of the contract may be enjoined by any property tax paying resident or a person who submitted a bid for a contract to which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of public works. TEX. LOC. GOV'T CODE §252.061. The specific criminal penalties are as follows:

- A municipal officer or employee who intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive procurement requirements of Chapter 252 commits a Class B misdemeanor. *Id.* §252.062.
- A municipal officer or employee who intentionally or knowingly violates the competitive procurement requirements of Chapter 252 commits a Class B misdemeanor. *Id.*
- A municipal officer or employee who intentionally or knowingly violates Chapter 252 other than by conduct described above commits a Class C misdemeanor. *Id.*

A final conviction for an offense constituting a Class B misdemeanor results in the immediate removal of that person from office or employment. For a period of four years following conviction, the removed officer or employee is ineligible to be appointed or elected to a public office in Texas, to be re-employed by the city, or to receive any compensation through a contract with that city. *Id.* §252.063.

**Where can I find more information about competitive procurement laws?**

The League published a comprehensive document called “Texas Municipal Procurement Made Easy,” which is available on the “Legal Resources” page at [www.tml.org](http://www.tml.org).

# **Texas Municipal Procurement Laws Made Easy**



## **2015 Editors**

Scott Houston  
Deputy Executive Director and General Counsel  
Texas Municipal League  
[www.tml.org](http://www.tml.org)

Jeff Chapman  
The Chapman Firm  
Austin, Texas  
[www.chapmanfirmtx.com](http://www.chapmanfirmtx.com)

Jeff Moore  
Brown & Hofmeister  
Richardson, Texas  
[www.bhlaw.net](http://www.bhlaw.net)

## **Previous Contributors**

Zindia Thomas  
Assistant Attorney General  
Austin, Texas

Julian Grant  
Assistant City Attorney  
City of Corpus Christi

(Editor's Note: 2015 updates are highlighted.)

# Table of Contents

<b>I. APPLICATION OF MUNICIPAL PROCUREMENT LAWS .....</b>	<b>1</b>
1. What city purchases must generally be awarded through the use of statutory procurement methods?.....	1
2. Is an economic development corporation required to comply with municipal procurement laws?.....	1
3. Are simple leases of personal property such as the lease of autos, office equipment, or other items by a city subject to statutory procurement requirements? .....	2
4. Are lease/purchase agreements by a city subject to statutory procurement requirements?....	2
5. Does a city have to use competitive bids or proposals to lease real property to an entity?....	2
6. Are competitive bidding or proposals required if only state or federal funds are used to fund the city expenditure? .....	3
7. Must a city bid for health insurance coverage or public official liability insurance for its officials or employees?.....	3
8. Is a city required to bid for excess or surplus insurance? .....	3
9. Do competitive bidding requirements apply to city purchases of land or right-of-way? .....	4
<b>II. THRESHOLD AMOUNT AT WHICH BIDDING IS REQUIRED .....</b>	<b>4</b>
10. What is the threshold amount at which competitive bidding or proposals are required? ..4	4
11. May a home rule city charter provide a lower threshold for requiring competitive bids?..4	4
12. May a home rule city charter provide a lower threshold for requiring competitive bids?..5	5
13. Can a general law city (under 5,000 population) impose a lower threshold for requiring competitive bids?.....	5
14. Can a city separate out its purchases over time to avoid the application of competitive bidding or proposal laws?.....	5
15. If a city does not competitively bid an item because the total expenditure would be below the threshold requiring bids, can it later purchase more of the items if the extra items would take the total purchase over the \$50,000 threshold? .....	6
16. If individual city departments make their own purchases of such commodities as office supplies, gasoline and vehicle parts, and the sum of all purchases exceeds the bidding threshold, must the purchase of those items be bid? .....	6
17. After a bid contract is awarded, can a city later decrease or increase the amount of its purchase or the quantity of work to be performed?.....	7
18. If a city seeks competitive bids for an item, can it include a time frame for extra items to be purchased at the same cost? .....	7
19. May a city seek bids or proposals for incrementally purchased items (such as office supplies) and award the contract to a single vendor for an entire year?.....	7
<b>III. GENERAL PROCEDURE REQUIREMENTS .....</b>	<b>8</b>
20. What is the general procedure for requesting competitive bids or proposals? .....	8

21. What notice must a city provide to announce a request for bids or proposals? .....	8
22. Can city staff personally call potential vendors and ask them to participate in a bid? .....	8
23. Can a city require or provide a preference for a particular brand or manufacturer in its bid specifications? .....	9
24. May a city accept bids or proposals through electronic transmission?.....	9
25. Is there a special notice requirement if the city intends to issue time warrants to cover the cost of a contract award? .....	9
26. If a city chooses not to follow statutory procurement requirements for a particular item, should the city create any documentation to note why bidding laws were not applicable to that transaction?.....	10
<b>IV. CONSIDERATION AND AWARD OF BID OR PROPOSAL REQUESTS .....</b>	<b>10</b>
27. How are contracts awarded by the city that uses the competitive sealed bid method?....	10
28. Can the city take into account the safety record of the bidder in making the award? .....	10
29. What options does a city have if the lowest bidder has a prior history of poor performance? .....	11
30. What options does the city have if the city receives no bids in response to a request? ....	11
31. What options does the city have if the city receives only one bid or proposal in response to a bid request?.....	11
32. May competitive bids be rejected by a city staff member or must the city council decide which bids to reject?.....	11
33. What is the general procedure for awarding a contract pursuant to competitive bidding?	
11	
34. What is the general procedure for awarding a contract pursuant to competitive proposals?	
12	
35. Is information contained in a bid or proposal confidential under the Public Information Act? 12	
36. Is information within a bid request concerning historically underutilized businesses confidential? .....	14
37. Must bidders be allowed to speak at a city council meeting to explain or defend their bids? 14	
<b>V. BIDS FOR THE CONSTRUCTION OR REPAIR OF PUBLIC STRUCTURES OR ROADS.....</b>	<b>14</b>
38. Is there a special bidding procedure for contracts in excess of \$50,000 for the construction or repair of a structure, road or other improvement to real property? .....	15
39. Are there special rules for the purchase of machinery for road construction or road maintenance? .....	15
40. Can a city require that bids for a public work or for the purchase of materials, equipment, or supplies be on a unit price basis? .....	15
41. Must a bidder execute a performance or payment bond if the contract is for the construction of a public work? .....	16

42. May a city require a performance or payment bond from a bidder even when state law does not require such bonds?.....	16
43. Is the city required to hire an engineer for the construction of a public work? .....	16
44. Is the city required to hire an architect if the contract is for the construction of a public work? 17	
45. If a contract is for the construction of a public work, is the city required to ensure that all contractors provide workers' compensation coverage? .....	17
46. If a contract is for the construction of a public work, must a city ensure that the contractors pay their workers according to the local prevailing wage rate for the work that is performed? .....	18
47. Is there express statutory authority for cities to enter into public/private partnerships? ..18	
<b>VI. ALTERNATIVE DELIVERY METHODS FOR THE CONSTRUCTION OF STRUCTURES.....</b>	<b>19</b>
<b>BACKGROUND AND AUTHORITY .....</b>	<b>19</b>
48. What are alternative delivery methods for city construction projects?.....	19
49. What benefits can alternative delivery methods provide cities?.....	19
50. Where is the statutory authority for cities to use alternative delivery systems? .....	19
51. What alternative methods are cities currently authorized to use and for what types of projects? .....	20
52. What are some preliminary matters in selecting which method to use?.....	20
<b>VII. THE ALTERNATIVE METHODS .....</b>	<b>20</b>
53. What is the "best value" competitive bidding method?.....	20
54. What is the competitive sealed proposals method? .....	21
55. What is the construction manager-agent method? .....	22
56. What is the construction manager at-risk method? .....	23
57. What is the design-build method?.....	25
58. What types of projects can be constructed using the design-build method? .....	25
59. How does a city solicit design-builders for a building project?.....	25
60. How does a city select a design-builder after publishing an RFQ? .....	26
61. How does a city negotiate a contract with the selected design-builder?.....	27
62. How does the design-build method differ for civil projects?.....	27
63. Is there a limit on the number of civil projects a city can build using the design-build method? .....	28
64. Must a city select an independent engineer for civil projects? .....	28
65. What is the process for selecting a design-build firm for civil projects?.....	28
66. What is the job order contracting method? .....	29
<b>VIII. ABILITY TO PROVIDE PREFERENCE IN BID AWARDS.....</b>	<b>29</b>
67. Can a city provide a preference for local businesses in its bid award?.....	29
68. Can a city provide a preference for historically underutilized businesses? .....	31

69. When is a city required to contact historically underutilized businesses? .....	31
70. How does a city determine whether it has historically underutilized businesses within its area? .....	32
71. Is a city required to provide a preference for recycled materials in its bid requests? .....	32
<b>IX. STATUTORY EXCEPTIONS TO THE COMPETITIVE BIDDING OR PROPOSAL REQUIREMENTS: .....</b>	<b>32</b>
<b>EXCEPTIONS DUE TO PUBLIC HEALTH, SAFETY OR WELFARE .....</b>	<b>32</b>
72. Is a city required to bid for purchases that are necessary because of a public calamity? .....	32
73. Can a city forego bidding or proposals if the purchases are necessary to protect the public health or safety of city residents? .....	33
74. Can a city forego bidding or proposals for purchases that are necessary because of unforeseen damage to public machinery, equipment or other property? .....	33
<b>EXCEPTIONS FOR SPECIALIZED SERVICES .....</b>	<b>34</b>
75. Are contracts for personal services exempt from the requirements for competitive bidding? .....	34
76. Can a city forego bidding for contracts for professional services? .....	34
77. How may a city obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state certified real estate appraisers? .....	35
78. What procedure must cities use to obtain the services of a lawyer or the services of a law firm? .....	35
79. Are contracts for planning services exempt from competitive bidding requirements? .....	36
80. Does competitive bidding apply to services performed by blind or severely disabled persons? .....	36
<b>EXCEPTIONS FOR ITEMS AVAILABLE FROM ONLY ONE SOURCE .....</b>	<b>36</b>
81. Does competitive bidding apply to the purchase of items that are available from only one source because of copyrights or “natural monopolies”? .....	36
82. Does competitive bidding apply to the purchase of “captive replacement parts” or components for equipment? .....	37
83. Does competitive bidding apply to the purchase of electricity, gas, water and other utility services? .....	37
84. Does competitive bidding apply to the purchase of advertising? .....	37
85. Does competitive bidding apply to the purchase of books and other materials for a public library? .....	37
<b>EXCEPTIONS FOR DISTRESS OR AUCTION PURCHASES .....</b>	<b>38</b>
86. Does a city violate bidding requirements if it purchases personal property at an auction? .....	38
87. Does a city violate bidding requirements if it purchases property at a going-out-of-business sale? .....	38
<b>EXCEPTIONS FOR PURCHASES FROM OTHER GOVERNMENTAL ENTITIES .....</b>	<b>38</b>

88. Does a city violate bidding law if it purchases property or services directly from another political subdivision of this state, a state agency or a federal agency without following competitive bidding procedures?.....	38
<b>EXCEPTIONS FOR PURCHASES WITH SPECIALIZED FINANCING.....</b>	<b>39</b>
89. Does competitive bidding apply to a contract for paving, drainage, street widening and other public improvements if at least one-third of the cost is paid through special assessments? .....	39
90. Does competitive bidding apply to a contract for a previously authorized public improvement that is experiencing a deficiency in funding to complete the project? .....	40
91. Are developer participation contracts subject to competitive bidding if the city's participation is limited to thirty percent of the total contract price? .....	40
92. Can a city forego bidding for work that is performed and paid for by the day?.....	40
<b>X. ETHICAL REQUIREMENTS RELATING TO MUNICIPAL PROCUREMENT .....</b>	<b>41</b>
93. What is Chapter 176 of the Local Government Code? .....	41
94. What local government entities are subject to this law? .....	41
95. What local government officers are subject to this law? .....	41
96. When is an officer required to file a "conflicts disclosure statement"? .....	41
97. How does Chapter 176 define a "vendor," <u>and what does it mean to have a "family relationship" with a vendor?</u> .....	42
98. How does Chapter 176 define a "family member" <u>of an officer?</u> .....	42
99. To what types of contracts does the law apply? .....	43
100. When is a vendor required to file a "conflicts of interest questionnaire"? .....	43
101. With whom should the statements and questionnaires be filed? .....	43
102. What happens if a statement is not filed? .....	44
103. Where can an officer or vendor obtain the necessary forms? .....	44
104. What is Chapter 171 of the Local Government Code?.....	44
105. <u>What is H.B. 1295?</u> .....	45
<b>XI. ENFORCEMENT OF BIDDING REQUIREMENTS.....</b>	<b>45</b>
106. What civil remedies are available to an individual or entity if the competitive bidding laws are not followed?.....	45
107. What criminal penalties apply if the competitive bidding laws are not followed? .....	45
108. Can city officials or employees be removed from office for failure to comply with competitive bidding laws? .....	46
109. Are there different consequences for elected officials, as compared to city staff, for bidding violations? .....	46
<b>ACKNOWLEDGMENTS .....</b>	<b>47</b>

# Texas Municipal Procurement Laws Made Easy

The following questions and answers provide an introduction to procurement laws that apply to city officials in Texas. It is meant as a guide only, and city officials should consult with their legal counsel regarding the application of the law to the facts of each particular situation.

## I. Application of Municipal Procurement Laws

### 1. What city purchases must generally be awarded through the use of statutory procurement methods?

The Local Government Code provides that, before a city may enter into a contract for the purchase of most goods and services that require an expenditure of more than \$50,000 from one or more municipal funds, the city must:

- comply with statutory procedures for competitive sealed bidding or competitive sealed proposals, including high technology items or insurance;
- use the reverse auction procedure for purchasing;<sup>1</sup> or
- comply with certain statutorily prescribed methods of construction procurement.<sup>2</sup>

However, state law provides a number of specific exceptions that relieve the city of the duty to bid or seek proposals on an item. For example, state law does not require cities to follow any specific procedures to purchase real property (land and/or buildings).<sup>3</sup> The major statutory exceptions to the bidding or proposal requirement are discussed later in this article.

For contracts for certain professional services, a city is actually prohibited by law from awarding the contract by competitive bidding. For example, cities may not award contracts for the services of architects, engineers, or certified public accountants through competitive bidding. Instead, the Professional Services Procurement Act sets out a different set of procedures that must be followed to contract for these services.<sup>4</sup>

### 2. Is an economic development corporation required to comply with municipal procurement laws?

The duty to comply with procurement laws is generally derived from some statute that specifically requires an entity to make its purchases through such a procedure. The implementing legislation for economic development corporations (the Development Corporation Act) does not contain a provision that subjects economic development corporations to municipal procurement requirements. Neither the Texas attorney general nor the Texas courts have directly addressed this question.

---

<sup>1</sup> TEX. LOC. GOV'T CODE § 252.021(a)(2).

<sup>2</sup> *Id.* § 252.021.

<sup>3</sup> *Id.* § 272.001.

<sup>4</sup> TEX. GOV'T CODE § 2254.001 et seq. (Professional Services Procurement Act).

**3. Are simple leases of personal property such as the lease of autos, office equipment, or other items by a city subject to statutory procurement requirements?**

Competitive bidding or proposal requirements apply to any lease of personal property that will require an expenditure of more than \$50,000 in city funds, unless the expenditure is covered by a specific statutory exception that would relieve the city from the duty to bid or seek proposals on the item.<sup>5</sup> For example, if the lease were for an item that was necessary to preserve or protect the public health or safety of the city's residents, the city would not be under a duty to use competitive bidding or proposals for its acquisition.<sup>6</sup>

**4. Are lease/purchase agreements by a city subject to statutory procurement requirements?**

State law expressly authorizes cities to enter into lease-purchase agreements.<sup>7</sup> However, normal statutory procurement requirements would generally apply to these lease-purchase agreements.<sup>8</sup> That is, when a lease-purchase agreement for personal property will involve an expenditure of more than \$50,000 in city funds, the contract must be competitively procured unless the type of item purchased is covered by a specific exception to the statutory procurement requirements.

**5. Does a city have to use competitive bids or proposals to lease real property to an entity?**

Competitive bidding or proposal requirements under Chapter 252 of the Local Government Code do not apply to the lease of real property. Cities typically enter into leases of city real property through lease agreements with entities as would any other lessor. Additionally, the requirements under Chapter 272 of the Local Government Code that a city advertise the sale of real property do not apply to a normal term lease of a property.

At least one court has held that a city's temporary lease of property is not subject to the notice and bidding requirements in Chapter 272.<sup>9</sup> A recent attorney general opinion suggests that all of the following have a bearing upon the "temporary" status of a lease agreement: (1) the duration of the lease; (2) the city's right to control the land during the lease term; and (3) the city's right to make improvements upon termination of the agreement.<sup>10</sup> An older opinion suggests that the lessee's

---

<sup>5</sup> TEX. LOC. GOV'T CODE § 252.021

<sup>6</sup> *Id.* § 252.022(a)(2).

<sup>7</sup> *Id.* § 271.005.

<sup>8</sup> *Id.* § 271.006 (Requiring that a contract authorized by Section 271.005 comply with any applicable requirements in chapter 252 of the Local Government Code).

<sup>9</sup> *Walker v. City of Georgetown*, 86 S.W.3d 249, 259 (Tex. App.—Austin 2002, pet. denied) (“[T]he plain language of the statute indicates that the Legislature intended for the notice and bidding requirements to apply to the ‘sale or exchange’ of land, not the lease of land.”).

<sup>10</sup> Op. Tex. Att'y Gen. No. GA-0321 at 9 (2005).

option to purchase the leased property upon expiration of the lease may be indicative of a sale.<sup>11</sup>

Essentially, if the facts of the situation determine that a lease of the real property is for such an extended period that it would almost amount to a sale, the lease may be subject to the requirements for advertising the sale of real property under Chapter 272 of the Local Government Code.<sup>12</sup>

## **6. Are competitive bidding or proposals required if only state or federal funds are used to fund the city expenditure?**

A city expenditure is not necessarily exempt from competitive bidding or proposal requirements because it involves the use of only federal or state funds (e.g., grant funds or loans). Often, state or federal funds are considered city funds once they are acquired by or given to the city. Accordingly, any expenditure of these funds would ultimately be considered an expenditure of city funds and therefore subject to the bidding or proposal requirements. Additionally, many state and federal statutes expressly require that the funds provided to a city under the statute be expended in a manner that complies with local competitive bidding requirements. Cities should review applicable state or federal provisions that relate to any such funding they receive from state or federal programs.

One state law provides that competitive bidding requirements do not apply to certain appropriations, loans, or grants for conducting a community development program established under Chapter 373 of the Local Government Code.<sup>13</sup> Such expenditures must instead use the request for proposals process described in Section 252.042 of the Local Government Code.

## **7. Must a city bid for health insurance coverage or public official liability insurance for its officials or employees?**

Cities must seek competitive bids or proposals when purchasing insurance that will cost more than \$50,000.<sup>14</sup>

Chapter 252 of the Local Government Code does not specifically address the need to use competitive bidding or proposals if a city's liability coverage is gained through participation in a group risk pool. Under state law, the coverage provided by risk pools is not considered to be insurance or subject to the traditional requirements applicable to insurance policies. Therefore, most risk pools take the position that statutory procurement requirements do not apply. A city should consult its legal counsel if it wants to acquire coverage in this manner without participating in competitive bidding or proposals.

## **8. Is a city required to bid for excess or surplus insurance?**

Section 252.024 of the Local Government Code states that the statutory procurement requirements do not prohibit a city from selecting a licensed insurance broker as the sole broker of record for the

---

<sup>11</sup> Tex. Att'y Gen. LO-96-053 at 3.

<sup>12</sup> *Flagship Hotel, Ltd. v. City of Galveston*, 117 S.W.3d 552, 559 (Tex. App.—Texarkana 2003, pet. denied).

<sup>13</sup> TEX. LOC. GOV'T CODE ANN. § 252.021(d) (West Supp. 2011).

<sup>14</sup> *Id.* § 252.021(b).

city.<sup>15</sup> Such brokers obtain proposals and coverages for “excess or surplus insurance.” Excess or surplus coverage may include surplus coverage for public official liability, police professional liability, and airport liability. Some legal analysts have suggested that a city may avoid the bidding requirements when purchasing excess or surplus insurance if the city complies with the requirements of Section 252.024. The attorney general, however, has rejected this interpretation of Section 252.024.<sup>16</sup> In regard to whether the actual selection of the broker of record must comply with Chapter 252, the attorney general has allowed for the possibility that if the services to be performed by the broker are professional in nature, the selection of the broker would be exempt from competitive bidding. A city should, therefore, consult with its legal counsel if it wants to select an insurance broker of record without participating in competitive bidding.

## **9. Do competitive bidding requirements apply to city purchases of land or right-of-way?**

A city is not required to use competitive bidding to purchase or lease land or a right-of-way.<sup>17</sup> However, it is important to note that a city is generally required to take bids or – pursuant to legislation passed in 2013 for home rule cities only – hire a broker when it sells a city interest in real property.<sup>18</sup> Additionally, there are certain special statutory provisions that apply to the sale of park lands, municipal building sites, or abandoned roadways.<sup>19</sup> Further, if a city is to purchase real property wholly or partly with bond proceeds, the city must first obtain an independent appraisal of the property’s market value.<sup>20</sup>

## **II. Threshold Amount at which Bidding is Required**

### **10. What is the threshold amount at which competitive bidding or proposals are required?**

Generally, a city is required to follow the bidding or proposal procedures outlined in Local Government Code Chapter 252 when it plans to make an expenditure of more than \$50,000 in city funds.<sup>21</sup> Recent legislative changes make the above requirement equally applicable to purchases of insurance and high technology items.

### **11. May a home rule city charter provide a lower threshold for requiring competitive bids?**

If there is a conflict between the statutory threshold amount that triggers the requirements of Chapter

---

<sup>15</sup> *Id.* § 252.024 (West 2005).

<sup>16</sup> Op. Tex. Att'y Gen. No. DM-70 (1991).

<sup>17</sup> See TEX. LOC. GOV'T CODE § 252.022(a)(6) (Purchase of land or right-of-way exempt from competitive bidding requirements).

<sup>18</sup> *Id.* § 272.001; S.B. 985 (2013).

<sup>19</sup> *Id.* § 253.001.

<sup>20</sup> *Id.* § 252.051.

<sup>21</sup> *Id.* § 252.021(a)-(b).

252 and the city's charter, the city should follow the lower of the two amounts.<sup>22</sup> Thus, if a city charter sets forth a lower threshold for requiring competitive bids than does state law, the city should follow the charter's requirements. For example, some city charters require the city to use competitive bidding for any purchases that exceed \$3,000. Such cities would have to follow bidding procedures as required by state law and as additionally required by the terms of the city charter. A city charter may not provide a higher threshold for bidding than is permitted under state law.

## **12. May a home rule city charter provide a lower threshold for requiring competitive bids?**

A city charter may provide certain different procedural requirements for handling competitive bidding. For example, a city charter may provide different requirements for the notice that must be provided for contracts to be bid, how the notices are advertised, the manner for taking certain sealed bids, the manner of publicly opening bids or reading them aloud, and the manner of awarding the contracts.<sup>23</sup> Such provisions in a city charter are controlling even if they conflict with Chapter 252 of the Local Government Code. However, a majority of the city council may vote to have the bidding provisions of Chapter 252 override any different procedural requirements contained in the city charter. Note that the city council can vote to override its charter only with regard to the *procedures* for handling competitive bids. The council may not override a city charter provision regarding the *threshold amount* at which competitive bidding is required.

## **13. Can a general law city (under 5,000 population) impose a lower threshold for requiring competitive bids?**

A general law city by ordinance or simply by vote of the city council could impose a lower threshold on itself for competitive bidding than would otherwise be required by state law.<sup>24</sup> This is true unless a statute forbids a city from using competitive bidding to obtain a particular type of good or service. As noted earlier, the Professional Services Procurement Act prohibits a city from using competitive bidding procedures to secure the services of certain professionals such as architects, engineers and certified public accountants.<sup>25</sup>

## **14. Can a city separate out its purchases over time to avoid the application of competitive bidding or proposal laws?**

A city may not avoid the application of competitive bidding or proposal laws by purposely dividing a single purchase into smaller components so that each component purchase is less than \$50,000. Chapter 252 of the Local Government Code prohibits the use of "separate, sequential, or component purchases" as a means of avoiding bidding requirements.<sup>26</sup>

---

<sup>22</sup> *Id.* § 252.002.

<sup>23</sup> *Id.*

<sup>24</sup> See Op. Tex. Att'y Gen. No. DM-106 (1992) (City may procure services through competitive bidding even if those services qualify for an exemption from competitive bidding, unless those services are covered by the Professional Services Procurement Act.).

<sup>25</sup> TEX. GOV'T CODE § 2254.003.

<sup>26</sup> TEX. LOC. GOV'T CODE § 252.062.

It is important to note that the phrases “separate purchases,” “sequential purchases” and “component purchases” are all specifically defined by Chapter 252 of the Local Government Code.<sup>27</sup> “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase. “Sequential purchases” means purchases, made over a period of time, of items that in normal purchasing practices would be purchased in one purchase. “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Some think that by waiting a year or more between purchases they will automatically avoid the problem of separate, sequential or component purchases. However, the competitive bidding laws do not specify any such waiting period. Instead, if the purchases in question would normally have been made in one purchase, then there may be a violation of the bidding laws even though the city waited more than a year between each purchase. Accordingly, a city is well-advised to look at its purchasing practices in terms of whether such purchases are traditionally done all at once or whether it is necessary or prudent to acquire the items over time. If such items are traditionally purchased at one time, the city would not want to separate out the purchase in order to avoid competitive bidding requirements. If a city is not certain how such items are traditionally handled, it should consult the city’s legal counsel.

**15. If a city does not competitively bid an item because the total expenditure would be below the threshold requiring bids, can it later purchase more of the items if the extra items would take the total purchase over the \$50,000 threshold?**

A city may purchase items without competitive bidding if the total purchase amount will be below the \$50,000 threshold that requires bidding. However, if the city later wants to make additional purchases and these purchases would take the total purchase over the \$50,000 threshold, the city should use caution. State law provides criminal penalties if a city makes component, sequential or incremental purchases to avoid the competitive bidding requirements. If such a charge is at issue, the local prosecuting attorney would review the facts surrounding the involved transaction. Cities would be well-advised to look at their purchasing practices over past budget years and consider whether certain items should be purchased through competitive bids.

**16. If individual city departments make their own purchases of such commodities as office supplies, gasoline and vehicle parts, and the sum of all purchases exceeds the bidding threshold, must the purchase of those items be bid?**

Often individual city departments will make separate purchases of office supplies, gasoline or other items without competitive bidding because each department’s purchase amount will be below the \$50,000 threshold that requires bidding. If a city’s total purchases for these items would be over the \$50,000 threshold, the city should use caution. As noted earlier, state law provides that there are

---

<sup>27</sup> *Id.* § 252.001(2), (6)-(7).

criminal penalties if a city makes component, sequential or incremental purchases to avoid the competitive bidding requirements. If such a charge is at issue, the local prosecuting attorney would review the facts surrounding the involved transaction. Cities would be well-advised to look at their purchasing practices over past budget years and consider whether certain items should be purchased through competitive bids.

**17. After a bid contract is awarded, can a city later decrease or increase the amount of its purchase or the quantity of work to be performed?**

Even after a bid has been awarded, a city may still increase or decrease the quantity of work to be done or the materials or supplies to be furnished if it is necessary to do so.<sup>28</sup> Such changes may not increase or decrease the original contract price by more than 25 percent. If the city wants to decrease the contract amount by more than 25 percent, it needs to obtain the approval of the contractor for such a change. There is no comparable authority for the city to simply gain contractor approval to increase the amount of the order by *more* than 25 percent. In such a situation, the city would need to seek bids or proposals for the work or products that would be beyond the 25 percent amount.

The city council may also delegate to city staff the authority to approve such change orders if it involves less than a \$50,000 decrease or increase in the contract amount.<sup>29</sup> If a change order for a public works contract in a city with a population of 300,000 or more involves a decrease or increase of \$100,000 or less, or a lesser amount as provided by ordinance, city council may delegate to city staff the authority to approve such change orders.<sup>30</sup>

**18. If a city seeks competitive bids for an item, can it include a time frame for extra items to be purchased at the same cost?**

The bidding laws do not specifically address whether it is appropriate for a city to include a time frame within which it may seek to purchase items at an awarded contract bid amount. However, if a city would like to have an extended opportunity to make such purchases at that cost, it should indicate this fact in the bid specifications. In no case can a city increase the total contract amount by more than 25 percent of the original awarded amount. If a city needs to purchase additional items that would result in a purchase of more than 25 percent over the original contract price, it would need to seek bids or proposals for the additional purchase.

**19. May a city seek bids or proposals for incrementally purchased items (such as office supplies) and award the contract to a single vendor for an entire year?**

Items, such as office supplies, could be bid and awarded to a single vendor for the entire year if the vendor committed to a set of prices for the items and all of the bidding procedures were followed to

---

<sup>28</sup> *Id.* § 252.048

<sup>29</sup> *Id.* § 252.048(c).

<sup>30</sup> *Id.* § 252.048(c-1).

yield such a contract. The contract would need to have a maximum and a minimum number of items to be purchased so it could be determined under what circumstances a change order was permitted.

### **III. General Procedure Requirements**

#### **20. What is the general procedure for requesting competitive bids or proposals?**

To take bids or proposals on a purchase, the city must first publish notice of the time and place at which the bids or proposals will be publicly opened and read aloud.<sup>31</sup> The city should prepare specifications detailing the requirements that must be met by the goods or services the city intends to purchase. The published notice should include either a copy of these specifications or information on how a bidder may obtain a copy of the specifications.

If a city wishes to consider factors other than price in its selection, or other factors such as a bidder's previous performance or safety record in its selection, the city's bid specifications should clearly state that such factors will be considered. Also, the governing body of a city that is considering using a method other than competitive sealed bidding (e.g., competitive sealed proposals) must determine before notice is given the method of purchase that provides the best value for the city.

#### **21. What notice must a city provide to announce a request for bids or proposals?**

A city must publish a notice indicating the time and place at which the bids or proposals will be publicly opened and read aloud. The notice must be published at least once a week for two consecutive weeks.<sup>32</sup> The first publication must appear before the 14<sup>th</sup> day before the date that the bids or proposals are publicly opened and read aloud. The notice must be placed in a newspaper that is published in the city. If there is no newspaper published in the city, the notice must be posted at city hall for 14 days before the date that the bids or proposals are publicly opened and read aloud.

#### **22. Can city staff personally call potential vendors and ask them to participate in a bid?**

Nothing in state law explicitly prohibits a city from providing additional notice to potential bidders. In fact, many cities either keep a list of particular vendors or use a list of vendors that has been prepared by another entity, such as the Texas Facilities Commission. These cities then provide direct notice to the listed vendors when an item or project goes out for bids. However, although this is a common practice, cities should be aware that this practice has not been approved by the Texas courts or by an attorney general opinion. In fact, at least one attorney general opinion has concluded that "contact with potential providers outside the statutory notice and bidding process might run afoul of

---

<sup>31</sup> *Id.* § 252.041

<sup>32</sup> *Id.*

[the competitive bidding notice requirements].”<sup>33</sup> The attorney general based this conclusion on a Texas case in which the court stated that “[c]ompetitive bidding...requires that all bidders be placed upon the same plane of equality....”<sup>34</sup> Thus, a city may wish to discuss any such practice with its legal counsel.

### **23. Can a city require or provide a preference for a particular brand or manufacturer in its bid specifications?**

At least one Texas attorney general opinion has concluded that a city may not require or indicate a preference for a particular brand name or manufacturer as part of the specifications for a bid request.<sup>35</sup> The only exception to this prohibition would be if it were necessary to acquire a particular brand or product because it is a “captive replacement part.” In such a case, however, competitive bidding is not required. Nonetheless, it is rare that a particular service or enhancement of a system can be accomplished only by one manufacturer or through one particular brand.

Some legal analysts disagree with the attorney general opinion that addressed this issue. However, as previously noted, it is not common that a particular item, service or enhancement of a system can be supplied by only one manufacturer or supplier or through only one particular brand or process. Because of the legal uncertainties involved, cities that desire to specify particular brands, products or processes should discuss this practice with legal counsel. In addition, a city should consider adding the phrase “or equal” to specifications that require a particular product, brand or process.

### **24. May a city accept bids or proposals through electronic transmission?**

Cities may receive bids or proposals through electronic transmission, provided the city council adopts rules to ensure the identification, security and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.<sup>36</sup>

### **25. Is there a special notice requirement if the city intends to issue time warrants to cover the cost of a contract award?**

Special notice requirements apply if a city intends to issue time warrants to pay for the cost of a contract award. The required newspaper notice must include a statement of the city council’s intention to issue time warrants.<sup>37</sup> That notice must also include the maximum amount of the proposed time warrant indebtedness, the rate of interest the time warrants will bear, and the maximum maturity date for the time warrants.

---

<sup>33</sup> Op. Tex. Att’y Gen. No. DM-70 at 5 (1991).

<sup>34</sup> *Sterrett v. Bell*, 240 S.W.2d 516, 520 (Tex. Civ. App.—Dallas 1951, no writ).

<sup>35</sup> Op. Tex. Att’y Gen. No. C-376 (1965).

<sup>36</sup> TEX. LOC. GOV’T CODE § 252.0415(a).

<sup>37</sup> *Id.* § 252.041(d).

**26. If a city chooses not to follow statutory procurement requirements for a particular item, should the city create any documentation to note why bidding laws were not applicable to that transaction?**

State law does not indicate any requirement that a city note in its purchasing documentation why bidding laws were not applicable to the involved transaction. Nonetheless, cities should consult local legal counsel regarding whether they would find placing such a justification on the record helpful to the city or the involved staff's legal position.

**IV. Consideration and Award of Bid or Proposal Requests**

**27. How are contracts awarded by the city that uses the competitive sealed bid method?**

If competitive sealed bid requirements are used, the city must award most contracts to either the lowest responsible bidder or to the bidder who provides goods or services at the “best value” for the city.<sup>38</sup> To determine the best value for the city, the city may consider the following:<sup>39</sup>

- the purchase price;
- the reputation of the bidder and of the bidder’s goods or services;
- the quality of the bidder’s goods or services;
- the extent to which the goods or services meet the municipality’s needs;
- the bidder’s past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder’s goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

**28. Can the city take into account the safety record of the bidder in making the award?**

When awarding a contract using traditional competitive bidding, the city may only consider a bidder’s safety record in regards to the bidder’s “responsiveness” if notice has been given that such a criterion is relevant. Specifically, the governing body must have adopted a written definition and criteria for assessing the bidder’s safety record and must have given notice in the bid specifications that the safety record will be considered. Of course, any decision that the city makes must not be arbitrary or capricious.<sup>40</sup>

---

<sup>38</sup> *Id.* § 252.043(a)-(b).

<sup>39</sup> *Id.* § 252.043(b).

<sup>40</sup> *Id.* § 252.0435.

## **29. What options does a city have if the lowest bidder has a prior history of poor performance?**

Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered.

Again, the best practice is to clearly indicate in the city's specifications that a bidder's prior performance on similar contracts may be considered in evaluating the bids.

## **30. What options does the city have if the city receives no bids in response to a request?**

If competitive bids or proposals are required by Chapter 252 of the Local Government Code, there is no exception that would allow the city to avoid the statutory requirements due to a lack of bids. If a city receives no response to a request, the city must either re-advertise or decide not to undertake the contract.

## **31. What options does the city have if the city receives only one bid or proposal in response to a bid request?**

If a city receives only one bid or proposal in response to its request, the city may accept the bid or proposal received, reject the bid or proposal and re-advertise, or reject the bid or proposal and decide not to undertake the project.

## **32. May competitive bids be rejected by a city staff member or must the city council decide which bids to reject?**

State law provides that the governing body of the city may reject any and all bids.<sup>41</sup> There is no provision that would allow the delegation of this decision to city staff. However, in certain cities the staff will open the bids and provide a recommendation to the city council on whether the bid is responsive to the bid request and whether it should be accepted as the lowest responsible bid.

## **33. What is the general procedure for awarding a contract pursuant to competitive bidding?**

First, bids must be publicly opened and the bid amounts read aloud at the time and place specified in the bid notice.<sup>42</sup> The city council must then award the contract to the lowest responsible bidder or (if previously noticed) the bidder that provides the best value to the city. In the alternative, the city may reject all bids.<sup>43</sup> Once a bid has been opened, it may not be changed to correct minor errors in the bid

---

<sup>41</sup> *Id.* § 252.043(f).

<sup>42</sup> *Id.* § 252.041.

<sup>43</sup> *Id.* § 252.043(a), (f).

price.<sup>44</sup> However, under certain circumstances, a bidder may be able to withdraw a bid if it contains a substantial mistake that would cause a great hardship if enforced against the bidder.

### **34. What is the general procedure for awarding a contract pursuant to competitive proposals?**

If a city decides to use the competitive sealed proposal procedures, it must first give notice of the request for proposals in the same manner as required for competitive bids.<sup>45</sup> Generally, this means that the city must publish at least two newspaper notices of the time and place at which the proposals will be opened. These notices must be published at least once a week for two consecutive weeks, and the first notice must be published more than 14 days before the date set for opening the proposals. Requests for proposals must also solicit quotations and specify the relative importance of price and other evaluation factors.<sup>46</sup>

Once proposals have been submitted, the city may conduct discussions with the offeror or offerors whom the city determines to be reasonably qualified for the award of the contract. Such discussions must comply with the request for proposals and with the regulations set by the city council. To obtain the best offers, the city may allow the submission of revisions after proposals are submitted and before the award of the contract. All offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of the proposals.

In the end, the contract must be awarded to the offeror whose proposal is determined to be the most advantageous to the city.<sup>47</sup> The city is to determine which proposal is the most advantageous based on the relative importance of price and the other evaluation factors included in the request for proposals.<sup>48</sup>

### **35. Is information contained in a bid or proposal confidential under the Public Information Act?**

Section 552.104 of the Government Code provides as follows:

- (a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.
- (b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

The purpose of section 552.104(a) is to protect the interests of a governmental body in situations such as competitive bidding and requests for proposals, where the governmental body may wish to

---

<sup>44</sup> *Id.* § 252.043(g).

<sup>45</sup> *Id.* § 252.041(b).

<sup>46</sup> *Id.* § 252.042

<sup>47</sup> *Id.* § 252.043(h).

<sup>48</sup> *Id.* §§ 252.021(c), 252.043(h).

withhold information in order to obtain more favorable offers.<sup>49</sup> Significantly, it is not designed to protect the interests of private parties that submit information such as bids and proposals to governmental bodies. Because section 552.104(a) protects only the interests of governmental bodies, it is an exception that a governmental body may waive, for example, by disclosing the information to the public or failing to raise the exception within the ten-day deadline.<sup>50</sup>

Generally, section 552.104(a) protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. A general allegation of a remote possibility of harm is not sufficient to invoke section 552.104(a).<sup>51</sup> Section 552.104(a) is frequently raised to protect information submitted to a governmental body in response to a competitive bidding notice or request for proposals. In this context, the protection of section 552.104(a) is temporal in nature. Generally, section 552.104(a) does not except bids from public disclosure after bidding is completed and the contract has been executed.<sup>52</sup> However, bids may continue to be withheld from public disclosure during the period in which the governmental body seeks to clarify bids and bidders remain at liberty to furnish additional information.<sup>53</sup> Section 552.104(a) does not apply when a single individual or entity is seeking a contract as there are no “competitors” for that contract.<sup>54</sup> Note that even when section 552.104(a) does not protect bids from required public disclosure, section 552.110 will require the governmental body to withhold any portions of those bids that contain trade secrets or other commercial or financial information that is made confidential by law.<sup>55</sup> In addition to protecting the actual bid proposals, section 552.104(a) may protect information related to the bidding process that is not part of a bid.<sup>56</sup>

Although early decisions of the attorney general concluded that section 552.104(a) does not protect the interests of governmental bodies when they engage in competition with private entities in the marketplace,<sup>57</sup> this line of opinions has been reexamined. In Open Records Decision No. 593 (1991), the attorney general concluded that a governmental body may claim section 552.104(a) to withhold information to maintain its competitive advantage in the marketplace if the governmental body can demonstrate: (1) that it has specific marketplace interests and (2) the possibility of specific harm to these marketplace interests from the release of the requested information.<sup>58</sup> A governmental body that demonstrates that section 552.104 applies to information may withhold that information even if it falls within one of the categories of information listed in section 552.022(a).<sup>59</sup>

---

<sup>49</sup> Tex. Att'y Gen. ORD-592 at 8 (1991).

<sup>50</sup> TEX. GOV'T CODE § 552.302.

<sup>51</sup> Tex. Att'y Gen. ORD-593 at 2 (1991), ORD-541 at 4 (1990), ORD-514 at 2 (1988), ORD-463 (1987).

<sup>52</sup> Tex. Att'y Gen. ORD-541 at 5 (1990), ORD-514 at 2 (1988), ORD-319 at 3 (1982).

<sup>53</sup> Tex. Att'y Gen. ORD-170 (1977). *See also* Tex. Att'y Gen. ORD-541 at 5 (1990) (Recognizing limited situation in which statutory predecessor to section 552.104 of the Government Code continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids).

<sup>54</sup> Tex. Att'y Gen. ORD-331 (1982).

<sup>55</sup> Tex. Att'y Gen. ORD-319 (1982), ORD-309 (1982).

<sup>56</sup> Compare Op. Tex. Att'y Gen. No. MW-591 (1982) (Identity of probable bidders is protected from public disclosure because disclosure could interfere with governmental body's ability to obtain best bids possible) with Tex. Att'y Gen. ORD-453 (1986) (Identities of individuals who receive bid packets are not protected when governmental body fails to show substantial likelihood that these individuals would bid).

<sup>57</sup> Tex. Att'y Gen. ORD-463 (1987), ORD-153 (1977), ORD-99 (1975).

<sup>58</sup> See, e.g., Tex. Att'y Gen. ORL 1997-2516. (City of San Antonio's records of costs various performers pay for use of Alamodome), ORL 1996-2186. (City of Alvin information regarding proposal to provide another city with solid waste disposal services).

<sup>59</sup> TEX. GOV'T CODE ANN. § 52.104(b).

## **36. Is information within a bid request concerning historically underutilized businesses confidential?**

Section 552.128 of the Government Code makes confidential certain information about disadvantaged or historically underutilized businesses.<sup>60</sup> General information about these businesses is confidential if it is submitted to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business. With two exceptions, this information may be disclosed only with the express written consent of the applicant or the applicant's agent.<sup>61</sup>

Without such consent, this information may be disclosed by a state or local governmental entity for one of the following two purposes: (1) to verify an applicant's status as a historically underutilized or disadvantaged business or (2) to conduct a study of public purchasing programs established under state law for historically underutilized or disadvantaged businesses.

It is important to note that this law protects only the information submitted with an *application for certification* as a historically underutilized or disadvantaged business.<sup>62</sup> The business's actual bid is subject to the same rules of disclosure as any other bid. Additionally, information submitted in connection with a specific proposed contractual relationship or within an application to be placed on a bidder's list is not confidential under section 552.128. Thus, this information may be accessible even though it involves data that would be confidential if it were contained in the entity's application for certification as a historically underutilized or disadvantaged business.

## **37. Must bidders be allowed to speak at a city council meeting to explain or defend their bids?**

A bidder does not have any special right to speak at an open meeting of the city council. The attorney general has concluded that the Open Meetings Act does not give members of the public a right to speak at an open meeting.<sup>63</sup> Further, if the city chooses to allow members of the public to speak at a council meeting, the council may make reasonable rules regulating the number of speakers on a particular subject and the length of each presentation.<sup>64</sup> However, the city council should not discriminate between one speaker and another, and the rules should be applied equally to all members of the public. The only situation in which the city council may be required to allow members of the public to speak would be if state law requires a public hearing on an issue or if state law requires that public comment be allowed on a particular subject. However, there is no such public hearing or comment requirement that is applicable to competitive bidding issues.

## **V. Bids for the Construction or Repair of Public Structures or Roads**

---

<sup>60</sup> *Id.* § 552.128.

<sup>61</sup> *Id.* § 552.128(b).

<sup>62</sup> *Id.* § 552.128(c).

<sup>63</sup> Tex. Att'y Gen. Op. No. H-188 (1973).

<sup>64</sup> Tex. Att'y Gen. Op. No. H-188 (1973); Tex. Att'y Gen. LO-96-111.

### **38. Is there a special bidding procedure for contracts in excess of \$50,000 for the construction or repair of a structure, road or other improvement to real property?**

Texas law does not single out cities or dictate special bidding procedures for procurement contracts exceeding \$50,000. In the past, Chapter 271, subchapter B, of the Local Government Code dictated a special bidding procedure for cities. However, the legislature exempted cities from that procedure in 1997.

Currently, on expenditures greater than \$50,000, cities may follow one of three basic procurement methods: (1) competitive sealed bidding or competitive sealed proposals, (2) the reverse auction procedure, or (3) an alternative procurement method.<sup>65</sup> While each of these procurement methods is authorized for general use by cities, the legislature has precluded the application of some of these methods for specific types of construction projects. These preclusions, as well as other procurement issues, are discussed further in this handbook.

### **39. Are there special rules for the purchase of machinery for road construction or road maintenance?**

As with other procurement efforts, a city seeking to procure machinery for road construction or maintenance should provide notice in the newspaper.<sup>66</sup> The notice for this type of purchase must contain a general description of the type and specifications of machinery required.<sup>67</sup>

For example, a city requiring a bulldozer should specify the minimum size and horsepower of the desired bulldozer. In this way, newspaper notices can be kept reasonably brief and inexpensive, and more detail can be provided in the bid specifications, if necessary.

If, however, the procurement is required to replace unforeseen damage to previously owned equipment, the notice and bidding procedures do not apply.<sup>68</sup>

### **40. Can a city require that bids for a public work or for the purchase of materials, equipment, or supplies be on a unit price basis?**

Yes. Cities may request bids based on unit prices.<sup>69</sup> This type of procurement may be especially helpful in the procurement of equipment and machinery. The city must publish the quantities desired with its notice. If the quantities actually consumed differ from the city's anticipated needs, then the actual purchase shall reflect the quantities supplied or consumed in the procurement.

Cities may ask bidders to indicate both a lump-sum price and a unit price. In fact, some cities specify

---

<sup>65</sup> TEX. LOC GOV'T CODE § 252.021(a).

<sup>66</sup> *Id.* § 252.041(a).

<sup>67</sup> *Id.* § 252.041(c).

<sup>68</sup> *Id.* § 252.022(a)(3).

<sup>69</sup> *Id.* § 252.047.

that bids may be awarded on a lump-sum basis, a unit price, or on whatever basis best serves the city's interest.

#### **41. Must a bidder execute a performance or payment bond if the contract is for the construction of a public work?**

The Government Code mandates that a city contracting for public work in excess of \$50,000 shall require its contractor to execute a payment bond solely for the protection of beneficiaries who supply materials or labor to the public works project and have a direct contractual relationship with the contractor.<sup>70</sup> A payment bond is required because material suppliers and laborers do not enjoy the same lien rights on public projects as they do on private projects. Without the benefit of lien rights to secure payments that are not timely received, those suppliers and laborers would lose much of their legal protection regarding payment. The payment bond requirements for public work essentially replace the protections afforded by lien rights with protections guaranteed by a surety.

The Government Code also mandates that a city contracting for public work in excess of \$100,000 shall require its contractor to execute a performance bond solely for the protection of the city. The performance bond protects the city in the event of a contractor default and/or termination.

Both the payment and performance bonds must be written for the total contract value and should be executed by a corporate surety in accordance with the Insurance Code prior to commencement of the work.

For more information on payment and performance bonds, a city should review Chapter 2253 of the Government Code and consult legal counsel.

#### **42. May a city require a performance or payment bond from a bidder even when state law does not require such bonds?**

Yes. Nothing in state law appears to prohibit a city from requiring a performance bond, a payment bond, or both, from anyone contracting to do work for the city regardless of the amount of the contracts in question. If a city wishes to impose such a requirement, it is advisable that the city make the requirement part of the bid specifications so all potential bidders are informed of the requirement before bidding.

#### **43. Is the city required to hire an engineer for the construction of a public work?**

If public health, safety, or welfare and professional engineering issues are involved, the engineering plans, specifications, and estimates for the construction of a public work generally must be prepared by a licensed professional engineer.<sup>71</sup> Further, the engineering for construction usually must be executed under the direct supervision of a licensed professional engineer.

---

<sup>70</sup> TEX. GOV'T CODE § 2253.021.

<sup>71</sup> TEX. OCC. CODE § 1001.407.

There are two circumstances in which the above requirements do not apply to the construction of a public work by a city. First, they do not apply to a public work that involves a total expenditure of \$8,000 or less, even if the work involves structural, electrical or mechanical engineering. If the expenditure for such a public work will amount to or exceed \$8,000, the use of an engineer is required as noted above. Second, if the work does not involve structural, electrical or mechanical engineering, then the use of an engineer is not required as long as the total contemplated expenditure on the project will not exceed \$20,000.<sup>72</sup>

#### **44. Is the city required to hire an architect if the contract is for the construction of a public work?**

A registered architect must prepare the architectural plans and specifications for constructing a new city building if:

- the building will be used for education, assembly or office occupancy; and
- the construction costs exceed \$100,000.<sup>73</sup>

Also, for any alteration or addition to an existing city building, a registered architect must prepare the architectural plans and specifications if all three of the following circumstances are present:

- the building is used or will be used for education, assembly or office occupancy;
- the construction costs for the alteration or addition exceed \$50,000; and
- the alteration or addition requires the removal, relocation, or addition of any walls or partitions or requires the alteration or addition of an exit.<sup>74</sup>

#### **45. If a contract is for the construction of a public work, is the city required to ensure that all contractors provide workers' compensation coverage?**

Any city “building or construction” contract must require the general contractor to certify in writing that the contractor provides workers’ compensation insurance to all of the contractor’s employees involved in the project.<sup>75</sup> Additionally, each subcontractor must certify in writing to the general contractor that the subcontractor’s employees are covered by workers’ compensation insurance. The general contractor, in turn, must provide each subcontractor’s written certification to the city.

The phrase “building or construction” is defined to include any of the following:

- Erecting or preparing to erect a structure, including a building, bridge, road, public utility facility or related structure;
- remodeling, extending, repairing or demolishing a structure; or
- otherwise improving real property or a structure related to real property through similar

---

<sup>72</sup> *Id.* § 1001.053.

<sup>73</sup> *Id.* § 1051.703(a)(2).

<sup>74</sup> *Id.* § 1051.73(a)(3).

<sup>75</sup> TEX. LAB. CODE § 406.096.

activities

Thus, a city must require contractors and subcontractors to provide workers' compensation insurance in any contract involving one or more of these activities. However, the contractor may provide this coverage through a group plan or through another method that is satisfactory to the city council.

State law specifies that the employment of a maintenance worker does not generally constitute engaging in "building or construction." State statutes do not appear to provide any other clear exceptions to the requirement that public works contractors provide workers' compensation insurance.

**46. If a contract is for the construction of a public work, must a city ensure that the contractors pay their workers according to the local prevailing wage rate for the work that is performed?**

Texas law requires that any worker employed on a public work contract be paid at least the general prevailing daily wage rate for work of a similar character performed in the same locality.<sup>76</sup> If a worker works overtime or on legal holidays, the worker must be paid at least the general daily wage rate for overtime or legal holiday work. The city council must determine the general prevailing daily wage rate for each craft or type of worker needed to execute a public works contract and the prevailing rate for legal holiday and overtime worked.<sup>77</sup> This determination must be based on either a survey conducted by the city or on the prevailing wage rate in the city as determined by the U.S. Department of Labor (if that department's figures are considered to be current). Further, both the call for bids and the contract itself must specify the applicable wage rates as determined by the city.

The prevailing wage rate requirement applies to any public work that is paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.<sup>78</sup> However, the requirement does not apply to work done directly by a public utility company under an order of a public authority. The prevailing wage requirement also does not apply to maintenance work.<sup>79</sup>

For more information on the prevailing wage rate requirements, a city should review Chapter 2258 of the Government Code and consult legal counsel.

**47. Is there express statutory authority for cities to enter into public/private partnerships?**

Yes. In 2011, Chapters 2267 and 2268 of the Government Code were passed by the Texas Legislature to encourage the use of public/private partnerships to develop "qualifying projects," which include various infrastructure projects as defined by the new law (essentially any improvements necessary or desirable to unimproved real estate owned by a governmental entity).

---

<sup>76</sup> TEX. GOV'T CODE ANN. § 2258.021.

<sup>77</sup> *Id.* § 2258.022.

<sup>78</sup> *Id.* § 2258.002.

<sup>79</sup> *Id.* § 2258.021(b).

The new law requires an opt-in by resolution of the governing body of a political subdivision, including a city, to elect to operate under its terms. It provides detailed procedures for the procurement and implementation of a qualifying project.<sup>80</sup>

## **VI. Alternative Delivery Methods for the Construction of Structures**

### **Background and Authority**

#### **48. What are alternative delivery methods for city construction projects?**

The alternatives to the basic competitive bidding model of construction procurement are best-value competitive bidding, competitive sealed proposals, design-build, construction management-agent, construction management at-risk, and job order contracting.

#### **49. What benefits can alternative delivery methods provide cities?**

Alternative delivery methods have some advantages over traditional competitive bidding. In the traditional competitive bidding process, a contract must be awarded to the lowest responsible bidder. Subjective considerations such as the contractor's track record on a particular type of project, anticipated use of minority and local contractors, and other factors generally cannot be taken into account. When subjective criteria are used in the selection process, cities have greater flexibility to choose contractors that can provide maximum quality on every project.

Further, alternative delivery systems are particularly advantageous on projects where time, flexibility and/or innovation is critical. Using alternative delivery methods such as design-build, the design and construction phases can overlap, allowing portions of work to begin before other final design decisions are made by the owner. The time savings are clear. For example, land can be cleared before the foundation is fully designed, and pier holes can be drilled before the interior colors are picked. Increased flexibility throughout the process allows the number of offices or rooms in a building to be changed relatively easily during the construction. Instead of following the old method of having an engineer design a project in the traditional way, alternative delivery systems can and do encourage innovation. A city can present a request for proposals with an end in mind and allow a firm to develop a plan whereby the most efficient and innovative materials and procedures are used.

#### **50. Where is the statutory authority for cities to use alternative delivery systems?**

In 2011, the Texas Legislature consolidated statutes in various codes and created chapter 2267 of the

---

<sup>80</sup> Subtitle F, Title 10, TEX. GOV'T CODE Chapters 2267 and 2268. The 82<sup>nd</sup> Legislature created two chapters of Chapter 2267 of the Government Code. Public and Private Facilities and Infrastructure was added by Senate Bill 1048. Question 47 concerns this version of Chapter 2267. Contracting and Delivery Procedures for construction projects was added by House Bill 628. Section VI of this handbook concerns this version of Chapter 2267, which was re-designated as Chapter 2269 in 2013 by S.B. 1093.

Government Code. In 2013, the chapter was re-designated as Chapter 2269. All authorizations and requisite procedures for the use of alternative delivery systems can be found in Chapter 2269 of the Government Code. (Prior to 2011, cities found their authority for these methods in chapter 271, subchapter H, of the Local Government Code.)

## **51. What alternative methods are cities currently authorized to use and for what types of projects?**

Under current law, cities may use the best-value competitive bidding process, competitive sealed proposal method, construction manager-agent method, construction manager-at-risk method, design-build method, and the job order contract method for public procurement in place of the standard competitive bidding method that is also allowed under Chapter 2269 of the Government Code or Chapters 252 and 271 of the Local Government Code.

With a limited exception, cities may use any of the alternative delivery methods for any project involving an improvement to real property. The exception involves the design-build method. Under Chapter 2269, the design-build method has been separated into two sections—one for vertical structures and a second one for certain types of civil projects. After the passage of H.B. 1050 in 2013, the use of design-build for civil projects is limited in availability to cities whose population is between 100,000 and 500,000 (limited to four projects per fiscal year up) and greater than 500,000 (limited to six projects per fiscal year).<sup>81</sup>

## **52. What are some preliminary matters in selecting which method to use?**

A city must choose which, if any, of the alternative methods will produce the best value for the city.<sup>82</sup> In many circumstances, traditional competitive bidding may remain the most appropriate choice.

# **VII. The Alternative Methods**

## **53. What is the “best value” competitive bidding method?**

Under Chapter 2269, the competitive bidding method is a procurement method by which the city contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.<sup>83</sup> However, because Chapter 2269 gives certain criteria that the city can consider that applies to all procurement methods in Chapter 2269, the city may consider more factors than just price in awarding a contract based on competitive bids that the city would by using competitive bidding under Section 252.043 of the Local Government Code.<sup>84</sup> The criteria that the city may consider are:

1. the price;

---

<sup>81</sup> TEX. GOV'T CODE ANN. § 2269.354(1) (West Supp. 2011).

<sup>82</sup> *Id.* § 2269.056(a).

<sup>83</sup> *Id.* § 2269.101.

<sup>84</sup> *Id.* § 2269.055.

2. the offeror's experience and reputation;
3. the quality of the offeror's goods or services;
4. the impact on the ability of the city to comply with rules relating to historically underutilized businesses;
5. the offeror's safety record;
6. the offeror's proposed personnel;
7. whether the offeror's financial capability is appropriate to the size and scope of the project; and
8. any other relevant factor specifically listed in the request for bids, proposals, or qualifications

Also, the city shall apply any existing laws and criteria related to historically underutilized business and the use of woman, minority, small, or disadvantaged business.<sup>85</sup> Even though this competitive bidding method employs more flexibility for the city to determine the lowest responsible bidder, the city can still elect to use the competitive bidding procedure in Section 252.043 of the Local Government Code.

#### **54. What is the competitive sealed proposals method?**

The competitive sealed proposal method is a procurement method by which a city requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alterations, or repairing of facility.<sup>86</sup> In the competitive sealed proposal method, the city must first hire an architect or engineer to prepare construction documents.<sup>87</sup> Selection of an architect or engineer must be in accordance with the process required by section 2254.004 of the Government Code if the city does not employ, as a full time employee, its own architect or engineer to perform this service.<sup>88</sup> Once the construction documents have been completed, the city prepares a Request for Competitive Sealed Proposals (RFCSP).<sup>89</sup> The RFCSP should include construction documents, estimated budget, project scope, schedule and other information contractors may require in order to respond to the RFCSP. The city must also state the selection criteria and the relative weighting of the criteria that the city will employ in selecting the successful offeror. Unlike an RFQ under the design-build method, price information may be requested in the RFCSP and may be a selection criterion.

The city must publicly open and read aloud the proposals, including price information if such was required.<sup>90</sup> The city must also evaluate and rank the proposals in relation to the published selection criteria within 45 days after the opening. The city then selects the proposal that offers the best value based on the published selection criteria and its ranking evaluation.<sup>91</sup>

Following the selection, the contract negotiation process begins. The city negotiates first with the highest ranked offeror.<sup>92</sup> At this stage, the city and its architect or engineer may discuss

---

<sup>85</sup> *Id.* § h2269.055(b).

<sup>86</sup> *Id.* § 2269.151.

<sup>87</sup> *Id.* § 2269.152.

<sup>88</sup> *Id.* § 2269.057(b).

<sup>89</sup> *Id.* § 2269.153.

<sup>90</sup> *Id.* § 2269.154.

<sup>91</sup> *Id.* § 2269.155(a).

<sup>92</sup> *Id.* § 2269.155(b).

modifications to the proposed scope, time and price. Modifications are not required, and if they are discussed but not agreed to by the city and the offeror, a final contract may still be negotiated and agreed upon based on the original response to the RFCSP. If the two parties are unable to reach a final agreement, the city must inform that offeror in writing that negotiations are ended.<sup>93</sup> The city may then negotiate with the next ranked offeror. This continues in the order of the selection ranking until a contract is reached or all proposals are rejected. In this form of contract procurement, the city is not restricted to considering price alone in its selection, but may consider any other factor from among the established selection criteria to determine which offeror offers the city the best value.<sup>94</sup>

## 55. What is the construction manager-agent method?

The construction manager-agent method allows cities which may not have the in-house expertise and/or sufficient staff to effectively oversee a construction project to employ an agent to oversee a project on their behalf. The party hired by the city to act on its behalf in overseeing the project is known as a Construction Manager-Agent (CMA).<sup>95</sup>

A CMA is defined as a legal entity that provides consultation to the city regarding construction, during and after the design or repair of a facility.<sup>96</sup> Practically speaking, the CMA will almost always be a general contractor or architect or engineer with experience constructing the type of project the city is building. The CMA manages the project for the city both during the procurement process and after a contract has been executed. A CMA represents the city in a fiduciary capacity.<sup>97</sup> Therefore, the CMA may not perform any portion of the actual design or construction of the project, with the exception of the general field conditions as provided by the contract.<sup>98</sup> General field conditions, when used in the context of a facilities construction contract, customarily include on-site management, administrative personnel, insurance, bonds, equipment, utilities and incidental work, including minor field labor and materials.<sup>99</sup>

Prior to or concurrent with the selection of a CMA, the city must hire an architect or engineer according to the requirements of section 2254.004 of the Government Code, to design the project if the city does not utilize for the design an architect or engineer which it employs on a full-time basis.<sup>100</sup> The architect or engineer may not serve, alone or in combination with any other person, as the CMA, unless hired as the CMA in a separate or concurrent CMA procurement process.<sup>101</sup> This does not prevent the architect or engineer from providing customary construction phase services under the original professional services agreement and applicable licensing laws.

Either after or concurrent with the selection of an architect or engineer, the city selects a CMA based on the same professional services procurement rules provided for the selection of an architect or

---

<sup>93</sup> *Id.* § 2269.155(c).

<sup>94</sup> See *Id.* § 2269.055(a)(1).

<sup>95</sup> *Id.* § 2269.201(a).

<sup>96</sup> *Id.* § 2269.201(b).

<sup>97</sup> *Id.* § 2269.204.

<sup>98</sup> *Id.* § 2269.203, 202.

<sup>99</sup> *Id.* § 2269.001(4).

<sup>100</sup> *Id.* § 2269.205. See *Id.* § 2269.057(b).

<sup>101</sup> *Id.* § 2269.205(b)-c).

engineer under section 2254.004 of the Government Code.<sup>102</sup>

Under the CMA method, the city may engage a single prime contractor or multiple trade contractors to serve as prime contractors for their respective portions of the work in any manner authorized by the statutes governing the particular city.<sup>103</sup>

## 56. What is the construction manager at-risk method?

A construction manager-at-risk (CMAR) assumes the risk for construction, rehabilitation, alteration or repair of a facility at the contracted price in the same manner as a general contractor, but also provides consultation to the city regarding construction during and after the design of the facility.<sup>104</sup> A CMAR may be hired by the city in either case by a one-step or two-step process that is outlined below.<sup>105</sup>

Prior to or concurrently with selecting a CMAR, the city must select or designate an architect or engineer who will be responsible for preparing the design and construction documents for the project.<sup>106</sup> This architect or engineer, if not a full-time employee of the city, must be selected according to section 2254.004 of the Government Code.<sup>107</sup> The city's architect or engineer, or an entity related to the city's architect or engineer, may not serve, either alone or in combination with another, as the CMAR.<sup>108</sup>

In the one-step selection process, the city issues a request for proposals (RFP). This RFP should include general information on the project site, scope, schedule, selection criteria, the weighted value of selection criteria, estimated budget, time/place for receipt of the proposal, whether a one or two-step selection process will be used, and any other information that would assist the city in its selection of a CMAR. In the one-step process, the city may request, as part of the requested proposals, information regarding proposed fees and prices for the fulfillment of the general field conditions. In other words, both qualifications and pricing are evaluated in one process.<sup>109</sup>

In the two-step selection process the city first produces a Request for Qualifications (RFQ), which is identical to the RFP as described above, except that no cost or price information may be requested of offerors in the initial RFQ. In the second step, the city selects a maximum of five offerors who responded to the RFQ to provide additional information. That information may include proposed fees and prices for the completion of the CMAR's general field conditions. The two-step CMAR process is similar to the two-step method for selecting a design-build firm discussed later in this paper.<sup>110</sup>

In both the one and two-step processes all proposals must be publicly opened and read aloud in their

---

<sup>102</sup> *Id.* § 2269.207.

<sup>103</sup> *Id.* § 2269.206.

<sup>104</sup> *Id.* § 2269.251.

<sup>105</sup> See *Id.* § 2269.253

<sup>106</sup> *Id.* § 2269.252(a).

<sup>107</sup> *Id.* § 2269.057.

<sup>108</sup> *Id.* § 2269.252(b).

<sup>109</sup> *Id.* § 2269.253.

<sup>110</sup> *Id.*

entirety, including pricing information included in the proposal at the appropriate step.<sup>111</sup> The city must evaluate and rank the offers according to its published selection criteria within 45 days of the responses having been opened.<sup>112</sup> The city then selects the proposal that offers the best value for the city according to the published selection criteria and the ranking evaluation.<sup>113</sup> Following the selection of the offeror that offers the best value for the city, the contract negotiation process begins. The city negotiates first with the selected offeror. If the two parties cannot reach an agreement, the city must give formal written notice to that offeror that negotiations are ended. The city may then negotiate with the next ranked offeror. This process continues until the city and an offeror reach an agreement on a contract or negotiations with all ranked offerors end.<sup>114</sup>

The CMAR is required to properly advertise for bids or proposals from trade contractors or subcontractors for all work, except minor work that may be included in the general field conditions. The CMAR administers this process and selects the contract procurement method determined to provide the best value from among the various methods available to the city. The CMAR may seek to perform any part of the work on the project as long as the CMAR presents its bid or proposal in the same manner as any trade contractor or subcontractor and the CMAR's bid or proposal is determined by the city to provide the best value.<sup>115</sup>

The CMAR, city and its representative architect or engineer review the bid and proposals and select the various trade contractors or subcontractors in a manner so as not to disclose the price of the bids or proposals to the public. Ultimately, however, all bids or proposals shall be made public once the related contract has been awarded or seven days after the final selection of bids, whichever is later.<sup>116</sup>

The CMAR may recommend the acceptance of a particular bid or proposal, but the city has the right to require another bid or proposal be accepted. If the city overrides the CMAR's recommendation in selection of any trade contractor or subcontractor, it must compensate the CMAR for any changes in price, time, guaranteed maximum cost, or any additional cost or risk associated with the city's choice that differs from that recommended by the CMAR.<sup>117</sup>

The CMAR contracts directly with the selected trade contractors and subcontractors. If any trade contractor or subcontractor defaults, the CMAR may complete the work, without advertising for completion bids, or may select a replacement trade contractor or subcontractor.<sup>118</sup>

If no fixed contract amount or guaranteed maximum price has been determined when the CMAR's contract is executed, the performance and payment bonds shall be in the amount of the estimated budget of the project as set out in the RFQ or RFP. The CMAR must deliver the required bonds not later than the tenth day after the CMAR executes the contract unless the CMAR furnishes a bid bond or other financial security acceptable to the city to ensure that the CMAR will provide the

---

<sup>111</sup> *Id.* § 2269.253(f).

<sup>112</sup> *Id.* § 2269.253(g).

<sup>113</sup> *Id.* § 2269.254(a).

<sup>114</sup> *Id.* § 2269.254(b)-(c).

<sup>115</sup> *Id.* § 2269.255.

<sup>116</sup> *Id.* § 2269.256(a).

<sup>117</sup> *Id.* § 2269.256(b).

<sup>118</sup> *Id.* § 2269.257.

performance and payment bonds once the price is fixed.<sup>119</sup>

## **57. What is the design-build method?**

The design-build method differs from traditional design-bid-build models in that the city contracts with one firm to perform both pre-construction design and post-design construction activities.<sup>120</sup> This method can save time and money if employed correctly. This method can facilitate multi-phased projects without the time consuming process of putting each phase out to bid separately. Also, it may allow work to begin before all decisions regarding the design or finish-out are made by the owner. The design-build method may alleviate the problems that cities often encounter related to project inefficiencies when dealing with items such as change orders or requests for information.

Under the design-build method of construction contract procurement, the city awards a single contract to a firm who both designs and constructs the facility.<sup>121</sup> A design-build firm, as that term is commonly defined, consists of a team that includes an architect or engineer and a builder qualified to engage in building construction in Texas.<sup>122</sup> However, the city must designate an independent architect or engineer to act as its representative for the duration of the project.<sup>123</sup> The design-build team may construct the work itself or it may subcontract out all or portions of the work. In so doing, the designer-builder contracts directly with its subcontractors and assumes complete responsibility for both the design and construction of the project.

## **58. What types of projects can be constructed using the design-build method?**

The design-build method can be used for both buildings and associated structures,<sup>124</sup> as well as, in limited circumstances and by certain cities, some civil projects such as roads, bridges, water supply projects and water plants.<sup>125</sup> When using the design-build method, cities must follow Subchapter G of Chapter 2269 of the Government Code for vertical structures or buildings and Subchapter H of Chapter 2269 for horizontal or civil projects.

## **59. How does a city solicit design-builders for a building project?**

If a city determines that the design-build method will provide the best value, it must prepare a request for qualifications (RFQ) that includes general information about a project, including the project site, project scope, budget, selection criteria, weighted value of selection criteria and other helpful information for bidders.<sup>126</sup> In addition to the RFQ, the city must publish a Design Criteria Package that includes more detailed information about the project.<sup>127</sup> The Design Criteria Package must specify both the criteria for selecting the design-build firm and the aspects or qualities the city

---

<sup>119</sup> *Id.* § 2269.258.

<sup>120</sup> *Id.* § 2269.301.

<sup>121</sup> *Id.* § 2269.303.

<sup>122</sup> *Id.* § 2269.304.

<sup>123</sup> *Id.* § 2269.305.

<sup>124</sup> *Id.* § 2269.302.

<sup>125</sup> *Id.* § 2269.352, .353.

<sup>126</sup> *Id.* § 2269.306(a).

<sup>127</sup> *Id.* § 2269.306(b), (c).

considers necessary to design the project. The criteria may include the following information:

- a legal description of the project site,
- survey information,
- interior space requirements,
- special material requirements,
- material quality standards,
- conceptual criteria,
- special equipment requirements,
- cost and budget estimates,
- schedules,
- quality assurance and control requirements,
- site development requirements,
- applicable codes and ordinances,
- utility provisions,
- parking requirements, and
- other requirements as applicable.<sup>128</sup>

However, the city may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a RFQ.<sup>129</sup>

## 60. How does a city select a design-builder after publishing an RFQ?

After preparing its RFQ and Design Criteria Package and advertising for proposals, the city evaluates statements of qualifications submitted by the potential offerors. The city may evaluate qualifications according to the following criteria: offeror's experience, technical competence, capability to perform, and past performance of offeror's team and members thereof.<sup>130</sup> The city may also consider other appropriate factors submitted by the offeror in response to the RFQ. However, the city may not consider cost-related or price-related evaluation factors. In their responses, the design-build offerors must certify that each architect or engineer that is a member of its team was selected on the basis of demonstrated competence and qualifications in the manner provided by section 2254.004 of the Government Code.<sup>131</sup>

After initially reviewing the responses to the Design Criteria Package and the RFQ, the city must select up to five responders to submit additional information. If the city chooses, it may interview these responders.<sup>132</sup>

The city evaluates the additional information from the selected offerors based on the criteria in the RFQ and the results of any interviews that occurred.<sup>133</sup> Additionally, the city may request information on the offeror's demonstrated competence, safety and durability considerations, the

---

<sup>128</sup> *Id.* § 2269.306(c).

<sup>129</sup> *Id.* § 2269.306(d).

<sup>130</sup> *Id.* § 2269.307(a).

<sup>131</sup> *Id.* § 2269.307(b).

<sup>132</sup> *Id.* § 2269.307(c).

<sup>133</sup> *Id.* § 2269.307(d).

feasibility of the project as proposed, the offeror's ability to meet scheduling requirements, cost methodology and other appropriate factors.<sup>134</sup>

After evaluations, the city ranks the offerors according to the RFQ and selects the design-build firm that offers the best value for the city based on the published selection criteria and its ranking evaluations.<sup>135</sup>

## **61. How does a city negotiate a contract with the selected design-builder?**

After selecting the design-build firm that offers the best value for the city, the contract negotiation process begins. The city first negotiates with the selected offeror. If the parties cannot reach an agreement, the city must formally, and in writing, inform the offeror that it is ending the negotiations. The city may then negotiate with the next offeror in the order of the selection ranking process. The same negotiation process will continue until an agreement is reached that culminates in an executed contract or negotiations with all ranked offerors ends.<sup>136</sup>

Following selection and contract award, the chosen design-build firm completes the design and submits all design elements to the city or its architect or engineer representative for review and determination of scope compliance. The city's review may be done prior to or during construction.<sup>137</sup>

The design-build firm has the responsibility to provide the city with a signed and sealed set of construction documents (as-built drawings) at the project's conclusion.<sup>138</sup>

The design-build firm's payment and performance bonds are not required to provide, and may not provide, coverage for that portion of the design-build contract that includes design services only. If no guaranteed maximum price or fixed price has been established when the contract is awarded, the performance and payment bonds are required to be in the penal sum of the estimated budget for the project as specified in the Design Criteria Package. The design-build firm must deliver the performance and payment bonds not later than the 10th day after the firm executes the contract. However, if the design-build firm provides a bid bond or other financial security acceptable to the city to ensure it will provide the performance and payment bonds, the delivery of those bonds can be postponed until construction begins.<sup>139</sup>

## **62. How does the design-build method differ for civil projects?**

For civil projects, cities do not have the same requirements to weigh and select up to five offerors prior to selection and negotiation of a contract for civil works.<sup>140</sup> However, at the outset of a decision to use the design-build method, the city must determine that the design-build method is

---

<sup>134</sup> *Id.* § 2269.307(e).

<sup>135</sup> *Id.* §§ 2269.307(f), .308(a).

<sup>136</sup> *Id.* § 2269.308(b)-(c).

<sup>137</sup> *Id.* § 2269.309.

<sup>138</sup> *Id.* § 2269.310.

<sup>139</sup> *Id.* § 2269.311.

<sup>140</sup> *Id.* § 2269.359.

appropriate for a civil project.<sup>141</sup>

### **63. Is there a limit on the number of civil projects a city can build using the design-build method?**

After the passage of H.B. 1050 in 2013, for cities with a population of 500,000 or more, the limit on civil design-build projects is six per fiscal year.<sup>142</sup> For cities with a population of 100,000 or more but less than 500,000, the limit is four per fiscal year.<sup>143</sup> <sup>144</sup>

Cities with a population of less than 100,000 may not use the design build method for civil projects.<sup>145</sup>

### **64. Must a city select an independent engineer for civil projects?**

Yes. An engineer that is independent of the design-build firm must be selected to serve as the city's representative.<sup>146</sup>

### **65. What is the process for selecting a design-build firm for civil projects?**

The first step is to issue a request for qualifications that includes information about the project scope, budget, schedule, criteria for selection, weighting of the criteria and other information that may assist potential design firms in submitting proposals.<sup>147</sup> Also, the city must prepare a Design Criteria Package that may include:

- additional budget or cost estimating;
- information on the site;
- performance criteria;
- special material requirements;
- critical design calculations;
- known utilities;
- capacity requirements;
- quality assurance and quality control requirements;
- type, size, and location of start-ups, and
- notice of any ordinance, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized business.<sup>148</sup>

---

<sup>141</sup> *Id.* § 2269.353(c),(d).

<sup>142</sup> *Id.* § 2269.354(a)(1).

<sup>143</sup> *Id.* § 2269.354(b).

<sup>144</sup> *Id.* § 2269.354 (c).

<sup>145</sup> See *Id.* § 2269.352.

<sup>146</sup> *Id.* § 2269.355.

<sup>147</sup> *Id.* § 2269.357.

<sup>148</sup> *Id.* §§ 2269.357(b), .358.

The primary difference in selection criteria for civil projects and facilities is that the technical data required by the statute in the initial submission phase is higher for civil projects. Like other projects, price cannot be considered at the initial phase.<sup>149</sup> In the second step of the process, the pricing can be considered and then negotiations occur in much the same way as other projects.<sup>150</sup>

## 66. What is the job order contracting method?

The job order method for procurement may be used for the maintenance, repair, alteration, renovation, remediation or minor construction of a facility when the work is recurring in nature and the time or quantities required are indefinite.<sup>151</sup> Examples of the type of work that would qualify for job order procurement would be ceiling tile replacement, door hanging, sidewalk construction and repainting.

The city must properly advertise for and publicly open competitive sealed proposals for job order contracts.<sup>152</sup> The base term of the job order contract may not exceed two years. The city may renew the contract annually for not more than three additional years.<sup>153</sup>

The city may award job order contracts to one or more of the offerors in the same solicitation. The city is not required to award a contract to whoever submits the lowest rates.<sup>154</sup>

Under a job order contract, specific work projects are authorized by the execution of a job order by the city and the contractor. The order may be a fixed price, lump sum order contract based on contractual unit pricing applied to estimated quantities, or a unit price order based on the quantities and line items delivered.<sup>155</sup>

If the amount or estimated amount of the job order is in excess of \$25,000, then the contractor must post a payment bond on the job order. If the job order is \$100,000 or more, a performance bond is also required.<sup>156</sup> However, note that the bonds are provided on each specific job order and not on the overall job order contract. Given the nature of job order work, it is possible that many job orders may not be of a size that would require performance bonds. However, it also means that a contractor may be required to post multiple bonds for multiple job orders during the same time period.

## VIII. Ability to Provide Preference in Bid Awards

### 67. Can a city provide a preference for local businesses in its bid award?

State law allows a city to provide a preference for local businesses when awarding bids only in

---

<sup>149</sup> *Id.* § 2269.359(a).

<sup>150</sup> *Id.* §§ 2269.359-.362.

<sup>151</sup> *Id.* § 2269.401.

<sup>152</sup> *Id.* § 2269.405.

<sup>153</sup> *Id.* § 2269.409.

<sup>154</sup> *Id.* § 2269.406.

<sup>155</sup> *Id.* § 2269.410.

<sup>156</sup> *Id.* § 2269.411. *See Id.* § 2253.021(a).

specifically authorized situations.<sup>157</sup>

In the first situation, if two or more bidders have bids that are identical in nature and amount, with one bidder being a resident of the city and the other bidder or bidders being non-residents, the city council must select the resident bidder.<sup>158</sup>

Another provision geared towards purchases of tangible items allows the consideration of a bidder's principal place of business when a city awards a contract.<sup>159</sup> The statute states that:

"In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with [either]...the lowest bidder; or...the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government."<sup>160</sup>

A third provision authorizes cities that are purchasing real property, personal property not affixed to real property, or services (with the exception of certain telecommunications services) to enter into a contract with either: (1) the lowest bidder; or (2) a bidder whose principal place of business is in the city and whose bid is within five percent of the lowest bid price, if the governing body determines that the local bidder offers the city the best combination of contract price and additional economic development opportunities, including the employment of residents of the local government and increased tax revenues.<sup>161</sup> This is now limited to contracts for construction services for less than \$100,000.<sup>162</sup>

Finally, cities must give a preference to local businesses if there are out-of-state bidders that have bid on the contract and the out-of-state bidder or manufacturer is located in a state that discriminates against out of-state bidders in its bid awards in favor of local bidders.<sup>163</sup> For example, some states have laws that require an out-of-state bidder to underbid an in-state bidder by a certain minimum amount. In response to such requirements by other states, the Texas Legislature included a provision in Chapter 2252 of the Government Code. That chapter requires that Texas cities determine if a Texas bidder would be required to underbid the non-Texas bidder for a comparable contract in the non-Texas bidder's own state.<sup>164</sup> If such a preference is provided in that state, the non-Texas bidder is then required to underbid the lowest responsible Texas bidder by at least that amount. Thus, if a

---

<sup>157</sup> Op. Tex. Att'y Gen. No. DM-113 (1992); Tex. Att'y Gen. LO-93-073.

<sup>158</sup> TEX. LOC. GOV'T CODE § 271.901(b).

<sup>159</sup> *Id.* § 271.905.

<sup>160</sup> *Id.* § 271.905(b).

<sup>161</sup> *Id.* § 271.9051.

<sup>162</sup> *Id.*

<sup>163</sup> TEX. GOV'T CODE § 2252.001 et seq.

<sup>164</sup> *Id.* § 2252.002.

Texas city receives a bid from a non-Texas bidder, Chapter 2252 will give the lowest responsible Texas bidder the same advantage as the non-Texas bidder would have in its home state. If the non-Texas bidder is from a state where in-state bidders are not given preference over Texas bidders, then Chapter 2252 will not give the Texas bidder any advantage over the non-Texas bidder.

There are several important points to note with regard to the requirements of Chapter 2252 of the Government Code. First, a bidder's home state is determined by the location of its principal place of business or manufacturing. A contractor whose ultimate parent company or majority owner has its principal place of business in Texas would be considered a Texas bidder.<sup>165</sup> Second, information on the relevant bidding laws of other states is compiled by the comptroller's office. In ascertaining the relevant bidding laws of a particular state for purposes of meeting the requirements of Chapter 2252, a city must use the information provided by the Comptroller's Office.<sup>166</sup> Finally, Chapter 2252 does not apply to a contract involving federal funds.<sup>167</sup>

Finally, some attorneys believe that a city may include under "best value" criteria a local preference component. That opinion has not been tested in court.

## **68. Can a city provide a preference for historically underutilized businesses?**

A city that chooses to award a competitive bid or competitive proposal based on "best value" criteria may consider "the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities" or "any other relevant criteria" listed by the city in the specifications.<sup>168</sup> Some cities have used these provisions to continue seeking to procure services from historically underutilized businesses. In any case, a city may consider a factor that is not related to the bidder's capacity to fulfill the contract only when state law specifically authorizes the city to take that factor into account.<sup>169</sup>

## **69. When is a city required to contact historically underutilized businesses?**

A city must contact at least two historically underutilized businesses if the city makes an expenditure of between \$3,000 and \$50,000.<sup>170</sup> If the expenditure is for less than \$3,000 or for more than \$50,000, this special notification requirement would not apply. To determine what businesses within the county are classified as historically underutilized businesses, the city should use the list of such businesses provided by the Comptroller's Office.<sup>171</sup> If there are more than two such businesses in the county, the city can contact the listed businesses on a rotating basis. Even if the historically underutilized businesses in the county do not provide the goods or services that the city needs, at

---

<sup>165</sup> *Id.* § 2252.001(4).

<sup>166</sup> *Id.* § 2252.003.

<sup>167</sup> *Id.* § 2252.004.

<sup>168</sup> See *Id.* § 2267.358(10); TEX. LOC. GOV'T CODE §§ 252.0215, .043.

<sup>169</sup> Op. Tex. Att'y Gen. No. DM-113 (1992); Tex. Att'y Gen. LO-93-073.

<sup>170</sup> TEX. LOC. GOV'T CODE § 252.0215.

<sup>171</sup> *Id.*, TEX. GOV'T CODE § 2161.061 (Comptroller's Office shall certify underutilized businesses.).

least two of those businesses must be contacted.<sup>172</sup> The city is only excused from this notification requirement if there are no such businesses located in the county in which the city is located. State law does not indicate the manner of individual notice that must be provided to the historically underutilized businesses. In any case, it may be advisable to use a manner of notice such as certified mail that would provide a record of contact with the listed businesses.

## **70. How does a city determine whether it has historically underutilized businesses within its area?**

To determine what businesses within the county are classified as historically underutilized businesses, the city should use the list of such businesses provided by the Comptroller's Office.<sup>173</sup> A city may obtain information about historically underutilized businesses from the Comptroller's Office website [www.window.state.tx.us/procurement/prog/hub/](http://www.window.state.tx.us/procurement/prog/hub/). (Note that, in 2013, H.B. 194 added a veteran with at least a 20-percent service-connected disability as eligible to be listed as a historically underutilized business by the state. A legal challenge to that addition is likely.)

## **71. Is a city required to provide a preference for recycled materials in its bid requests?**

Yes, a city must "give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality."<sup>174</sup> Furthermore, a city is required to regularly review and revise its procurement procedures and specifications to eliminate procedures and specifications that explicitly discriminate against products made of recycled materials. Cities are required to make sure their procurement procedures and specifications encourage the use of products made of recycled materials. The Texas Commission on Environmental Quality may order an exemption from these requirements for a city of less than 5,000 people if the commission finds that compliance would work a hardship on the city.<sup>175</sup>

# **IX. Statutory Exceptions to the Competitive Bidding or Proposal Requirements:**

## **Exceptions Due to Public Health, Safety or Welfare**

### **72. Is a city required to bid for purchases that are necessary because of a public calamity?**

A city is not required to follow the competitive procurement requirements of Local Government

---

<sup>172</sup> ALAN J. BORJORQUEZ, TEXAS MUNICIPAL LAW AND PROCEDURE MANUAL '13.12 (2005).

<sup>173</sup> TEX. LOC. GOV'T CODE § 252.0215 (City to contact historically underutilized businesses based on list provided by Comptroller's Office); TEX. GOV'T CODE § 2161.061 (Comptroller's Office shall certify underutilized businesses.).

<sup>174</sup> TEX. HEALTH & SAFETY CODE § 361.426; TEX. LOC. GOV'T CODE § 252.003 (Requiring that a city follow the requirements set forth in section 361.426).

<sup>175</sup> TEX. HEALTH & SAFETY CODE § 361.426(d).

Code Chapter 252 when making an expenditure because of a public calamity.<sup>176</sup> In order to qualify for this exception from the bidding requirements, the public calamity must be one that requires the immediate appropriation of money to relieve the necessity of the city's residents or to preserve the property of the city. For example, a city may need to purchase medicines or blankets to be dispersed at a temporary city shelter for victims of flooding or tornadoes. Such a purchase would arguably fall under this exception to the competitive bidding requirements. However, this practice does not appear to have been reviewed by the Texas courts or by the attorney general. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive procurement requirements.

### **73. Can a city forego bidding or proposals if the purchases are necessary to protect the public health or safety of city residents?**

A city may forego the competitive bidding procedures of Chapter 252 of the Local Government Code when making a purchase that is necessary to preserve or protect the public health or safety of the city's residents.<sup>177</sup> Chapter 252 does not define or give examples of what constitutes a purchase that is "necessary to preserve or protect... public health or safety...." The following activities have been found to fall within the health and safety exception (and thus do not require competitive bidding): 1) building a sanitary sewage system and disposal plant;<sup>178</sup> 2) establishing a county ambulance service;<sup>179</sup> and 3) awarding a contract for collection, hauling and disposal of solid waste (garbage).<sup>180</sup> Cities have also used this exception for the purchase of emergency equipment for city personnel, such as self-contained breathing apparatus for firefighters or bullet-proof vests for police officers. However, these practices have not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

### **74. Can a city forego bidding or proposals for purchases that are necessary because of unforeseen damage to public machinery, equipment or other property?**

A city is not required to follow the competitive bidding procedures when making a purchase that is necessary because of unforeseen damage to public machinery, equipment or other property.<sup>181</sup> For example, cities have used this exception to justify not taking bids for the purchase of parts for emergency equipment, such as firefighting equipment, when the equipment was unexpectedly damaged or broken. However, parts needed for the routine maintenance of firefighting equipment are generally purchased through the competitive bidding process. In addition, these practices have not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

---

<sup>176</sup> TEX. LOC. GOV'T CODE § 252.022(a)(1).

<sup>177</sup> *Id.* § 252.022(a)(2).

<sup>178</sup> *Hoffman v. City of Mt. Pleasant*, 89 S.W.2d 193 (Tex. 1936).

<sup>179</sup> Op. Tex. Att'y Gen. No. M-806 (1971).

<sup>180</sup> *Browning-Ferris, Inc., v. City of Leon Valley*, 590 S.W.2d 729 (Tex. Civ. App—San Antonio 1979, writ ref'd n.r.e.); Op. Tex. Att'y Gen. No. JM-908 (1988).

<sup>181</sup> TEX. LOC. GOV'T CODE § 252.022(a)(3).

## Exceptions for Specialized Services

### 75. Are contracts for personal services exempt from the requirements for competitive bidding?

Texas law specifically exempts contracts for personal services from the competitive bidding requirements.<sup>182</sup> The Texas Supreme Court has defined “personal services” to include only those services which are performed personally by the individual who contracted to perform them.<sup>183</sup> Further, for a contract to qualify as a contract for personal services, the compensation in the contract should mainly pay for the labor of the individual providing the service, not for such things as insurance or materials.<sup>184</sup>

For example, the attorney general held that a contract for the services of a construction manager was a contract for “personal services” and therefore not subject to competitive bidding requirements.<sup>185</sup> The attorney general has also concluded that a contract for janitorial services would constitute a contract for personal services if a specific person is required to perform those services.<sup>186</sup> However, the following have been found not to be exempt from bidding under the exemption for “personal services”: the provision of advertising space by a newspaper,<sup>187</sup> a contract for microfilming records,<sup>188</sup> an insurance contract,<sup>189</sup> a contract to operate container terminal facilities in a port,<sup>190</sup> and a contract for janitorial services that did not specify the particular person who was to perform the janitorial services.<sup>191</sup> Thus, these contracts were all subject to the competitive bidding requirements of Chapter 252 of the Local Government Code.

### 76. Can a city forego bidding for contracts for professional services?

Texas law specifically exempts contracts for professional services from the competitive bidding requirements.<sup>192</sup> Professional services have been described as those services which are mainly mental or intellectual rather than physical or manual. That is, professional services are those disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence.<sup>193</sup> For example, cities have used this exception to justify not taking bids for the services of an attorney. Some cities have also used this exception to justify employing outside consultants, such as insurance consultants, without competitively bidding those services. However, these practices have not been reviewed by the Texas courts or the attorney general’s office. Thus, a city will want to consult with its legal counsel before relying on this exception in order to avoid the application of competitive bidding requirements.

---

<sup>182</sup> *Id.* § 252.022(a)(4).

<sup>183</sup> *Van Zandt v. Fort Worth Press*, 359 S.W.2d 893, 895-896 (Tex. 1962).

<sup>184</sup> Op. Tex. Att'y Gen. No. MW-344 at 1137 (1981).

<sup>185</sup> Op. Tex. Att'y Gen. No. MW-530 (1983).

<sup>186</sup> Op. Tex. Att'y Gen. No. JM-486 (1986).

<sup>187</sup> *Van Zandt v. Fort Worth Press*, 359 S.W.2d 893, 896 (Tex. 1962).

<sup>188</sup> Op. Tex. Att'y Gen. No. JM-890 (1988).

<sup>189</sup> Op. Tex. Att'y Gen. No. MW-494 (1982).

<sup>190</sup> Op. Tex. Att'y Gen. No. MW-344 (1981).

<sup>191</sup> Op. Tex. Att'y Gen. No. JM-486 (1986).

<sup>192</sup> TEX. LOC. GOV'T CODE § 252.022(a)(4).

<sup>193</sup> Op. Tex. Att'y Gen. Nos. JM-1038 (1989), JM-940 (1988), MW-344 (1981) (Quoting with approval the definition of “profession” from Black’s Law Dictionary 1089-90 (5<sup>th</sup> ed. 1979)).

Additionally, it should be noted that a city is specifically prohibited under state law from obtaining certain professional services through competitive bidding. The Professional Services Procurement Act states that a city may not use traditional competitive bidding procedures to obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists or state-certified real estate appraisers.<sup>194</sup> If the professional services desired by the city do not fall under the Professional Services Procurement Act, they may generally be obtained with or without the use of competitive bidding, as the city desires.<sup>195</sup>

## **77. How may a city obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state certified real estate appraisers?**

Cities are prohibited from using competitive bidding procedures to obtain the services of architects, engineers, certified public accountants, land surveyors, physicians, optometrists, landscape architects, geoscientists or state-certified real estate appraisers.<sup>196</sup> Instead, for contracts involving architectural, engineering or land surveying services, a city must first select the most highly qualified provider and then attempt to negotiate a fair and reasonable price.<sup>197</sup> If the city is unable to negotiate a contract with the most highly qualified provider, the city must then formally end negotiations with that provider. After negotiations have formally ended, the city must select the next most highly qualified provider and attempt to negotiate a contract with that provider. If necessary, the city must continue the process of formally ending negotiations with one provider and selecting another provider for negotiations until a contract is obtained.

The Professional Services Procurement Act does not specify the exact process by which a city may procure accounting, medical, optometrist or real estate appraisal services. The law merely prohibits obtaining these services through competitive bidding and requires that such services be selected on the basis of demonstrated competence and qualifications. Cities will want to consult their own counsel for advice on how best to proceed.

## **78. What procedure must cities use to obtain the services of a lawyer or the services of a law firm?**

With the exception of certain bond counsel, state law does not specify any particular procedures for obtaining the services of a lawyer or of a law firm. The Professional Services Procurement Act does not apply to attorneys,<sup>198</sup> and the selection of an attorney is exempt from competitive bidding requirements as a “professional service.”<sup>199</sup> Thus, a city may choose to obtain the services of an

---

<sup>194</sup> TEX. GOV'T CODE § 2254.003.

<sup>195</sup> Op. Tex. Att'y Gen. No. DM-106 (1992).

<sup>196</sup> TEX. GOV'T CODE §§ 2254.002(2), 2254.003.

<sup>197</sup> *Id.* § 2254.004.

<sup>198</sup> See *id.* § 2254.002 (Definition of “professional services” within the meaning of the Professional Services Procurement Act).

<sup>199</sup> See TEX. LOC. GOV'T CODE § 252.022(a)(4); Op. Tex. Att'y Gen. No. JM-940 at 3 (1988), MW-344(1981).

attorney with or without the use of competitive bidding. Many cities simply hire their legal counsel by majority vote of the city's governing body and then execute a contract for such services.<sup>200</sup> Cities should consult their current counsel for advice about this issue. When procuring the services of bond counsel, a city should review and comply with, if necessary, section 1201.027 of the Government Code, which requires that the selection of bond counsel shall be made in accordance with the provisions of the Professional Services Procurement Act that apply to the selection of an engineer.

## **79. Are contracts for planning services exempt from competitive bidding requirements?**

Texas law specifically exempts contracts for planning services from the competitive bidding requirements.<sup>201</sup> However, it is important to note that the phrase "planning services" is specifically defined by Chapter 252. That term means "services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan or regional land areas."<sup>202</sup> In order to be eligible for the planning services exception to the competitive bidding requirements, the planning services to be procured must fit this definition.

## **80. Does competitive bidding apply to services performed by blind or severely disabled persons?**

Competitive bidding does not apply to the purchase of services performed by blind or severely disabled persons.<sup>203</sup>

### **Exceptions for Items Available from Only One Source**

## **81. Does competitive bidding apply to the purchase of items that are available from only one source because of copyrights or "natural monopolies"?**

Competitive bidding requirements do not apply to items that are available from only one source due to "patents, copyrights, secret processes, or natural monopolies."<sup>204</sup> For example, at least one city has used this exception to avoid the bidding requirements when purchasing a special type of surveillance camera for police work. The camera in question was able to transmit pictures directly to a lap-top computer using a patented process. The entity that owned the patent for this process was the sole source for this type of camera. However, it should be noted that this transaction has not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

---

<sup>200</sup> Op. Tex. Att'y Gen. No. DM-106 (1992).

<sup>201</sup> TEX. LOC. GOV'T CODE § 252.022(a)(4).

<sup>202</sup> *Id.* § 252.001(5).

<sup>203</sup> *Id.* § 252.022(a)(13). *See* Op. Tex. Att'y Gen. No. JM-444 (1986) (General statutes that require counties, cities, hospital districts, and school districts to engage in competitive bidding in order to make certain purchases do not apply to purchases of services or produce produced by persons with disabilities pursuant to section 122.014 [now section 122.017] of the Human Resources Code.).

<sup>204</sup> TEX. LOC. GOV'T CODE § 252.022(a)(7)(A).

## **82. Does competitive bidding apply to the purchase of “captive replacement parts” or components for equipment?**

Competitive bidding requirements do not apply to the purchase of captive replacement parts or components for equipment if those parts or components are available from only one source.<sup>205</sup> For example, cities have used this exception to justify not taking bids for the purchase of parts for specialized heavy equipment, such as fire trucks, sewer-cleaning equipment, and certain equipment for road building and maintenance. Frequently, only specialized parts manufactured by the vendor will properly fit such a piece of heavy equipment. It is important to note, though, that this use of the “captive replacement parts” exception has not been reviewed by the Texas courts or the attorney general’s office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

## **83. Does competitive bidding apply to the purchase of electricity, gas, water and other utility services?**

Competitive bidding is not required for the purchase of gas, water and other utility services if those services are available from only one source.<sup>206</sup> The competitive bidding requirements do not apply to an expenditure for electricity.<sup>207</sup>

## **84. Does competitive bidding apply to the purchase of advertising?**

Competitive bidding is not required for advertising by a city, other than legal notices.<sup>208</sup>

The definition of advertising is discussed in a number of court cases. Thus, city officials should consult with legal counsel (regarding *Edwards v. Lubbock County*, 33 S.W.2d 482; *Bay Electric Supply v. Travelers Lloyds*, 61 F.Supp.2d 611; and *Smith v. Baldwin*, 611 S.W.2d 611) prior to utilizing this exemption.

## **85. Does competitive bidding apply to the purchase of books and other materials for a public library?**

Competitive bidding is not required for the purchase of books, papers and other materials for a public library if those books, papers or materials are available only from the persons holding exclusive distribution rights to the materials.<sup>209</sup> Additionally, competitive bidding requirements do not apply to the purchase of rare books, papers and other rare library materials for a public library.<sup>210</sup>

---

<sup>205</sup> *Id.* § 252.022(a)(7)(D).

<sup>206</sup> *Id.* § 252.022(a)(7)(C).

<sup>207</sup> *Id.* § 252.022(a)(15).

<sup>208</sup> *Id.* § 252.022(a)(16).

<sup>209</sup> *Id.* § 252.022(a)(7)(E).

<sup>210</sup> *Id.* § 252.022(a)(8).

## **Exceptions for Distress or Auction Purchases**

### **86. Does a city violate bidding requirements if it purchases personal property at an auction?**

A city is not required to comply with competitive bidding procedures when purchasing personal property at an auction by a state licensed auctioneer.<sup>211</sup> Currently, it does not appear that cities use this exception with any great frequency.

### **87. Does a city violate bidding requirements if it purchases property at a going-out-of-business sale?**

A city is not required to comply with the competitive bidding procedures when purchasing personal property at a going-out-of-business sale.<sup>212</sup> However, for this exception to apply, the sale must comply with the requirements of subchapter F in Chapter 17 of the Business and Commerce Code. This practice has not been reviewed by the Texas courts or the attorney general's office. Thus, a city will want to consult its legal counsel before relying on this exception to avoid competitive bidding requirements.

## **Exceptions for Purchases from Other Governmental Entities**

### **88. Does a city violate bidding law if it purchases property or services directly from another political subdivision of this state, a state agency or a federal agency without following competitive bidding procedures?**

There are a number of statutes that allow a city to purchase either property or services from other governmental entities or agencies without following competitive bidding procedures.

The Interlocal Cooperation Act<sup>213</sup> generally allows a city to enter into an agreement with another local governmental entity, such as a county or another city, to perform specific governmental functions and services, such as solid waste collection, fire protection, planning and administrative services. The Act further provides that a city may agree with another local government, a state agency (including the Comptroller's Office), or a council of governments to purchase goods (and services reasonably related to the operation and maintenance of the goods) from that entity.<sup>214</sup>

Chapter 271, subchapter D, of the Local Government Code allows a city, by resolution of its governing body, to participate in cooperative purchasing programs established by the Comptroller's Office for the purchase of goods at prices established through purchase contracts of the Comptroller. The city must agree to be solely responsible for, among other things, submitting the proper

---

<sup>211</sup> *Id.* § 252.022(a)(12)(A).

<sup>212</sup> *Id.* § 252.022(a)(12)(B).

<sup>213</sup> TEX. GOV'T CODE ANN. § 791.001 et seq. (West 2004 & Supp. 2011).

<sup>214</sup> *Id.* § 791.025 (West Supp. 2011).

requisitions to the Comptroller under the contract in question, direct payment to the vendor and enforcement of the vendor's compliance with conditions for delivery and quality of the purchased goods.<sup>215</sup>

Sections 252.022(a)(12)(C) and (12)(D) of the Local Government Code exempt purchases of personal property sold by a political subdivision of the state, a state agency, an entity of the federal government, or a regional planning commission (e.g., a regional council of governments) under an interlocal contract for cooperative purchasing from competitive bidding.

Finally, Chapter 271, subchapter F, of the Local Government Code allows local governments (including cities) to enter into cooperative purchasing agreements with each other for goods and services.<sup>216</sup> Subchapter G allow local governments to purchase goods and services available under federal supply schedules established by the U.S. General Services Administration, without following competitive bidding procedures.<sup>217</sup>

Compliance with the requirements of any of the cooperative or interlocal agreement purchasing statutes described above automatically satisfies the competitive bidding requirements of state law. Many specific interlocal purchasing practices have not been reviewed by the Texas courts or the attorney general's office. For example, H.B. 1050 (2013) prohibits a local government from entering into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that: (a) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications by an architect or engineer under current law; or (b) if current law requires plans and specifications to be prepared by an architect or engineer, that has been done.

Therefore, a city will want to consult its legal counsel before relying on any of the exceptions noted above to avoid competitive bidding requirements.

## **Exceptions for Purchases with Specialized Financing**

### **89. Does competitive bidding apply to a contract for paving, drainage, street widening and other public improvements if at least one-third of the cost is paid through special assessments?**

A city is not required to comply with competitive bidding requirements when expending money for paving, drainage, street widening and other public improvements if at least one-third of the cost is to be paid by special assessments levied on the benefited property.<sup>218</sup> Currently, it does not appear that cities use this exception with any great frequency.

---

<sup>215</sup> TEX. LOC. GOV'T CODE ANN. § 271.083 (West Supp. 2011); Op. Tex. Att'y Gen. No. DM-350 (1995).

<sup>216</sup> *Id.* § 271.102 (S.B. 1281, passed in 2015, allows agreements with local governments and cooperatives in other states).

<sup>217</sup> *Id.* § 271.103.

<sup>218</sup> *Id.* § 252.022(a)(9).

**90. Does competitive bidding apply to a contract for a previously authorized public improvement that is experiencing a deficiency in funding to complete the project?**

Competitive bidding requirements do not apply to expenditures for a public improvement that is already in progress if there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.<sup>219</sup> This exception to the competitive bidding requirement only applies to a project that was authorized by the voters of the city. Currently, it does not appear that cities use this exception with any great frequency.

**91. Are developer participation contracts subject to competitive bidding if the city's participation is limited to thirty percent of the total contract price?**

A “developer participation contract” is a contract between the city and a developer for the developer to be responsible for the construction of public improvements (other than buildings). Under such a contract, the city agrees to pay for part of the cost of the public improvements. A city of 5,000 or more in population may enter into such a contract without following competitive bidding procedures if the contract meets all the requirements of Local Government Code Chapter 212, subchapter C.<sup>220</sup> Among the requirements of that subchapter is that the city’s level of participation in the contract must not exceed 30 percent of the contract price if the city has a population of less than 1.8 million.<sup>221</sup> Additionally, the developer must execute a performance bond.<sup>222</sup> If a developer participation contract does not meet these requirements as well as all the other requirements contained in Chapter 212, subchapter C, then the contract is subject to all of the normal rules regarding competitive bidding.<sup>223</sup>

**92. Can a city forego bidding for work that is performed and paid for by the day?**

Yes, Chapter 252 of the Local Government Code specifically excepts from the bidding requirements “a procurement for work that is performed and paid for by the day as the work progresses.”<sup>224</sup> Nearly identical language is found in the County Purchasing Act.<sup>225</sup> An attorney general opinion interpreting the County Purchasing Act concluded that a contract for work performed and paid for by the day is a contract only for the day.<sup>226</sup> The fact that payment on a contract is made on a daily basis does not make it into a contract for work performed and paid for by the day. Thus, a contract obligating the county to pay for all future work or obligating a party to provide day labor to do the future work on a project is not a contract for work performed and paid by the day. This is true even if

---

<sup>219</sup> *Id.* § 252.022(a)(10).

<sup>220</sup> *Id.* § 212.071.

<sup>221</sup> *Id.* § 212.072(b)(1).

<sup>222</sup> *Id.* § 212.073.

<sup>223</sup> *Id.* § 212.071.

<sup>224</sup> *Id.* § 252.022(a)(5).

<sup>225</sup> *Id.* § 262.024(a)(5).

<sup>226</sup> Tex. Att'y Gen. LO-98-015.

the contract stipulates that payment must be made on a daily basis. Since a contract for work performed and paid for by the day rarely reaches the \$50,000 bidding threshold, this exception is used very infrequently.

## **X. Ethical Requirements Relating to Municipal Procurement**

### **93. What is Chapter 176 of the Local Government Code?**

Chapter 176 is an ethics law. Originally enacted by H.B. 914 in 2005, Chapter 176 requires local government officers to disclose certain relationships with vendors who conduct business with local government entities. After the law was implemented, city officials and others realized that the law created several unintended consequences. Consequently, the bill's author sought an opinion from the Texas attorney general to clarify many provisions of Chapter 176. The attorney general's office released Opinion Number GA-0446, which concluded that legislative changes to the law were necessary. In response, the legislature passed H.B. 1491 during the 2007 regular legislative session. More recent amendments were made to Chapter 176 with the passage of H.B. 23 in the 2015 regular legislative session.

### **94. What local government entities are subject to this law?**

The requirements of chapter 176 apply to most political subdivisions, including a city.<sup>227</sup> The chapter also applies to a local government corporation, board, commission, district, or authority whose members are appointed by a mayor or the city council.

### **95. What local government officers are subject to this law?**

A “local government officer” (officer) under Chapter 176 includes: (1) a mayor or city councilmember; (2) a director, superintendent, administrator, president, or any other person who is designated as the executive officer of the local government entity; and (3) an agent (including an employee) of the local government entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.<sup>228</sup>

### **96. When is an officer required to file a “conflicts disclosure statement”?**

An officer is required to file a conflicts disclosure statement (“statement”) in at least three situations.

1. An officer must file a statement if the officer or officer's family member has an employment or other business relationship with a vendor that results in the officer or officer's family member receiving taxable income of more than \$2,500 in the preceding twelve months.<sup>229</sup> An officer who receives investment income, regardless of amount, is not required to file a

<sup>227</sup> TEX. LOC. GOV'T CODE § 176.001(3).

<sup>228</sup> *Id.* § 176.001(1), .001(4).

<sup>229</sup> *Id.* § 176.003(a)(2)(A).

disclosure statement. Investment income includes dividends, capital gains or interest income gained from a personal or business checking or savings account or other similar account, a personal or business investment, or a personal or business loan.<sup>230</sup>

2. An officer is required to file a statement if the officer or officer's family member accepts one or more gifts from a vendor with an aggregate value of more than \$100 in the preceding twelve months.<sup>231</sup> (A "gift" includes transportation, lodging, and entertainment, even as a guest.)
3. An officer is required to file a statement if the officer has a family relationship with the vendor.<sup>232</sup>

There is at least one exception to the three situations set out above. A local government officer does not have to file a statement if the vendor is an administrative agency supervising the performance of an interlocal agreement.<sup>233</sup>

(Note: An officer is required to file a statement no later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of facts that require the filing of the statement.)<sup>234</sup>

## **97. How does Chapter 176 define a "vendor," and what does it mean to have a "family relationship" with a vendor?**

A vendor is any person who enters or *seeks to enter into* a contract with a city.<sup>235</sup> The term includes: (1) an agent of a vendor; (2) an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract; and (3) Texas Correctional Industries (but no other state agency).

An officer has a family relationship with a vendor if they are related within the third degree by consanguinity (blood) or second degree by affinity (marriage).<sup>236</sup> An officer's family relationships within the third degree by blood include the officer's: mother, father, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, great-grandfather, great-grandmother, aunt, uncle, nephew, niece, great-grandson and great-granddaughter. An officer's family relationships within the second degree by marriage include the officer's: spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepchild, sister-in-law (brother's spouse or spouse's sister), brother-in-law (sister's spouse or spouse's brother), spouse's grandmother, spouse's grandfather, spouse's granddaughter, and spouse's grandson.

## **98. How does Chapter 176 define a "family member" of an officer?**

<sup>230</sup> *Id.* § 176.001(2-d).

<sup>231</sup> *Id.* § 176.003(a)(2)(B).

<sup>232</sup> *Id.* § 176.003(a)(2)(C).

<sup>233</sup> *Id.* § 176.003(a-2).

<sup>234</sup> *Id.* § 176.003(b).

<sup>235</sup> *Id.* § 176.001(7).

<sup>236</sup> *Id.* § 176.001(2-a).

An officer's family member is a person related to the officer within the first degree of consanguinity (blood) or affinity (marriage).<sup>237</sup> An officer's family member includes the officer's: father, mother, son, daughter, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law or step child.

## **99. To what types of contracts does the law apply?**

The law applies to any written contract for the sale or purchase of real property, goods (personal property) or services.<sup>238</sup> A contract for services would include one for skilled or unskilled labor, as well as for professional services.<sup>239</sup>

## **100. When is a vendor required to file a “conflicts of interest questionnaire?**

A vendor is required to file a “conflicts of interest questionnaire” (“questionnaire”) if the vendor has a business relationship with the city and: (1) has an employment or other business relationship with an officer or an officer's family member that results in the receipt by the officer or family member of taxable income of more than \$2,500 in the preceding twelve months; (2) has given an officer or an officer's family member one or more gifts totaling more than \$100 in the preceding twelve months; or (3) has a family relationship with an officer.<sup>240</sup>

A vendor is required to file a questionnaire not later than the seventh business day after the latter of the following: (1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or (2) the date the vendor becomes aware of a relationship or gives a gift to an officer or officer's family member.

## **101. With whom should the statements and questionnaires be filed?**

The statements and questionnaires must be filed with the records administrator of the city.<sup>241</sup> A records administrator includes a city secretary, a person responsible for maintaining city records, or a person who is designated by the city to maintain the statements and disclosures filed under the chapter.<sup>242</sup>

A city that maintains a website is required to post on that website statements and questionnaires that are required to be filed under the chapter. However, a city that does not have a website is not required to create or maintain one.<sup>243</sup>

(Note: A vendor is required to file a questionnaire not later than the seventh business day after the later of the following: (1) the date the vendor begins discussions or negotiations to enter into a contract with the city or submits an application or response to a bid proposal; or (2) the date the

---

<sup>237</sup> *Id.* § 176.001(2).

<sup>238</sup> *Id.* § 176.001(1-d), (2-c).

<sup>239</sup> *Id.* § 176.001(6).

<sup>240</sup> *Id.* § 176.006(a).

<sup>241</sup> *Id.* §§ 176.003(b), .006(a-1).

<sup>242</sup> *Id.* § 176.001(5).

<sup>243</sup> *Id.* § 176.009.

vendor becomes aware of a employment or business relationship with an officer or officer's family members, gives a gift to an officer or officer's family member, or becomes aware of a family relationship with an officer.<sup>244)</sup>

## 102. What happens if a statement is not filed?

An officer or vendor who knowingly fails to file a statement or a questionnaire when required to do so commits either a Class A, B, or C misdemeanor, depending on the amount of the contract.<sup>245</sup> A Class C misdemeanor is punishable by a fine of up to \$500. A Class B misdemeanor is punishable by a fine up to \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A Misdemeanor is punishable by a fine up to \$4,000, confinement in jail for a term not to exceed one year, or both. It is an exception to an offense if the officer or vendor files the statement or questionnaire not later than the seventh business day after receiving notice from the city of the alleged violation.<sup>246</sup>

In addition to possible criminal punishment, a city may reprimand, suspend, or terminate an employee who knowingly fails to comply with the requirements of Chapter 176.<sup>247</sup> And the city council may declare a contract void if the council determines the vendor failed to file a questionnaire.<sup>248</sup>

(Note: The validity of a contract between a city and a vendor is not affected solely because an officer or vendor fails to file a questionnaire.)<sup>249</sup>

## 103. Where can an officer or vendor obtain the necessary forms?

The Texas Ethics Commission is charged with creating statement and questionnaire forms.<sup>250</sup> The forms can be found at [www.ethics.state.tx.us](http://www.ethics.state.tx.us) or by contacting the TML Legal Department at 512-231-7400 or [legalinfo@tml.org](mailto:legalinfo@tml.org).

## 104. What is Chapter 171 of the Local Government Code?

Chapter 171 of the Local Government Code regulates local public officials' conflicts of interest.<sup>251</sup> It prohibits a local public official from voting or participating in a matter involving a business entity or real property in which the official has a substantial interest if an action on the matter will result in a special economic effect on the business that is distinguishable from the effect on the public or, in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public.<sup>252</sup>

---

<sup>244</sup> *Id.* § 176.006(a-1).

<sup>245</sup> *Id.* §§ 176.013.

<sup>246</sup> *Id.* §§ 176.013(f)-(g).

<sup>247</sup> *Id.* § 176.013(d).

<sup>248</sup> *Id.* § 176.013(e).

<sup>249</sup> *Id.* § 176.006(i).

<sup>250</sup> *Id.* §§ 176.003(e), 176.006(b).

<sup>251</sup> *Id.* §§ 171.001-.010.

<sup>252</sup> *Id.* § 171.004(a).

A public official who has such interest is required to file, before a vote or decision on any matter involving the business entity or real property, an affidavit with the city's official record keeper, stating the nature and extent of the interest.<sup>253</sup> In addition, a local public official is required to abstain from further participating in the matter. However, a local public official who is required to file an affidavit is not required to abstain from participating in the matter if a majority of the members of the governing body have a substantial interest and are required to file and do file affidavits of similar interests on the same official matter.<sup>254</sup>

More detailed information on Chapter 171 is available in a separate attorney general publication known as "*Conflicts of Interest Laws Made Easy*" located online at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov).

## **105. What is H.B. 1295?**

H.B. 1295 will apply to contracts entered into after January 1, 2016. The bill provides that: (1) a city is prohibited from entering into a contract with a business entity unless the business entity submits a disclosure of interested parties (i.e., discloses a person who has a controlling interest in the business or who actively participates in facilitating the contract for the business) if the contract: (a) requires an action or vote by the city council before the contract may be signed; or (b) the contract has a value of at least \$1 million; (2) the disclosure must be on a form prescribed by the Texas Ethics Commission; and (3) a city must, not later than 30 days after receiving a disclosure, submit a copy to the Texas Ethics Commission.

As of printing, the rules and form had not been adopted by the Ethics Commission. City officials should be aware of the new law and consult with local legal counsel regarding its application.

## **XI. Enforcement of Bidding Requirements**

### **106. What civil remedies are available to an individual or entity if the competitive bidding laws are not followed?**

If a city enters into a contract without complying with the requirements of Chapter 252 of the Local Government Code, the contract is void.<sup>255</sup> Any property tax paying resident of the city may bring suit in district court to stop the performance or payment of the contract. Further, if the contract is for the construction of public works, a person who submitted a bid for a contract for which the competitive sealed bidding requirement applies, regardless of residency, may bring suit in district court to stop the performance or payment of the contract.<sup>256</sup>

### **107. What criminal penalties apply if the competitive bidding laws are not followed?**

---

<sup>253</sup> *Id.* § 171.004(a)-(b).

<sup>254</sup> *Id.* § 174.004(c).

<sup>255</sup> *Id.* § 252.061.

<sup>256</sup> *Id.*

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Chapter 252, that person may be convicted of a Class B misdemeanor.<sup>257</sup> This includes a situation in which a person makes or authorizes separate, sequential or component purchases in an attempt to avoid competitive bidding requirements. A Class B misdemeanor may be punished by a fine of up to \$2,000, confinement in jail for up to 180 days, or both the fine and confinement.<sup>258</sup>

## **108. Can city officials or employees be removed from office for failure to comply with competitive bidding laws?**

Under Texas law, an individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by Local Government Code Chapter 252.<sup>259</sup> Once removed from office, such a person may not hold any public office in this state for four years after the date of final conviction. Also, for four years after the date of final conviction, the convicted person may not be employed by the city where the person was serving when the offense occurred and may not receive any compensation through a contract with the city. The convicted person may, however, continue to receive any retirement or workers' compensation benefits.

## **109. Are there different consequences for elected officials, as compared to city staff, for bidding violations?**

There are not different consequences for elected officials or city staff for bidding violations.<sup>260</sup>

---

<sup>257</sup> *Id.* § 252.062.

<sup>258</sup> TEX. PENAL CODE ANN. § 12.22.

<sup>259</sup> TEX. LOC. GOV'T CODE ANN. § 252.063.

<sup>260</sup> *Id.* §§ 252.062, .063.

## Acknowledgments

This paper has come about through the efforts of many attorneys over the years. It began as a publication of the Texas attorney general's office, where it was edited by Zindia Thomas, assistant attorney general, and Julian Grant, now assistant city attorney in Corpus Christi, based on previous work by Jeff Moore with Brown and Hofmeister ([www.bhlaw.net](http://www.bhlaw.net)) and others. The more recent updates have been provided by Jeff Chapman of Ford, Nassen, and Baldwin, and Scott Houston, Deputy Executive Director and General Counsel, Texas Municipal League.



# Council Agenda Item

Item 11  
C Sec Use Only

Budget Account Code:	Meeting Date:	September 19, 2017
Budgeted Amount:	Department/ Requestor:	City Council
Fund Balance-before expenditure:	Prepared by:	City Administrator Flanigan
Estimated Cost:	Date Prepared:	September 14, 2017
Exhibits:	<ol style="list-style-type: none"><li>1) Collin Central Appraisal District Letter, dated August 14, 2017</li><li>2) National Night Out (NNO) Flyer</li><li>3) Fire Prevention Week</li><li>4) National Pharmaceutical Take Back Initiative</li><li>5) Early Voting &amp; November 7, 2017 General Election Calendar</li></ol>	

## AGENDA SUBJECT

### 1. FUTURE AGENDA ITEMS

- ZONING CODE COMMITTEE UPDATE
- VOLUNTEERS FOR COLLIN CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS [MARSHALL]
- REMINDER NATIONAL NIGHT OUT (NNO) – TUESDAY, OCTOBER 3, 2017, 6:00 P.M. – 9:00 P.M.
- FIRE PREVENTION WEEK – OCTOBER 8-14, 2017
- REMINDER NATIONAL PHARMACEUTICAL TAKE BACK INITIATIVE - SATURDAY, OCTOBER 28, 2017, 10:00 A.M. – 2:00 P.M., ALONG WITH EARLY VOTING
- REMINDER OCTOBER 2017 WATER RATES

Water Rates - Residential	Effective Oct. 2016	Effective Oct. 2017	Effective Oct. 2018	Effective Oct. 2019	Effective Oct. 2020
Min Chg. - Includes 1 <sup>st</sup> 4,000 Gal	\$ 40.00	40.00	40.00	40.00	40.00
Volume Rate Per 1,000 Gal.					
4,001	15,000	\$ 3.55	3.85	4.10	4.20
15,000	30,000	\$ 4.35	4.75	5.10	5.25
30,001	50,000	\$ 5.45	5.95	6.35	6.55
50,001	70,000	\$ 8.70	9.50	10.15	10.45
70,001	Above	\$ 12.00	13.10	14.00	14.40
					14.85

## SUMMARY

Please review the information provided.

## POSSIBLE ACTION

Council may direct staff to take appropriate action.

---

**Inter – Office Use**

<b>Approved by:</b>			
Department Head/ Requestor:		Date:	
City Attorney:		Date:	
City Administrator:	<i>Jeff Flanigan</i>	 Date:	09/15/2017



# Collin Central Appraisal District

August 14, 2017

Z Marshall, Mayor  
City of Parker  
5700 East Parker Road  
Parker, TX 75002

RE: Election of Collin Central Appraisal District Board of Directors

Dear Mayor Marshall:

In accordance with the Texas Property Tax Code, Section 6.03, the Appraisal District's five directors are to be appointed by the taxing units that participate in the District. Each taxing unit may nominate one to five board candidates. If a taxing unit has zero votes to cast in the election, as shown below, they are still entitled to nominate candidates for the board.

Your nominations must be made in an open meeting and a written resolution from the presiding officer of your governing body must be delivered to the Chief Appraiser by October 14, 2017. The resolution should include the name and address of each candidate nominated. To be eligible to serve on the board an individual must be a resident of the district and must have resided in the district for at least two years immediately preceding the date they take office.

Please be advised that the City of Parker will have 5 votes to cast in the election of the Board of Directors for the Central Appraisal District of Collin County. At the conclusion of the nominating process we will send each voting taxing unit, with at least one vote to cast, a ballot with voting instructions.

The District's Board of Directors serve two year terms, beginning January 1, 2018.

Sincerely,

A handwritten signature in black ink that reads "Bo Daffin".

Bo Daffin  
Chief Appraiser

Enclosure



# Collin Central Appraisal District

## DIRECTOR QUALIFICATIONS

An appraisal district director must reside in the appraisal district for at least two years immediately preceding the date he or she takes office.

A person may serve on the governing body of a taxing unit in the appraisal district that is; a city councilman, school board trustee, county commissioner, or other board member, and still be eligible to serve as a director. The common-law doctrine of incompatibility (holding offices that have conflicting demands on the holder) does not prohibit the same person from holding both offices. There is no limit to the number of elected officials that may serve on the board.

An employee of a taxing unit within the appraisal district may not serve as a director. The only time that a taxing unit's employee may serve is if that employee is also an elected official or member of the governing body. For example, a city councilman who is employed as the school business manager may serve as a director.

A person may not serve as a director if he or she is related to someone who appraises property for use in proceedings before the appraisal review board or in subsequent court proceedings, or represents property owners in such proceedings.

A person may not serve on the board of directors if that person has a substantial interest in a business entity which has a contract with the appraisal district or, in the case of a taxing unit, has a contract related to the performance of an activity governed by the Tax Code. (Example- a partner in a law firm engaged in collecting delinquent taxes for a taxing unit.)

In considering individuals to serve as directors, taxing units should look for expertise in such areas as accounting, finance, management, personnel administration, contracts, computers, real estate, or taxation.



## Parker Police Department



### Memorandum

### National Night Out 2017

News Alert! Your Police and Fire Personnel will be out helping to combat crime and celebrating National Night Out! Please join us.

National Night Out, an annual, nationwide Neighborhood Watch campaign, is held in early October (Texas only). This program promotes involvement in local crime and drug prevention activities, strengthens police-community partnerships, and encourages neighborhood camaraderie as part of our national efforts to let criminals know that not only in America and the State of Texas are united, but the City of Parker is also dedicated to building a safer and more caring community. Along with the traditional "lights on" and front porch vigils, cities and towns across America celebrate NNO with a variety of events and activities such as: block parties, cookouts, parades, flashlight walks, visits from local police, and safety demonstrations.

National Night Out is held each year to encourage people throughout the nation to come outside and join their neighbors in giving neighborhood crime a "going away" party. Texas is the only state for now that is celebrating this program during the month of October.

**National Night Out 2017 will take place on Tuesday, October 3.** Register your neighborhood for this year's event today. Registration is free and gives Police, Fire and other City representatives an opportunity to attend local events as time and circumstances permit. You do NOT have to be a current Neighborhood Watch neighborhood to participate. National Night Out is for everyone! Register now and begin planning your event as soon as possible.

To register email or call Sergeant John Paul with the Parker Police Department at [jpaul@parkertexas.us](mailto:jpaul@parkertexas.us) or 972-442-0333 ext. 267.

Once your neighborhood is registered we will put you on our list of event sites to visit during the evening, so you can meet the members of your Police



## Parker Police Department

### Memorandum



Department. We make every effort to visit as many events as possible. So please do your best to support this effort in helping us combating crime within our great City of Parker.

We look forward to having our Mayor and City Council participate as time allows.

Yours In Community Policing,

John Paul

Police Sergeant/Community Officer



## Parker Police Department



### Memorandum



Customary for the fall, I direct my commentary to Fire Prevention Week which this year is October 8-14. For the last three years the National Fire Protection Association has focused on the importance of working smoke alarms. This year's campaign "Every second counts: plan 2 ways out!" continues last year's message by emphasizing that just seconds can mean the difference between escaping safely from a fire or tragedy.



For most, our perception of a house fire has been influenced by what we've seen on TV, streamed to our laptop or simply watched in a movie theater. Sadly, these perceptions can be dangerously misleading. As I've said many times fire quickly grows in its intensity and the accompanying smoke becomes so dense so fast that you can rapidly become disoriented in even the most familiar of settings.

With this year's campaign the NFPA reinforces the need for prompt action supported by a simple escape plan familiar to all household members. It may seem improbable but you can have less than two minutes to escape a fire from the time a smoke alarm sounds. So...some simple guidance from your fire department:

- ✓ Draw a map of your home with all members of your household present marking two exits from each room, if possible, and a path to the outside from each room's exit. Establish an outdoor meeting place familiar to everyone such as the mailbox or a tree.
- ✓ Practice your home fire drill twice a year. Try to conduct one at night and one during the day using different ways out.
- ✓ Discuss with a babysitter exactly what to do in the event your smoke alarm sounds. Don't assume they know.
- ✓ Teach your children how to escape on their own in case you can't help them.
- ✓ Make sure the number of your home is clearly marked and easy for us to find.
- ✓ Close doors behind you as you leave – this may slow the spread of smoke, heat and fire.
- ✓ Once outside, stay outside. Call 911 from outside your home.

Our firefighters would be delighted to make a house visit during the day – weekdays or weekends – to discuss fire safety with family members. Or simply stop by the fire station for a chat. Alternatively, you can visit NFPA's [www.firepreventionweek.org](http://www.firepreventionweek.org) for additional guidance on escape plans as well as many other fire safety topics.



## Parker Police Department

### National Pharmaceutical Take Back Initiative

On October 28th, 2017, from 10am-2pm, the DEA will coordinate a collaborative effort with state and local law enforcement agencies focused on removing potentially dangerous controlled substances from our nation's medicine cabinets. The Parker Police Department will take part in this initiative for the first time. A national take-back day will provide a unified opportunity for the public to surrender expired, unwanted, or unused pharmaceutical controlled substances and other medications to law enforcement officers for destruction. This one-day effort will bring national focus to the issue of pharmaceutical controlled substance abuse. The program provides an opportunity for law enforcement to collaborate with the DEA and establish a safe collection site.

- Collection boxes and posters will be provided by DEA approximately 2-3 weeks prior to the event. If you need additional collection boxes the day of the event, you are authorized to use a container approved by your department as part of its standard operating procedures.
- On Saturday, October 28, 2017, the Parker Police Department will host a collection site in the parking lot of the Parker Police Department. This site will allow residents to drop off medications without leaving their vehicle
- Controlled, non-controlled, and over the counter medications may be collected from individuals. The general public is often unaware of the distinction in medication status. **Intra-venous solutions, injectable items, and syringes will not be accepted due to potential hazard posed by blood-borne pathogens.**
- **This program is anonymous.** All efforts will be made to protect the anonymity of individuals disposing of medications. Participants may dispose of medication in its original container or by removing the medication from its container and disposing of it directly into the disposal box. Liquid products, such as cough syrup, should remain sealed in their original container. The depositor should ensure that the cap is tightly sealed to prevent leakage. **THIS IS FOR THE GENERAL PUBLIC ONLY.**
- Illicit substances such as marijuana or methamphetamine are not a part of this initiative and should not be placed in collection containers. If an individual attempts to surrender an illicit controlled substance, law enforcement personnel should handle such material as abandoned property in accordance with department policy.

THANK YOU! Your continued cooperation and participation in this worthy endeavor is greatly appreciated.

## ***Early Voting & November 7, 2017 General Election Calendar***

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October 22	October 23	October 24	October 25	October 26	October 27	October 28
	<b>Early Voting</b>					
	8am - 5pm	7am - 7pm				
October 29	October 30	October 31	November 1	November 2	November 3	November 4
<b>Early Voting</b>						
1pm - 6pm	7am - 7pm					
November 5	November 6	<b>November 7</b>				
		<b>Election Day</b>				
		7am - 7pm				

CITY COUNCIL  
FUTURE AGENDA ITEMS

MEETING DATE	ITEM DESCRIPTION	CONTACT	Notes
<b>2017</b>			
TBD	2017 City Fee Schedule	Flanigan	2015-16 Approved 2/29; added 2016-17 to FAI 2016 1018
Jan., Apr., July, Oct,	Republic Waste Report	Bernas	REQUIRED PER ORDINANCE AND AGREEMENT.
Jan., Apr., July, Oct,	Fire Dept. Report	Sheff/Barnaby	
October 1, 2017	Reminder - Water Rate Inc. 10/1/2016-2020		
October 3, 2017	Reminder - CC Meeting <u>cancelled</u> due to NNO	C'Sec	2017 0829 CC Mtg
October 17, 2017	Consideration of Architectural Firm	Marshall/Flanigan	2017 0914
October 17, 2017	Inv. Policy Review	Boyd/Marshall	
October 17, 2017	P&Z and ZBA Appts. by 11/30	C'Sec	1115Res 2016-528(P&Z); 1115Res2016-529(ZBA)
October 17, 2017	Sales Tax	Shelby	
Nov-Dec	Planning Session		
November 7, 2017	Reminder - CC Meeting <u>cancelled</u> due to Election Day	C'Sec	2017 0829 CC Mtg
December 6, 2017	Depotitory Services Bid	Resolution	Resolution 2015-467 - 12/31/2017 - American Nat'l Bank of TX
December	2018-19 Collin County Central Appraisal District (CCCAD)		1208 Res2015-501 2016-2017 CCCAD BOD
December	Possible cancellation of 12/19 & 1/2 CC Mtg - Holiday	C'Sec	