



CITY OF MCKINNEY, TEXAS

Agenda City Council Special Meeting

Monday, November 19, 2018

5:30 PM

Council Chambers
222 N. Tennessee Street
McKinney, TX 75069

CALL TO ORDER

INFORMATION SHARING

18-1004 [McKinney Fire Department earns a Guinness World Records Title](#)

Attachments: [Guinness Picture](#)

CITIZEN COMMENTS Regarding Agenda Items (Not Public Hearing Related)

Up to 30 minutes allotted at this time for public comments regarding regular agenda items that are not a public hearing. Public Hearing comments will be allowed during the public hearing.

CONSENT AGENDA

These items consist of non-controversial or housekeeping items required by law. Items may be considered individually by any Council Member make such request prior to a motion and vote on Consent Items.

18-1005 [Minutes of the City Council Work Session of November 5, 2018](#)

Attachments: [Minutes](#)

SPECIAL AGENDA AND PUBLIC HEARINGS

18-1006 [Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Pogue Construction Co, LP of McKinney, Texas for Design / Build \(D/B\) Services for Pre-Construction Services Related to the Design and Construction of the StarCenter McKinney Expansion Project \(FC1709\) Located at 6993 Stars Avenue in McKinney, Texas](#)

Attachments: [Resolution](#)

18-1007 [Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute the Fourth Amended Agreement For State Legislative Consulting Services from Red Media Group of Austin, Texas](#)

Attachments: [Resolution](#)
 [Resolution Exhibit A](#)

18-1008 [Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute an Agreement for State Legislative & Regulatory Consulting Services with Focused Advocacy, LLC of Austin, Texas](#)

Attachments: [Resolution](#)
 [Resolution Exhibit A](#)

18-969 [Consider/Discuss/Act on a Resolution Revising the Lease Agreement for the Downtown Parking Garage, Generally Located on the Northeast Corner of Chestnut Street and Virginia Street](#)

Attachments: [Resolution](#)
 [Amended Lease](#)

18-1009 [Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Contract for Construction Manager at Risk \(CMAR\) Services with Pogue Construction Company, LP of McKinney, Texas for a Guaranteed Maximum Price \(GMP\) Related to the Public Safety Building Retrofit Project Located at 2200 Taylor Burke Drive, McKinney, Texas](#)

Attachments: [Resolution](#)
 [Proposal](#)

18-1010 [Consider/Discuss/Act on a Resolution Authorizing the City Manager to Enter into an Interlocal Agreement with McKinney Municipal Utility District No. 1 of Collin County for Funding the Construction of Trinity Falls Parkway from Laud Howell Parkway to FM 543](#)

Attachments: [Interlocal Agreement Resolution](#)

18-1011 [Consider/Discuss/Act on Appointing Members to the Census 2020 Complete Count Committee](#)

Attachments: [Census 2010 Data Committee presentation](#)

WORK SESSION ITEMS

18-1012 [Discuss Third Party Special Events Held Across the City of McKinney](#)

Attachments: [Presentation](#)
[Citizen Comments](#)

CITIZEN COMMENTS Regarding Matters Not on the Agenda

COUNCIL LIAISON UPDATES

EXECUTIVE SESSION

In Accordance with the Texas Government Code:

A. Section 551.071(2) Consultations with Attorney on any Work Session, Special Session, or Regular Session agenda item requiring confidential attorney/client advice necessitated by the deliberation or discussion of said items (as needed)

B. Section 551.071 (A) Pending or contemplated litigation

C. Section 551.072. Deliberations about Real Property

- Municipal Facilities

D. Section 551.074. Personnel Matters

E. Section 551.087. Deliberation Regarding Economic Development Matters

- Project Pegasus

ACTION ON EXECUTIVE SESSION ITEMS**ADJOURN**

Posted in accordance with the Texas Government Code, Chapter 551, on the 16th day of November, 2018 at or before 5:00 p.m.

Melissa Lee
Deputy City Secretary

In accordance with the Americans with Disabilities Act, it is the policy of the City of McKinney to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at least 48 hours in advance of the event. Phone 972-547-2694 or email contact-adacompliance@mckinneytexas.org. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. ADA grievances may also be directed to the ADA Coordinator or filed online at <http://www.mckinneytexas.org/ada>.



18-1004

TITLE:

McKinney Fire Department earns a Guinness World Records Title

COUNCIL GOAL: Safe and Secure Community

MEETING DATE: November 19, 2018

DEPARTMENT: Fire Department

CONTACT: Fire Chief Danny Kistner

RECOMMENDED CITY COUNCIL ACTION:

- Information sharing item only

ITEM SUMMARY:

- On November 9, 2018 at the McKinney ISD new stadium
The McKinney Fire Department and McKinney Independent School District teamed up with Baylor Scott & White Medical Center-McKinney and Medical City McKinney, at the crosstown showdown game, to save lives and set a Guinness World Record title for obtaining the most pledges to learn CPR.

BACKGROUND INFORMATION:

- In support of the Council Goal, Safe and Secure Community and The Fire Department strategic goal to teach CPR to the community
- McKinney Fire Department teamed up with MISD, Baylor Scott & White Medical Center-McKinney, Medical City McKinney
- Social media advertising campaign #Friday Night Life
- Instructional video on hands-only CPR created and shown to thousands moments before the game between McKinney High and McKinney Boyd
- Practice stations were set up on the mezzanines for hands on practice
- Guinness record for obtaining 12,128 pledges to learn CPR
- Award was presented by a representative from Guinness at mid field after the game

FINANCIAL SUMMARY:

- Cost of the Guinness Record covered by donated funds raised largely by Baylor Scott & White Medical Center-McKinney

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Guinness Picture](#)





18-1005

TITLE: Minutes of the City Council Work Session of November 5, 2018

SUPPORTING MATERIALS:

[Minutes](#)

CITY COUNCIL WORK SESSION

NOVEMBER 5, 2018

The City Council of the City of McKinney, Texas met in work session in the City Hall Council Chambers, 222 N. Tennessee Street, McKinney, Texas, on November 5, 2018 at 5:30 p.m.

Council Members Present: Mayor George C. Fuller, Mayor Pro Tem Tracy Rath, and Council Members Charlie Philips, Scott Elliott, Chuck Branch, and La'Shadion Shemwell.

Council Members Absent: Council Member Rainey Rogers.

City of McKinney Staff Present: City Manager Paul Grimes, Deputy City Manager Jose Madrigal, Assistant City Manager Barry Sheldon, Assistant City Manager Steve Tilton, Assistant to the City Manager Trevor Minyard, City Attorney Mark Houser, Executive Director of Development Services Michael Quint, Director of Engineering Gary Graham, Capital Improvements Project Manager Nick Ataie, Director of Planning Jennifer Arnold, Planning Manager Samantha Pickett, Director of Code Services Lori Dees, Chief Building Official Rick Herzberger, Director of Public Works David Brown, Director of Human Services Ike Obi, Police Chief Greg Conley, Assistant Police Chief Randy Roland, Fire Chief Danny Kistner, Assistant Fire Chief Chris Lowry, Housing and Community Development Manager Janay Tieken, Video Producer Joey Barr, City Secretary Intern Cayla Simpson, and City Secretary Empress Drane.

There were 4 guests present.

Mayor Fuller called the meeting to order at 5:30 p.m. after determining a quorum of the Council was present.

Mayor Fuller called for discussion of agenda items for the City Council Regular Meeting to be held on November 6, 2018.

Mayor Fuller called for discussion of the following Work Session items with no action taken:

- 18-937** Discuss Strategic Code Enforcement
- 18-938** Discuss Revision of Ordinances Related to Wrecker Services Utilized by the McKinney Police Department
- 18-939** Overview of Fire Department Recruiting and Hiring

Mayor Fuller called for Council Liaison updates. There were no updates.

Mayor Fuller recessed the meeting into executive session at 6:39 p.m. per Texas Government Code:

A. Section 551.071(2) Consultations with Attorney on any Work Session, Special Session, or Regular Session agenda item requiring confidential attorney/client advice necessitated by the deliberation or discussion of said items (as needed)

B. Section 551.071 (A) Pending or contemplated litigation: Stephen Richard Selinger v. City of McKinney, Texas, Cause No. 429-04150-2018; Petition of the Cities of Garland, Mesquite, Plano, and Richardson Appealing the Decision by North Texas Municipal Water District Affecting Wholesale Water Rates., Docket No. 46662; Petition of AIWR 2017-7, LP to Amend the City of McKinney's Certificate of Convenience and Necessity in Collin County by Expedited Release, Docket No. 487700

C. Section 551.074. Personnel Matters - Annual City Manager Evaluation

Mayor Fuller recessed back into open session at 7:13 p.m. No action was taken on executive session.

Council unanimously approved the motion by Mayor George Fuller, seconded by Mayor Pro Tem Rath, to adjourn. Mayor Fuller adjourned the meeting at 7:13 p.m.

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary



18-1006

TITLE: Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Pogue Construction Co, LP of McKinney, Texas for Design / Build (D/B) Services for Pre-Construction Services Related to the Design and Construction of the StarCenter McKinney Expansion Project (FC1709) Located at 6993 Stars Avenue in McKinney, Texas

COUNCIL GOAL: Enhance the Quality of Life in McKinney
(5A: Create Affordable Recreational and Cultural Arts Activities for All Ages throughout the City)

MEETING DATE: November 19, 2018

DEPARTMENTS: City Manager's Office
Public Works Department

CONTACTS: Barry Shelton, Assistant City Manager
Patricia L. Jackson, PE, Facilities Construction Manager

RECOMMENDED CITY COUNCIL ACTION:

- Approval of the Resolution.

ITEM SUMMARY:

- This Resolution authorizes a professional services contract to provide design / build services related to the pre-construction phase of the StarCenter McKinney Expansion Project (FC1709) for an amount not to exceed \$290,000 for services through the design development phase and to develop a Guaranteed Maximum Price (GMP).
- Seven firms submitted statements of qualifications, by responding to the request for qualifications 18-52RFQ; the four highest ranked firms were interviewed by representatives from the Dallas Stars Organization along with City staff from the City Manager's Office, Finance, Public Works and Purchasing.
- The evaluation team is recommending that the top-ranked team of Pogue Construction Co, LP, along with the architectural firm, Gensler, be selected for this project.
- Pogue Construction, in conjunction with Gensler, submitted a proposal to provide

design / build services related to the StarCenter McKinney Expansion for an amount of \$290,000 for pre-construction services through the design development phase including the development of a project GMP.

- Future agenda items will be presented for consideration for the Guaranteed Maximum Price and an amendment to this contract for full construction documents and construction services.

BACKGROUND INFORMATION:

- Gensler is a worldwide architectural firm recognized for its design work by the architectural / engineering industry and is one of the largest architectural firms; Gensler's Dallas office was recently selected by the City of McKinney as one of our on-call services design professionals.
- Pogue Construction Company, LP is a McKinney based established contractor in the commercial and institutional construction business. They have grown to become one of the top general contractors in North Texas with nearly 40 years of building expertise.
- Pogue has successfully completed many projects for the City of McKinney as well as various municipal facility projects for other municipalities and is the firm recommended for selection for the project.

FINANCIAL SUMMARY:

- The Resolution authorizes a professional services agreement for Design / Build services, for preconstruction services through the design development phase with Pogue Construction Company, LP for an amount not to exceed \$290,000.
- The StarCenter McKinney Expansion Project is included in the FY19-20 Capital Improvements Program with funds currently available in FC1709.
- The StarCenter McKinney is owned by the City of McKinney and leased to the Dallas Stars at the current monthly rate of \$49,000; the current lease will be amended to include increased monthly rental payments to cover the cost of the expansion project.
- The tenant remains responsible for the cost of operations, maintenance and capital repairs.

BOARD OR COMMISSION RECOMMENDATION:

- N/A.

SUPPORTING MATERIALS:

[Resolution](#)

RESOLUTION NO. 2018-11-____ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A STANDARD FORM OF AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER AIA A141 - (2014) WITH POGUE CONSTRUCTION COMPANY, LP (POGUE) OF MCKINNEY, TEXAS FOR PRE-CONSTRUCTION SERVICES RELATED TO THE DESIGN AND CONSTRUCTION OF THE STARCENTER MCKINNEY EXPANSION PROJECT (FC1709) LOCATED AT 6993 STARS AVENUE, MCKINNEY, TEXAS 75070

WHEREAS, the City Council of the City of McKinney, Texas, has determined the need for design / build services related to the design and construction of the StarCenter McKinney Expansion project located at 6993 Stars Avenue, McKinney, Texas 75070; and,

WHEREAS, the City desires to engage the services of Pogue Construction Company, LP for professional design/build services related to the StarCenter McKinney Expansion Project (FC1709); and,

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

- Section 1. The City Council of the City of McKinney, Texas hereby accepts the proposal in the amount of \$290,000 for pre-construction services through the design development phase including the development of a Guaranteed Maximum Price for full design and construction services.
- Section 2. The City Manager is hereby authorized to execute a contract in the amount of \$290,000 with Pogue Construction for pre-construction services through the design development phase for the StarCenter McKinney Expansion Project (FC1709) and authorizing all necessary change orders under said contract up to the aggregate contract amount, inclusive of any change orders, not to exceed \$290,000.
- Section 3. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 19TH DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney



18-1007

TITLE: Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute the Fourth Amended Agreement For State Legislative Consulting Services from Red Media Group of Austin, Texas

COUNCIL GOAL: Operational Excellence

MEETING DATE: November 6th, 2018

DEPARTMENT: City Manager's Office

CONTACT: Trevor Minyard, Assistant to the City Manager

RECOMMENDED CITY COUNCIL ACTION:

- Staff recommends approval of the resolution.

ITEM SUMMARY:

- This is a joint agreement between the City of McKinney, the MEDC, and the McKinney Chamber. Each organization pays one third of the total agreement cost, and Red Media Group (RMG) handles matters for us on the ground in Austin and our interactions at the Texas Capitol.
- Ms. Hale helps advocate for the City of McKinney's legislative agenda at the Capitol, and will advocate on behalf of the legislative priorities of the City of McKinney.
- Ms. Hale helps organize Collin County Days and sets up meetings with key leaders and committee chairs for the mayor, city manager, chamber president, economic development executives, and other business leaders during Collin County days.
- During the 86th Legislative Sessions Ms. Hale will:
 - Work with the mayor, city manager, MEDC, and chamber to represent our 2019 legislative agenda,
 - Monitor hearings, organize letter writing, and coordinate meetings with key elected officials which is critical to help mold legislation we support in the 86th legislative session and avoid legislation that would have a negative impact on the City of McKinney, and

BACKGROUND INFORMATION:

- Angela Hale, founder and managing partner at RMG, has worked closely with the mayor, city manager and MEDC on a host of policy issues for the City of McKinney for the last three legislative sessions.
- Ms. Hale was a top executive to two of the state's top three leaders, including working on the executive team for Governor Abbott during his first two terms as attorney general. She was also a top policy and communications advisor for Speaker Straus on policy issues; specifically advising on economic development decisions regarding awards for the Enterprise Fund and other incentive programs.

FINANCIAL SUMMARY:

- There will be a monthly flat fee of \$5,000 of which the City will pay one third.
- Reimbursable expenses up to \$3,000 per year of which the City will pay one third, if needed.
- Over the two year term, the cost to the City of McKinney will be \$20,000, not to exceed \$21,000.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)

[Resolution Exhibit A](#)

RESOLUTION NO. 2018-11-____ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A FOURTH AMENDMENT TO AN AGREEMENT FOR LEGISLATIVE CONSULTANT SERVICES WITH RED MEDIA GROUP; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of McKinney, Texas has determined the continued need for a legislative consultant to address the City's interests at the State level; and

WHEREAS, the City Council will partner with the McKinney Chamber of Commerce and the McKinney Economic Development Corporation on joint legislative efforts to present a united community from both the citizen and business perspective; and

WHEREAS, the City previously entered into an agreement with Red Media Group to serve as the City's Legislative Consultant; and

WHEREAS, the City desires to continue to utilize the services of Red Media Group to serve as the City's Legislative Consultant on issues common with the City, the McKinney Chamber of Commerce and the McKinney Economic Development Corporation.

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

Section 1. The foregoing recitals are hereby found to be true and correct legislative and factual findings of the City of McKinney, Texas, and are fully incorporated into the body of this Resolution.

Section 2. The City Council of the City of McKinney, Texas hereby authorizes the City Manager to amend the existing agreement with Red Media Group via a Fourth Amendment (Exhibit A) that requires Red Media Group to provide Legislative consulting services pertaining to Texas Legislative session(s) for a term of two (2) years, the City's complete payment for which is approximately \$20,000 annually, but shall not exceed \$21,000 annually.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 6th DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

**FOURTH AMENDMENT TO AGREEMENT TO PROVIDE LEGISLATIVE
CONSULTANT SERVICES TO
THE CITY OF MCKINNEY, TEXAS, THE MCKINNEY CHAMBER OF COMMERCE,
AND THE MCKINNEY ECONOMIC DEVELOPMENT CORPORATION**

THIS FOURTH AMENDMENT (the "Fourth Amendment") to the Legislative Consultant Service Agreement is effective as of the 1st day of December 2018 (the "Effective Date"), between the CITY OF MCKINNEY, TEXAS, a Texas municipal corporation (the "City"), the MCKINNEY CHAMBER OF COMMERCE, a Texas non-profit organization (the "Chamber"), the MCKINNEY ECONOMIC DEVELOPMENT CORPORATION, a Texas non-profit corporation, (the "MEDC") (collectively, the "McKinney") and RED MEDIA GROUP, (the "Consultant").

WHEREAS, the City Council of the City of McKinney, Texas have previously entered into an agreement with Red Media Group for legislative consultant services effective December 1, 2012 and amended on December 1, 2013 (the "Agreement"); and

WHEREAS, the City Council of the City of McKinney, Texas amended the "Agreement" a second time on December 1, 2015; and

WHEREAS, the City Council, the Chamber, and MEDC amended the "Agreement" a third time on December 1, 2017; and

WHEREAS, the City Council, the Chamber, and MEDC desire to extend the term of the Agreement until November 30, 2020 and modify the payment of fees due under the Agreement.

NOW, THEREFORE, in consideration of the mutual agreements set forth, McKinney and the Consultant agree as follows:

SECTION 1.

The Agreement is amended only as set forth herein. All articles in the First Agreement that are not amended remain in full force and effect as set forth in the First, Second, and Third and Forth Amendments and the Agreement.

SECTION 2.

The First, Second, Third and Fourth Amendments are hereby amended by including the attached Exhibit "B-1", which is attached hereto and incorporated as if set forth here.

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to the Agreement to be executed by their duly authorized representatives as of the Effective Date listed above.

CITY OF McKinNEY, a Texas municipal corporation
222 N. Tennessee St. McKinney, TX
75069

By _____

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

McKINNEY CHAMBER OF COMMERCE,
a Texas non-profit organization
2150 South Central Expressway, #150
McKinney, TX 75070

By _____

**McKINNEY ECONOMIC DEVELOPMENT
CORPORATION**,
a Texas non-profit corporation
5900 S. Lake Forest Drive, Suite 110
McKinney, Texas 75070

By _____

RED MEDIA GROUP LLC

Consultant

By _____

EXHIBIT A

STATEMENT OF WORK AND SCOPE OF SERVICES

1. Consultant shall provide professional services pursuant to the following:
 - a. Work closely with the GLI Committee and McKinney staffs to understand the programs of McKinney, its legislative needs, and its strategic plan.
 - b. Provide timely information to the GLI Committee on pertinent developments and work with the GLI Committee to develop all necessary data and materials to support McKinney's legislative agenda. Attend and present Information at GLI Committee meetings, as requested.
 - c. Report frequently as needed, to the GLI Committee on progress and status of work for McKinney.
 - d. Respond as necessary to all other requests made to Consultant by the GLI Committee, or Its designee.
2. Consultant agrees that specific attention shall be given In addition to the services above listed, to the following specific priorities of McKinney, as follows:
 - a. Strengthen support with key members of the State Legislature and key Legislative committees, including staff, by regular contact, reports and communication with key members and staff of McKinney priorities.
 - b. Regular monitoring of all relevant policy developments and filed bills with timely communication with the GLI Committee.
 - c. Assistance In organization of McKinney trips to Austin, TX.
 - d. Maintain contact with State Agencies and communicate McKinney priorities as directed by the GLI Committee, or its designee.
3. This Agreement specifically excludes from the Statement of Work an Involvement In campaigns or fundraising activities. Any such activities are strictly voluntary on the part of the Consultant and are not part of the compensation contemplated under this Agreement

EXHIBIT "8-1"

PAYMENT OF FEES FOR EXTENDED TERM

The following shall constitute the fees payable to the Consultant under the Fourth Amendment effective December 1, 2018 through November 30, 2020 unless terminated sooner in accordance with the terms of the Agreement, as amended, or until otherwise agreed in writing by the parties.

1. The Term for the Agreement, as amended shall be from December 1, 2018 to November 30, 2020.
2. Total compensation for the services rendered hereunder for the Term, and under the statement of work described in Exhibit "A", shall be \$60,000 per year payable in twelve (12) monthly payments beginning on December 1, 2018 at the rate of \$5,000 per month, in advance, payable on the first day of each month up to and including December 1, 2020. Subject to Article III. C., the last payment of expenses shall be due and payable on December 1, 2020. Consultant shall submit an invoice in advance of each month of the Agreement, as amended.
3. McKinney shall reimburse all approved expenses of this representation, including travel, meals and other expenses up to the aggregate amount of \$3,000 per year for the Term.
4. Consultant shall invoice the City monthly for expenses and such invoices shall be payable within thirty (30) days of receipt.
5. Consultant shall itemize all time expended for the prior month on McKinney services when submitting an invoice for payment, in advance, of the next month. Time entries shall be recorded for each separate task performed and shown in increments of 1/10 hour. For example: "Meeting with GLI Committee: 1.7 hours."
6. During the Term, the City, the Chamber and the MEDC agree to each pay 33.3% of monthly billing as well as 33.3% of expenses, up to the agreed upon amount.



18-1008

TITLE: Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute an Agreement for State Legislative & Regulatory Consulting Services with Focused Advocacy, LLC of Austin, Texas

COUNCIL GOAL: Operational Excellence

MEETING DATE: November 6th, 2018

DEPARTMENT: City Manager's Office

CONTACT: Trevor Minyard, Assistant to the City Manager

RECOMMENDED CITY COUNCIL ACTION:

- Staff recommends approval of the resolution.

ITEM SUMMARY:

- This an agreement between the City of McKinney and state legislative and regulatory consultant Focused Advocacy.
- Focused Advocacy specializes in representing municipalities.
- Focused Advocacy has a proven track record of success representing cities large and small across the State of Texas - passing over 80 percent of the bills on our client's legislative agendas.
 - Note: the average passage rate in the legislature is 20 percent.
- The Focused Advocacy team has passed -- and defeated -- more municipal-related legislation than any other firm in Texas.
- To that end, Focused Advocacy has repeatedly been recognized as one of the most influential lobby teams in the state (Capitol Inside, Lobby Rankings 2011, 2013, 2015 and 2017).
- During the legislative session, the principals of Focused Advocacy will:
 - Participate in legislative strategy meetings with City staff,
 - Attend legislative committee hearings,
 - Monitor debate on the floor of the House and Senate,
 - Attend Texas Municipal League meetings and participate in stakeholder negotiations,

- Draft bills,
- Analyze legislation,
- Track and monitor the movement of bills through the legislative process,
- Author a substantial amount of work-product such as:
 - Bill analysis,
 - Speeches and talking points,
 - Memorandums,
 - Letters of support, and
 - Other collateral material.
- Focused Advocacy also develops and publishes a weekly e-mail update to apprise the City of important policy and political developments, breaking news, and other information related to the legislature.

BACKGROUND INFORMATION:

- Focused Advocacy offers its clients a team of four (4) lobbyists. The City will receive the expertise and combined experience of,
 - A former state legislator,
 - Former Director of Governmental Relations for the City of Fort Worth,
 - Former Texas Municipal League legislative/legal counsel, and
 - A former member of Governor Perry's policy staff.
- In total, Focused Advocacy has more than 100 years of combined experience, skill and relationships at the Texas Capitol and inside the state's regulatory agencies.

FINANCIAL SUMMARY:

- There will be a monthly flat fee of \$8,333.33.
- Reimbursable expenses of \$350 per month.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)
[Resolution Exhibit A](#)

RESOLUTION NO. 2018-11-____ (R)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY,
TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AGREEMENT FOR LEGISLATIVE AND REGULATORY CONSULTANT
SERVICES WITH FOCUSED ADVOCACY, LLC**

WHEREAS, the City Council of the City of McKinney, Texas has determined the need for a legislative and regulatory consultant to address the City's interests at the State level; and

WHEREAS, Focused Advocacy, LLC provides a broad ranges of consulting services that will assist the City of McKinney in accomplishing its 2019 legislative agenda; and

WHEREAS, the City desires to effectively influence the state legislature and regulatory bodies of the State of Texas as it relates to administrative action and legislation that impacts the City of McKinney and its residents.

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

Section 1. The City Council of the City of McKinney, Texas hereby authorizes the City Manager to execute an agreement with Focused Advocacy, LLC that requires Focused Advocacy, LLC to provide legislative and regulatory consulting services pertaining to Texas Legislative session(s) for a term of two (2) years, the City's payment for which is approximately \$8,333.33 monthly.

Section 2. This Resolution shall take effect in accordance with the terms of the contract as outlined in "Exhibit A," and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 6th DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney



**Agreement
Legislative & Regulatory Consulting Services
City of McKinney & Focused Advocacy**

It is agreed effective November 1, 2018 that **Focused Advocacy, LLC.** (hereinafter "the Consultant") as located at 816 Congress Avenue, Suite 370, Austin, Texas 78701 will for the following compensation and under the following terms and conditions provide the **City of McKinney** (hereinafter "the City") as located at 222 N. Tennessee St. McKinney, TX 75069 with the following scope of services:

1. Scope of Services:

Specifically, Consultant will:

1. Represent the City's general interests before the Texas Legislature as directed by the City Manager;
2. Assist in the fulfillment of the City's legislative agenda;
3. Assist with the passage of legislative initiatives as adopted by the City Council including passage of legislation to qualify the City for financial assistance related to the construction of aviation facilities;
4. Provide general guidance and consultation to the city regarding the City's legislative and regulatory goals;
5. Develop strategies and generally work to gain support to advance the City's legislative and regulatory goals;
6. Work to defeat legislation the City deems detrimental;
7. Provide the City with timely updates regarding the status of pending legislation and rule makings;
8. Provide the City with an electronic tracking system which monitors the progress of legislation that could affect the City;



9. Advise and inform the City of upcoming legislative committee hearings (both during the legislative session and during the interim);
10. Assist with the preparation and drafting of legislation and amendments;
11. Assist with the preparation and drafting of letters, speeches and other advocacy materials;
12. Assist with the preparation of City officials who testify before legislative bodies; and
13. Attend and monitor on the City's behalf legislative hearings, agency hearings, stakeholder meetings, TML meetings, and interim legislative committee hearings;
14. As directed, represent the City's interests before the regulatory bodies of Texas and various state agencies of the Texas executive branch by informing the City of key state agency hearings and developments at the Texas Comptroller of Public Accounts, Department of Transportation, Public Utility Commission, General Land Office, Department of Public Safety, Railroad Commission, Water Development Board, Commission on Environmental Quality, and the Department of Housing and Community Affairs; and
15. As directed, engage with state agency staff and personnel to protect or advance the city's interests during administrative rule-making proceedings.

2. Term:

The term of this contract shall be for 23 months from November 1, 2018 thru September 30 2020.

3. Renewal:

At the mutual agreement of both parties, this contract may be renewed for one additional 24-month period.



4. Retainer Compensation & Billing:

In consideration for the performance of the services outlined in this agreement during the period covered by this agreement, the City agrees to pay Consultant \$8,333.33 per-month.

Monthly invoices will be sent on or around the 1st day of each month and payable by the 15th day of each month.

Payment shall be either electronically deposited directly to the bank account provided by the Consultant or otherwise mailed to Focused Advocacy at 816 Congress Avenue, Suite 370, Austin, Texas 78701.

5. Expenses:

In addition to the monthly retainer, the City shall also reimburse Consultant three hundred and fifty dollar per month (\$350) for the monthly expenses Consultant incurs associated with client-related business meetings in furtherance of the duties and services required by this contract. This is a flat-fee monthly expense reimbursements for expenses incurred by the Consultant from client-related business meetings in furtherance of the contractual duties of this agreement and will not be accompanied by receipt.

The City agrees to reimburse this flat fee at the same time it pays the monthly retainer.

In addition, the City will reimburse Consultant for any reasonable and customary expenses related to travel requested of the Consultant by the City (i.e. - airfare, mileage, rental cars, taxis, hotels, travel-related meals).

6. Termination:

This agreement may be terminated without cause provided the City provides the Consultant ninety days (90) written notice. Effective from the date written notice is delivered to the Consultant, the City is responsible for and Consultant shall be fully compensated by the City for the retainer due during the 90-day period for termination without cause.

The City may also terminate the contract with thirty days (30) written notice if termination is caused by a conflict of interest as governed by Chapter 305, Government Code regarding legislation that cannot be resolved between the City and another client of the Consultant regarding a specific piece of legislation. Effective from the date written notice is delivered



to the Consultant, the City is responsible for and Consultant shall be fully compensated by the City for the retainer due during the 30-day period for termination due to a conflict.

7. Points of Contact:

Unless directed otherwise, the City Manager shall act as the point of contact for the City and Andrew Keefer and Snapper Carr shall act as the points of contact for the Consultant. The Consultant will take its direction and work orders from the City Manager.

8. Compliance with Texas Ethics Laws:

The Consultant agrees to comply with all applicable state lobby registration and reporting laws and with all applicable state authorities including the Texas Ethics Commission.

9. Conflicts of Interest:

Should any other client of the Consultant take a position on a piece of legislation that is in opposition to the position of the City or should Consultant believe that its representation of the City is materially affected by the position taken by another client, Consultant will comply with all applicable state laws regarding conflicts of interest and will notify in writing the City within two (2) business days from the date Consultant became aware of the conflict. Consultant must obtain written permission from the City to continue its representation.

If the conflict is between the City and any private-sector client of the Consultant, then Consultant shall resolve the conflict in favor of the City.

10. Consultant Relationship:

It is understood by the parties that Consultant is an independent Consultant for the purposes of any federal and/or state laws including tax laws, and that Consultant is not in any way an employee, full or part-time of Client.



11. Confidentiality:

If a party provides information or materials indicated to be confidential, the receiving party will maintain the confidentiality of such matters and not disclose any such information except in proper performance of this agreement and as required by law. It is understood by Consultant that the materials produced and provided under this agreement are the property of the City and shall be returned to them upon request.

12. Expansion of Scope of Services:

This agreement is expressly limited to the scope of services detailed herein. Any additional services requested by the City will necessitate an amendment to this contract with new terms and compensation.

13. Boycott Israel:

Texas Government Code Chapter 2270 prohibits a city from entering into a contract with a company for goods and services unless the contract contains a written verification from the company that: (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract. By entering this agreement, Consultant verifies that it does not Boycott Israel, and agrees that during the term of this agreement Consultant will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended.

14. Entire Agreement and Modifications:

This Agreement contains the entire agreement and understandings of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreement or understandings, whether oral or written, negotiations and discussion. This Agreement may not be modified, rescinded or terminated orally, and no modification, rescission, termination or attempted waiver of any provision hereof (including this section) shall be valid unless in writing and signed by both parties.

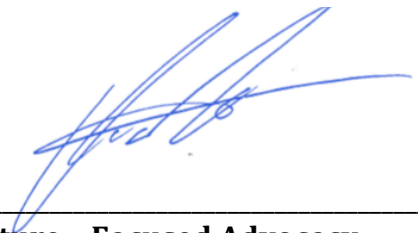


This contract is accepted on _____ as evidenced by the execution hereof by the signatures of the undersigned.

Signature – City of McKinney

Paul G. Grimes, City Manager
Printed name & title

Date



Signature – Focused Advocacy

Andrew Keefer, Senior Associate
Printed name & title

October 30, 2018
Date



18-969

TITLE: Consider/Discuss/Act on a Resolution Revising the Lease Agreement for the Downtown Parking Garage, Generally Located on the Northeast Corner of Chestnut Street and Virginia Street

COUNCIL GOAL: Direction for Strategic and Economic Growth (1B: Continue to develop a retail strategy for key areas of the community to further diversify revenue sources and expand entertainment, dining and shopping options and tourism)

MEETING DATE: November 19, 2018

DEPARTMENT: City Manager's Office

CONTACT: Barry Shelton, AICP, Assistant City Manager

RECOMMENDED CITY COUNCIL ACTION:

- Staff recommends approval of the resolution revising the lease agreement.

ITEM SUMMARY:

- This item is a request to amend certain provisions of the parking garage lease agreement between the City of McKinney and SP2 301 E Virginia, LLC.
- The proposed amendment will require the owner to obtain a Temporary Certificate of Occupancy (TCO) and deliver possession of the property to the City by January 1, 2019.
- The permanent certificate of occupancy will be required by February 1, 2019.
 - The previously approved lease agreement has a completion date of December 1, 2018.

BACKGROUND INFORMATION:

- On November 15, 2016 the City Council approved a development agreement with the owners of the property on the northeast corner of Chestnut Street and Virginia Street for the design, construction and lease of a parking garage.
- On April 4, 2017, the City Council approved a Resolution authorizing the City Manager to execute a lease agreement with the property owners, Virginia@5, LLC and SP2 301 E Virginia, LLC.

- On January 16, 2018 the City Council approved a resolution revising the lease agreement for the downtown parking garage to extend the completion date until December 1, 2018.
- The project completion has been delayed by the relocation of Oncor power poles adjacent to the site and the unusual amount of rain over the past couple of months.
- The Oncor pole relocation was necessary in order to proceed with the construction of the garage. The previously approved lease agreement assigned the task of coordinating Oncor's pole relocation to the City.

FINANCIAL SUMMARY:

- The previously approved lease agreement proposes an initial payment of \$3,000,000 upon completion of construction, with the remaining cost being paid over 60 monthly payments.
 - Under the amended lease agreement, the City will pay an initial \$2,000,000 upon issuance of a TCO and withhold \$1,000,000 until issuance of the permanent certificate of occupancy.
 - The 60 monthly payments will commence upon issuance of the permanent certificate of occupancy.
- The City will take ownership of the parking structure upon completion of the 60 monthly payments. At that time, the City will have made all base rent payments required by the lease.
- The City will have an early option to purchase. Such early purchase will be in the amount of the remaining loan balance at the time of purchase.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)
[Amended Lease](#)

RESOLUTION NO. 2018-11-____ (R)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY,
TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AMENDED LEASE AGREEMENT WITH VIRGINIA@5, LLC AND SP2 301
E VIRGINIA, LLC FOR A DOWNTOWN PARKING GARAGE**

WHEREAS, the City Council of the City of McKinney, Texas, recognizes the need to enter into a public private partnership to construct a downtown parking garage; and

WHEREAS, Virginia@5, LLC and SP2 301 E Virginia, LLC own the property at the northeast corner of Virginia Street and Chestnut Street; and

WHEREAS, the property owners have agreed to enter into a lease agreement with the City of McKinney for a downtown parking garage; and

WHEREAS, on January 16, 2018, the City Council approved a resolution authorizing the City Manager to enter into an amended lease agreement with the property owners for a downtown parking garage; and

WHEREAS, the City Council of the City of McKinney, Texas, has reviewed and approved an amended lease agreement between Virginia@5, LLC, SP2 301 E Virginia, LLC and the City of McKinney concerning a downtown parking garage.

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

Section 1. The City Manager is hereby authorized to execute a second amended lease agreement with Virginia@5, LLC and SP2 301 E Virginia, LLC for the lease of a downtown parking garage

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 19th DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

FIRST AMENDMENT TO PARKING GARAGE LEASE

SP2 301 E VIRGINIA, LLC and the CITY OF MCKINNEY, TEXAS

THIS FIRST AMENDMENT TO PARKING GARAGE LEASE (the "Lease") is entered into this 6th day of November 2018 (the "Effective Date") by and between SP2 301 E VIRGINIA, LLC, a Texas limited liability company ("Landlord") and the CITY OF MCKINNEY, TEXAS, a Texas home rule city ("Tenant").

RECITALS:

WHEREAS, pursuant to that certain Parking Garage Lease dated January 17, 2018 (the "Parking Garage Lease") City of McKinney (the "City") leased from SP2 301 E Virginia, LLC a structured parking garage, subject to the terms of a Parking Garage Development Agreement; and

WHEREAS, the parties desire to modify and amend certain provisions of the Parking Garage Lease to address completion and possession of the structured parking garage.

AGREEMENT

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

1. The sections and subsection identified below shall be amended and shall henceforth read as follows:

"1.01 (b) Term: Sixty (60) months commencing upon the Commencement Date, which date shall be the earlier of (i) the date Landlord receives a permanent Certificate of Occupancy, or (ii) February 1, 2019."

"2.04 Tender of Possession. Upon Landlord's performance of its obligations under the Development Agreement and receipt of a Temporary Certificate of Occupancy for the Parking Garage pursuant thereto, and specifically in accordance with the bidding/procurement requirements of Paragraph 1(b) and (c) thereof, Landlord shall deliver possession of the Property to Tenant. Within ten days after Landlord's receipt of a permanent Certificate of Occupancy, Tenant shall execute and deliver to Landlord a letter substantially in the form of Exhibit "D" hereto confirming (i) the Commencement Date and the expiration date of the Term, (ii) that Tenant has accepted the Property, and (iii) the monthly amount of Base Rent, however, the failure of the Parties to execute such letter shall not defer the Commencement Date or otherwise invalidate this Lease. Time is of the essence in Landlord's required delivery of possession to Tenant by the Commencement Date, and weather delays shall not constitute force majeure under this Section 2.04."

"4.01 Base Rent. Commencing on the later of the first day of the next month after i) the Landlord's receipt of a final Certificate of Occupancy, or ii) the Commencement Date, Tenant shall pay to Landlord the Base Rent in monthly installments, in advance, on the first day of each and every month. Simultaneously with Landlord's receipt of the first development permit allowing ground disturbance for the Property, the Tenant shall escrow the sum of Three Million and No/100 Dollars (\$3,000,000.00) (the "Rent Prepayment Escrow") with the title company

named is Section 8.04(b) under the terms of an Escrow Agreement acceptable to Tenant whereby the funds are (i) interest-bearing, (ii) not subject to any Lender, and (iii) released to Landlord according to this Section 4.01, including any interest earned on said Rent Prepayment Escrow, subject to Landlord's satisfaction of the following condition:

Landlord obtains a Temporary Certificate of Occupancy on or before December 31, 2018.

If the foregoing condition is satisfied, Tenant shall pay to Landlord the sum of Two Million and No/100 Dollars (\$2,000,000.00) and upon Landlord's subsequent receipt of a permanent Certificate of Occupancy, Tenant shall pay to Landlord the sum of One Million and No/100 Dollars (\$1,000,000.00), which amounts, in the aggregate, shall constitute an initial prepayment of rent and shall be in addition to the monthly Base Rent obligation described above. Upon receipt of the entirety of the Rent Prepayment Escrow of rent in the aggregate amount of \$3,000,000.00, the prepaid rent shall be deemed fully earned and not refundable to Tenant under any circumstances, subject to Tenant's rights and remedies under Section 9.05 below. If a Temporary Certificate of Occupancy is not received by Landlord by December 31, 2018, no portion of the Rent Prepayment Escrow shall be payable until a permanent Certificate of Occupancy is received by Landlord, and further, Tenant shall receive a reduction of Base Rent in the amount of \$2,000/day beginning January 1, 2019 until a Temporary Certificate of Occupancy is received by Landlord, however, such reduction of Base Rent shall not overlap with any period where Base Rent is reduced under Section 9.05 below. Weather delays shall not constitute force majeure under this Section 4.01."

"4.06 Tenant Improvements, Fee Waivers, and Construction Assistance during Construction. Tenant agrees, at its cost and on or before May 1, 2018, to: (i) remove and relocate Oncor power pole, including wires, transformers, conduits, and boxes from the property; and (ii) relocate the two primary service lines running to 301 and 305 E. Virginia St. according to the Chestnut Commons Parking Garage Exhibit Coserv Conduit plan attached hereto as **Exhibit "G"**. Tenant agrees to provide waivers for any and all City of McKinney fees associated with the parking garage project up to \$40,000.00. Within three (3) business days of receipt of Landlord's written request, Tenant further agrees to provide \$35,000.00, payable jointly to Landlord and its general contractor, for the following components of the construction:

a. utility work described in the Chestnut Commons Parking Garage Utility and Drainage Plan, Sheet C-11 of Sheet C-13, attached hereto as **Exhibit "H"**, including pavement repair associated with the work described in this paragraph (a); and

b. landscaping described in the Chestnut Commons Parking Garage Landscape Plan approved by the City of McKinney, attached hereto as **Exhibit "I "**."

"9.05 Landlord's Default. Landlord shall not be in default hereunder unless Landlord fails to perform the obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are reasonably required for performance, then Landlord shall not be in default if Landlord commences the cure within such thirty (30) day period and thereafter diligently pursues the cure to completion. In the case of a default by Landlord, Tenant's sole remedy shall be to cure the same and seek reimbursement from Landlord (and should Landlord fail to promptly reimburse Tenant, Tenant shall have the right to pursue an action at law against Landlord for monetary damages). Nothing herein contained shall be interpreted to mean that

Tenant is excused from paying Base Rent, Additional Rent and all other monetary obligations due hereunder as a result of any default by Landlord. Notwithstanding the foregoing, Landlord's failure to receive a permanent Certificate of Occupancy by February 1, 2019 shall automatically reduce the Base Rent payable to Landlord by \$2,000.00/day for every day of delay in delivery of the Property to Tenant, except for delays caused by Force Majeure events. However, weather delays shall not constitute force majeure under the previous sentence of this Section 9.05."

2. All sections and subsections not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Parking Garage Lease as of the Effective Date.

LANDLORD:

SP2 301 E VIRGINIA, LLC,
a Texas limited liability company

By: _____
J. Martin Sanchez, Manager

TENANT:

CITY OF MCKINNEY, TEXAS
a Texas municipal corporation

By: _____
Paul G. Grimes, City Manager

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney



18-1009

TITLE: Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Contract for Construction Manager at Risk (CMAR) Services with Pogue Construction Company, LP of McKinney, Texas for a Guaranteed Maximum Price (GMP) Related to the Public Safety Building Retrofit Project Located at 2200 Taylor Burke Drive, McKinney, Texas

COUNCIL GOAL: Safe & Secure Community
(6D: Continually Increase Operational Efficiency in Public Safety Departments)

MEETING DATE: November 19, 2018

DEPARTMENT: McKinney Police Department
McKinney Public Works, Facilities Construction Division

CONTACT: Greg Conley - Police Chief
Patricia L. Jackson, PE - Facilities Construction Manager

RECOMMENDED CITY COUNCIL ACTION:

- Approval of the Resolution.

ITEM SUMMARY:

- This Resolution authorizes the City Manager to execute a contract with Pogue Construction Company, LP for a Guaranteed Maximum Price of \$2,289,348 to provide Construction Manager at Risk services associated with the Public Safety Building Retrofit Project in the existing facility located at 2200 Taylor Burke Drive, McKinney, Texas 75071.

BACKGROUND INFORMATION:

- The construction manager at risk for construction to be done at the Public Safety Facility site was selected through a two-step Request for Qualifications (RFQ) selection process in 2016 with 16-10RFQ where Pogue Construction Company, LP was the selected vendor.
- Pogue Construction Company, LP submitted a proposal to provide construction services related to the Public Safety Building Retrofit Project FC1728 for a not to exceed amount of \$2,289,348.

- Pogue Construction Company, LP has successfully completed multiple City of McKinney projects, including the original Public Safety Building and the recently completed Public Safety Support Building, as well as a variety of civic facility projects for McKinney and other municipalities.

FINANCIAL SUMMARY:

- The Resolution authorizes the City Manager to execute a contract with a guaranteed maximum price for Construction Manager at Risk (CMAR) services with Pogue Construction Company, LP for an amount not to exceed \$2,289,348. This amount includes an owner's contingency of \$100,000 along with the previously agreed upon 4% CMAR fee.
- The Public Safety Building Retrofit is being funded with appropriated savings from FC2229 (Public Safety Support Center) and FC4364 (Police Gun Range).

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Resolution](#)

[Proposal](#)

RESOLUTION NO. 2018-11-____ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH POGUE CONSTRUCTION COMPANY, LP OF MCKINNEY, TEXAS FOR A GUARANTEED MAXIMUM PRICE (GMP) FOR CONSTRUCTION MANAGEMENT SERVICES ASSOCIATED WITH THE MCKINNEY PUBLIC SAFETY BUILDING RETROFIT PROJECT LOCATED AT 2200 TAYLOR-BURKE DRIVE, MCKINNEY, TEXAS

WHEREAS, the City Council of the City of McKinney, Texas, has determined the need for construction management services associated with the McKinney Public Safety Building Retrofit Project located at 2200 Taylor-Burke Drive, McKinney, TX 75071; and,

WHEREAS, Pogue Construction Company, LP, the Construction Manager at Risk, has received and evaluated bids and has submitted a GMP of \$2,289,348 for the construction of this project.

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

Section 1. The City Council hereby authorizes the City Manager to execute a contract for a GMP in the amount of \$2,289,348 and execute necessary change orders with Pogue Construction Company, LP for the construction of the McKinney Public Safety Building Retrofit Project and related improvements, for a total contract amount not to exceed \$2,289,348 which includes an owner's contingency of \$100,000.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 19th DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

McKinney Public Safety Building Retro Fit

City of McKinney

10/17/2018

GUARANTEED MAXIMUM PRICE



	DESCRIPTION	GMP	COST/SF	%	COMMENT
	GENERAL REQUIREMENTS				
01A	GENERAL CONDITIONS	\$257,200	\$0.00	11.23%	
01C	PROJECT REQUIREMENTS	\$47,108	\$0.00	2.06%	
	EXISTING CONDITIONS				
02A	DEMOLITION	\$68,515	\$0.00	2.99%	
	CONCRETE				
03A	CONCRETE	\$61,700	\$0.00	2.70%	
	MASONRY				
04A	MASONRY	\$25,000	\$0.00	1.09%	
	METALS				
05A	METALS	\$46,373	\$0.00	2.03%	
	WOOD & PLASTICS				
06D	FINISH CARPENTRY	\$20,000	\$0.00	0.87%	
	THERMAL/MOISTURE PROTECTION				
07C	ROOFING & SHEET METAL	\$18,500	\$0.00	0.81%	
	OPENINGS				
08A	DOORS, FRAMES & HARDWARE	\$46,083	\$0.00	2.01%	
08E	GLASS & GLAZING	\$42,000	\$0.00	1.83%	
	FINISHES				
09B	DRYWALL/ACOUSTICAL	\$140,000	\$0.00	6.12%	
09D	CARPET/VCT/ BASE	\$17,186	\$0.00	0.75%	
09K	PAINTING & WALL COVERINGS	\$82,200	\$0.00	3.59%	
	SPECIALTIES				
10B	VISUAL DISPLAY UNITS	\$5,090	\$0.00	0.22%	
10C	SIGNAGE	\$7,342	\$0.00	0.32%	
10F	FIRE PROTECTION SPECIALTIES	\$1,424	\$0.00	0.06%	
10I	OPERABLE PARTITIONS	\$21,545	\$0.00	0.94%	
	FIRE SUPPRESSION				
21A	FIRE SUPPRESSION	\$16,500	\$0.00	0.72%	
	PLUMBING				
22A	PLUMBING	\$43,000	\$0.00	1.88%	
	HVAC				
23A	HVAC	\$209,000	\$0.00	9.13%	
	ELECTRICAL				
26A	ELECTRICAL	\$320,094	\$0.00	13.98%	
	COMMUNICATIONS				
27A	VOICE & DATA	\$22,788	\$0.00	1.00%	
27B	AUDIO VIDEO	\$308,238	\$0.00	13.46%	

McKinney Public Safety Building Retro Fit

City of McKinney

10/17/2018

GUARANTEED MAXIMUM PRICE



DESCRIPTION		GMP	COST/SF	%	COMMENT
ELECTRONIC SAFETY & SECURITY					
28B	SECURITY SYSTEM	\$15,750	\$0.00	0.69%	
28C	ACCESS CONTROL	\$20,550	\$0.00	0.90%	
ALLOWANCES					
34A	LANDSCAPE ALLOWANCE	\$20,000	\$0.00	0.87%	
34B	WALL PAPER ALLOWANCE	\$15,000	\$0.00	0.66%	
34C	CRASH RAIL ALLOWANCE	\$10,000	\$0.00	0.44%	
34D	CONCRETE PAVEMENT REPAIR ALLOWANCE	\$20,000	\$0.00	0.87%	
COST OF WORK SUBTOTAL		\$1,928,186		84.22%	
CONTINGENCIES					
35A	OWNER CONTINGENCY	\$100,000	\$0.00	4.37%	
35B	C/M CONTINGENCY	\$100,000	\$0.00	4.37%	
SUBTOTAL		\$2,128,186		92.96%	
FINANCIALS					
	BUILDING PERMIT	\$0	\$0.00	0.00%	
	PRECONSTRUCTION FEES	\$0	\$0.00	0.00%	
	SUB DEFAULT INS	\$37,243	\$0.00	1.63%	
	POGUE P&P BOND	\$30,334	\$0.00	1.33%	
	POGUE INSURANCES	\$5,533	\$0.00	0.24%	
FINANCIALS SUBTOTAL		\$73,111		3.19%	
SUBTOTAL		\$2,201,297	\$0	96.15%	
CONST MGR FEE @ 4%		\$88,052	\$0.00	3.85%	
TOTAL		\$2,289,348	\$0	100.00%	



18-1010

TITLE: Consider/Discuss/Act on a Resolution Authorizing the City Manager to Enter into an Interlocal Agreement with McKinney Municipal Utility District No. 1 of Collin County for Funding the Construction of Trinity Falls Parkway from Laud Howell Parkway to FM 543

COUNCIL GOAL: Direction for Strategic & Economic Growth
(1A: Establish regional and infrastructure incentives to increase economic growth)

MEETING DATE: November 19, 2018

DEPARTMENT: Development Services / Engineering

CONTACT: Nick Ataie, P.E., Engineering CIP Manager
Gary Graham, P.E., Director of Engineering

RECOMMENDED CITY COUNCIL ACTION:

- Approval of the Resolution.

ITEM SUMMARY:

- This Resolution authorizes the City Manager to enter into an Interlocal Agreement with McKinney Municipal Utility District No. 1 of Collin County to provide funding for the construction of Trinity Falls Parkway as a 4-lane divided roadway from Laud Howell Parkway to FM 543.

BACKGROUND INFORMATION:

- Trinity Falls Holdings LP ("Trinity Falls"), an entity controlled by The Johnson Development Corp., is the assignee and successor-in-interest to CH-B Trinity Falls, LP, and is developing property pursuant to the 2012 Development Agreement, as currently amended, between CH-B Trinity Falls, LP and the City with the original effective date of December 4, 2012 ("Development Agreement").
- Per the development agreement, Trinity Falls is required to construct two lanes of the north-south segment of FM 543 (a designated 6-lane arterial), which roadway segment is now named Trinity Falls Parkway a distance of approximately 5,600 linear feet as provided in "Exhibit A" of the partially

executed interlocal agreement (ILA).

- The City has exercised its right per the development agreement to increase this 5,600 linear foot section of Trinity Falls from a two-lane roadway to a four-lane divided roadway by participating in the costs thereof in the amount of \$3,600,000 and will be paid in accordance with Section 6.a. ("McKinney's Base Bid Share") of the partially executed ILA.
- Trinity Falls has assigned its obligation to construct the Trinity Falls Parkway section to the McKinney Municipal Utility District No. 1 of Collin County ("District"), and the District has accepted and assumed the obligation to bid and construct the section of Trinity Falls Parkway as provided in "Exhibit B" of the partially executed ILA as designed by Kimley-Horn Associates.
- The District has also assumed the obligation from the City to bid and construct an additional approximately 1,476 linear feet of Trinity Falls Parkway Lanes 3 & 4 (referred to as the "Trinity Falls Parkway Link") between the southern terminus of the Trinity Falls Parkway segment as provided in "Exhibit A" of the partially executed ILA to the intersection of Laud Howell Parkway.
- The construction cost associated with the Trinity Falls Parkway Link (\$1,297,983.00 plus and/or minus any additive and/or deductive change orders approved and executed by the City) is not included as part of the \$3,600,000 City participation and will be paid in accordance with Section 6.b. ("McKinney's Bid Alternate Share") of the partially executed ILA.
- Under the terms of this ILA, Trinity Falls Parkway will be constructed by the District as a 4-lane divided roadway between Laud Howell Parkway and FM 543 with the ability for future expansion to a 6-lane divided roadway per the Master Thoroughfare Plan.
- The District has received bids for both the 5,600 linear foot segment of Trinity Falls and the Trinity Falls Parkway Link with Mario Sinacola & Sons Excavating, Inc. as the lowest qualified bidder.
- Per the terms of the ILA, the District must commence construction of the improvements within 45 days of the effective date of the agreement and complete construction within 420 calendar days.

FINANCIAL SUMMARY:

- The City participation amount of \$3,600,000 is available in Capital Improvements Project FA4320, Trinity Falls Parkway (FM 543).
- The City participation amount for the Trinity Falls Parkway Link construction cost is available in Capital Improvements Project ST4422, Trinity Falls Parkway Lanes 3 & 4.

BOARD OR COMMISSION RECOMMENDATION:

- N/A

SUPPORTING MATERIALS:

[Interlocal Agreement
Resolution](#)

**Interlocal Participation Agreement for the Construction of
Trinity Falls Parkway from Laud Howell Parkway to FM 543**

This Interlocal Participation Agreement for the Construction of Trinity Falls Parkway from Laud Howell Parkway to FM 543 (the "Agreement") is made and entered into as of this ____ day of _____, 2018 (the "Effective Date"), by and between **McKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY**, a municipal utility district created pursuant to Article XVI, Section 59 of the Texas Constitution, Chapters 49 and 54 of the Texas Water Code, and the applicable Special District Local Law whose address is c/o Sanford Kuhl Hagan Kugle Parker Kahn LLP, 1980 Post Oak Boulevard, Suite 1380, Houston, Texas 77056 ("District") and the **CITY OF McKINNEY, TEXAS** ("McKinney" or the "City") on the terms and conditions hereinafter set forth.

WHEREAS, Trinity Falls Holdings LP ("Trinity Falls") is the assignee and successor-in-interest to CH-B Trinity Falls, LP, and is developing property pursuant to the 2012 Development Agreement, as amended, between CH-B Trinity Falls, LP and the City with the original effective date of December 4, 2012 (together, with all amendments, the "Development Agreement") lying within the extraterritorial jurisdiction of the City of McKinney, Texas; and

WHEREAS, Trinity Falls is required to construct two lanes of the north-south segment of FM 543 (a designated six lane thoroughfare), which roadway segment is now named and hereinafter referred to as "Trinity Falls Parkway," a distance of approximately 5,600 linear feet located as generally depicted and highlighted in gray on Exhibit A attached hereto, together with all appurtenances thereto pursuant to the Development Agreement and in accordance with the regulations of City; and

WHEREAS, City has exercised its right, pursuant to Sections 5.1.3.2 and 5.1.3.4 of the Development Agreement, to increase this 5,600 linear foot section of Trinity Falls Parkway from a two-lane roadway to a four-lane divided thoroughfare (all four lanes hereafter being referred to as the "Trinity Falls Parkway Section") by participating in the cost thereof in the amount of \$3,600,000; and

WHEREAS, Trinity Falls has assigned its obligation to construct the Trinity Falls Parkway Section to the District, and the District has accepted and assumed the obligation to construct the Trinity Falls Parkway Section in the location more particularly depicted in a portion of the civil drawings thereof attached hereto as Exhibit B and incorporated herein by reference for all purposes allowed by law, together with all appurtenances thereto pursuant to the Development Agreement and in accordance with the regulations of City; and

WHEREAS, District has also assumed the obligation from the City to construct an additional approximately 1,476 linear feet of the two western lanes of Trinity Falls Parkway with transitions from two lanes to four lanes and median openings from and between the southern terminus of the Trinity Falls Parkway Section and the intersection of Trinity Falls Parkway with Laud Howell Parkway, located as more particularly depicted in a portion of the civil drawings thereof attached hereto as Exhibit C and incorporated herein by reference for all purposes allowed by law, together with all appurtenances thereto in accordance with the regulations of City (the "Trinity Falls Parkway Link"); and

WHEREAS, the Interlocal Cooperation Act ("Act"), codified at Chapter 791 of the Texas Government Code, authorizes units of local government to contract with one or more units of local government and agencies of the state to perform governmental functions and services; and

WHEREAS, District and McKinney are political subdivisions of the State of Texas and are engaged in the provision of governmental services for the benefit of their citizens and users; and

WHEREAS, this Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, the Act for the performance of governmental functions and services; specifically, the construction of the full four lanes of the Trinity Falls Parkway Section extending in a southerly direction from FM 543 as a four-lane divided roadway together with the construction of two additional lanes along the Trinity Falls Parkway Link from the southern terminus of the Trinity Falls Parkway Section to the intersection of Trinity Falls Parkway and Laud Howell Parkway including median openings together with all appurtenances to both portions thereof (collectively the "Project"); and

WHEREAS, District and McKinney have determined that the Project may be completed and maintained most economically by implementing this Agreement; and

WHEREAS, District and McKinney each has current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, McKinney and District agree as follows:

1. Recitals Incorporated.

All of the foregoing recitals are hereby found to be true and correct and they are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

2. Approved Plans and Specifications.

City has received and approved the plans and specifications for the construction of Trinity Falls Parkway by District as a four-lane divided thoroughfare extending in a southerly direction from FM 543 a distance of approximately 5,600 linear feet and then transitioning from four lanes to the two western lanes of Trinity Falls Parkway an additional distance of approximately 1,476 linear feet to its intersection with Laud Howell Parkway plus median openings and all other appurtenances, which plans and specifications conform to all ordinances and regulations of City and are on file in the office of the City Engineer (the "Plans").

3. Competitive Bidding of Project.

District agrees that it will, or has, competitively bid the Project in accordance with the competitive bid statutes of the State of Texas.

4. Construction by District.

Within forty-five (45) days from the Effective Date of this Agreement, District shall direct its general contractor to commence construction of the Project. All construction shall be in strict accordance with the Plans. The Project shall be completed and finally accepted by the City within four hundred twenty (420) days of beginning, subject to force majeure delays. During the construction process, District shall require its general contractor to comply with all ordinances and regulations governing the construction and installation of the Project. This Agreement shall in no manner be construed as an exemption or waiver by McKinney in favor of District, or its contractors, subcontractors, and/or suppliers, of any of the ordinances or regulations relating to the design, construction or warranty of any of the Project.

5. Participation by McKinney in Cost.

District has entered into a contract for the construction of the Project, in two components, with Mario Sinacola & Sons (the "Contractor"). As suggested above, one component of the Project includes the cost for constructing the Trinity Falls Parkway Section in a southerly direction from FM 543 a distance of approximately 5,600 linear feet, but excluding design, engineering, testing and surveying costs (the "Trinity Falls Parkway Base Bid Component" or "Base Bid Component"). The other component of the Project includes the cost for constructing the Trinity Falls Parkway Link from the southern terminus of the Trinity Falls Parkway Segment to its intersection with Laud Howell Parkway, but excluding design, engineering, testing and surveying costs (the "Trinity Falls Parkway Link Bid Alternate Component" or "Bid Alternate Component").

(a) Trinity Falls Parkway Base Bid Component.

The Contractor has agreed to construct the Base Bid Component of the Project for a contract price of Seven Million Six Hundred Fifty Thousand Four Hundred Thirty-

One Dollars and Sixty-Five Cents (\$7,650,431.65) (the "Base Bid Price"). A copy of the Construction Contract between the District and the Contractor is on file in the office of the City Engineer. McKinney has previously agreed to participate in the cost of constructing the Base Bid Component in the amount of \$3,600,000 (the "Maximum McKinney Base Bid Payment"). District and McKinney specifically agree that the Maximum McKinney Base Bid Payment fairly compensates the District for the services or functions performed under this Agreement regarding the Trinity Falls Parkway Base Bid Component.

(b) Trinity Falls Parkway Link Bid Alternate Component.

The Contractor has also agreed to construct the Bid Alternate Component of the Project for a contract price of One Million Two Hundred Ninety-Seven Thousand Nine Hundred Eighty-Three Dollars (\$1,297,983.00) (the "Bid Alternate Price"). Again, a copy of the Construction Contract between the District and the Contractor is on file in the office of the City Engineer. McKinney has previously agreed to participate in the full amount of the cost of constructing the Bid Alternate Component which cost is an amount not to exceed \$1,297,983, plus and/or minus any additive and/or deductive change orders that are approved in advance and executed by the City for the Bid Alternate Component (the "Maximum McKinney Bid Alternate Payment"). District and McKinney specifically agree that the Maximum McKinney Bid Alternate Payment fairly compensates the District for the services or functions performed under this Agreement and any change orders thereto regarding the Trinity Falls Parkway Bid Alternate Component.

6. Payments by McKinney.

(a) McKinney's Base Bid Share.

McKinney shall pay a proportionate share of each "Base Bid Draw Request" (defined below) submitted by the Contractor up to a total cumulative amount equal to the Maximum McKinney Base Bid Payment. McKinney's proportionate share of a Base Bid Draw Request shall be a percentage, computed by dividing the Maximum McKinney Base Bid Payment by the Contract Price ($\$3,600,000 \div \$7,650,431.65 = 47.056\%$), multiplied by the amount of the Draw Request ("McKinney's Base Bid Share").

District shall submit to McKinney each draw request relating to the Base Bid Component of the Construction Contract submitted by the Contractor (each, a "Base Bid Draw Request") within ten (10) days of receipt of same, together with an invoice (the "Invoice") for an amount equal to McKinney's Share of such Base Bid Draw Request. McKinney agrees to pay each Invoice promptly, but in any case, no later than twenty (20) calendar days following the receipt of such Base Bid Draw Request and Invoice.

(b) McKinney's Bid Alternate Share.

McKinney shall pay the full amount of each "Bid Alternate Draw Request" (defined below) submitted by the Contractor up to a total cumulative amount equal to the Maximum McKinney Bid Alternate Payment.

District shall submit to McKinney each draw request relating to the Bid Alternate Component of the Construction Contract submitted by the Contractor (each, a "Bid Alternate Draw Request") within ten (10) days of receipt of same, together with an invoice (the "Invoice") for an amount equal to McKinney's Share of such Bid Alternate Draw Request. McKinney agrees to process and pay each Invoice promptly, but in any case, pay all undisputed amounts of any invoice no later than twenty (20) calendar days following the receipt of such Bid Alternate Draw Request and Invoice. During said twenty (20) calendar day period, McKinney shall have the right to verify that the Bid Alternate Draw Request and Invoice submitted to the City for payment relate to the scope of work covered by the Bid Alternate Component of the Contract and otherwise conform to the conditions set forth in this Agreement. McKinney agrees to give written itemized notice of any objections thereto to District within ten (10) days of receipt of such Bid Alternate Draw Request and Invoice.

(c) Submission of Payment Applications

All payment applications for the City's review, approval and payment shall be submitted directly to the City's Director of Engineering or his designee as follows:

Gary Graham, P.E.
Director of Engineering
Attn: Trinity Falls Parkway Construction
Development Services Building
221 North Tennessee Street
McKinney, Texas 75069.

7. Default.

In the event any party fails to comply with the terms of this Agreement, the other party has the right to enforce the terms of this Agreement by specific performance or by any other remedy available to it at law or in equity; provided, however, in no event shall any party be liable for speculative, consequential or punitive damages.

8. Notice.

Any notice to be given or to be served upon a party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail, recognized overnight carrier, such as Federal Express, hand delivered with a signed receipt reflecting such hand delivery, or by facsimile transmission ("Fax")

and shall be deemed to have been given and received when a certified or registered letter containing such notice, properly addressed with postage prepaid, is deposited in the United States mail, and if given otherwise than by certified or registered mail, it shall be deemed to have been given and delivered to and received by the party (or such party's agent or representative) to whom it is addressed, upon delivery to the address specified below. All notices shall be given to the parties hereto at the address set forth below. Any party hereto may, at any time by giving two (2) days written notice to the other parties, designate any other address in substitution of the foregoing address to which such notice shall be given.

If Notice to District:

McKinney Municipal Utility District No. 1 of Collin County
c/o Sanford Kuhl Hagan Kugle Parker Kahn, LLP 1980 Post Oak
Boulevard, Suite 1380
Houston, Texas 77056
Attn: Mark McKinney, President
Board of Directors

With copies to:

Abernathy, Roeder, Boyd & Hullett, P.C.
1700 N. Redbud Blvd., Suite 300
McKinney, Texas 75069
Attn: Bob Roeder
E-Mail: rroeder@abernathy-law.com

Trinity Falls Holdings, LP
5005 Riverway Dr., Suite 500
Houston, TX 77056
Attn: Elizabeth York
Email: elizabeth@johnsondev.com

If Notice to McKinney:

City of McKinney
222 N. Tennessee St.
McKinney, Texas 75069
Attn: Paul Grimes
Phone: 972-547-7510 Fax: 972-547-7500

9. Venue.

This Agreement shall be construed under and in accordance with the laws of the State of Texas and is specifically performable in Collin County, Texas. Exclusive venue shall be in state district court in Collin County, Texas.

10. Severability.

In case any one or more provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not effect any other provision hereof, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

11. No Waiver of Governmental Immunity.

Nothing contained in this Agreement shall be construed as a waiver by McKinney of its governmental immunity with regard to any matter other than City's obligations to District that are specifically enumerated in this Agreement.

12. Indemnity.

DISTRICT, TO THE EXTENT PERMITTED BY LAW, SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS THAT SPECIFICALLY RELATE TO OR ARISE OUT OF THIS AGREEMENT AND/OR THE CONSTRUCTION CONTRACT.

TO THE EXTENT PERMITTED BY LAW, THE INDEMNITY PROVIDED HEREIN SHALL ALSO INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS AS WELL AS ANY REASONABLE EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

District shall have the right to select counsel subject to the City's consent, which consent will not be unreasonably withheld, to be retained in fulfilling the obligation to defend and indemnify the City. Approved counsel shall be retained for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Agreement. If such counsel is not timely retained for the City, then the City shall have the right to retain counsel and be reimbursed for all its attorneys' fees and expenses by the party whose acts and/or omissions gave rise to said claim. The City retains the right to provide and

pay for any or all costs of defending indemnified items, but it shall not be required to do so.

13. Authority.

Each of the parties represents and warrants to the other that they have the full power and authority to enter into and fulfill the obligations of this Agreement.

14. Performance and Payment Bonds.

District shall require the Contractor to execute a performance bond in the amount of one hundred percent (100%) of the aggregate amount of all "public work contracts," as that phrase is defined (in the singular) and used in Chapter 2253 of the Texas Government Code, for the construction of the Project (the "Construction Contract Price") for the benefit of District and City to ensure the completion of the Project. District shall also require the Contractor to execute a payment bond in the amount of one hundred percent (100%) of the Construction Contract Price for the benefit of payment bond beneficiaries who have a direct contractual relationship with the Contractor and/or the Contractor's contractors and subcontractors to provide labor or material for the construction of the scope of work under the Construction Contract. The bond must be executed by a corporate surety in accordance with Chapter 2253, Texas Government Code. Said bonds shall be in a form acceptable to the City Attorney.

15. Maintenance Bond.

District shall require the Contractor to furnish McKinney a good and sufficient maintenance bond in the amount of fifteen percent (15%) of the Construction Contract Price, or in such lesser amount as approved by the City Engineer, with a reputable and solvent corporate surety, in favor of McKinney, to indemnify McKinney against any repairs arising from defective workmanship or materials used in any part of the construction of the scope of work under the Construction Contract, for a period of two (2) years from the date of final acceptance of such improvements.

16. Miscellaneous.

- (a) This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties to this Agreement.
- (b) This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
- (c) Time is of the essence in this Agreement.

EXECUTED as of the date first above written.

CITY OF MCKINNEY, TEXAS

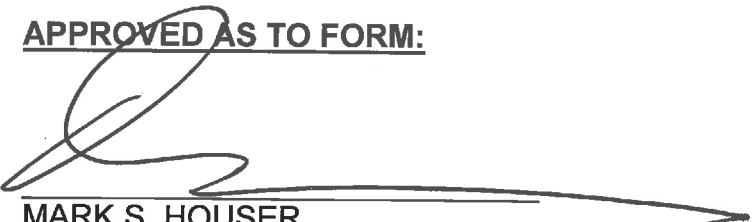
By: _____
Paul G. Grimes
City Manager

Date Signed: _____

ATTEST:

Empress Drane
City Secretary
Melissa Lee
Deputy City Secretary

APPROVED AS TO FORM:



MARK S. HOUSER
City Attorney

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

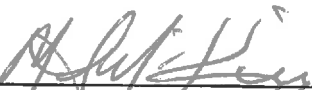
BEFORE ME, the undersigned authority, on this day personally appeared Paul G. Grimes, known to me to be one of the persons whose name is subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the CITY OF MCKINNEY and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2018.

Notary Public in and for the State of Texas

DISTRICT:

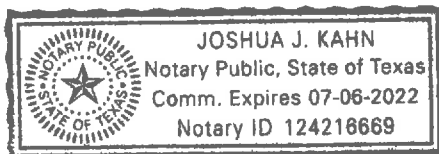
**McKINNEY MUNICIPAL UTILITY
DISTRICT NO. 1 OF COLLIN COUNTY,
A Municipal Utility District**

By: 
Name: Mark McKinney
Title: President, Board of Directors
Date Signed: 11/7/18

STATE OF TEXAS §
 §
COUNTY OF Collin §

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared Mark McKinney, President of the Board of Directors of McKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY, a Municipal Utility District, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the President of the Board of Directors of McKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY, a Municipal Utility District, and that he executed the same on behalf of and as the act of the McKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 7th day of November, 2018.




Notary Public in and for the State of Texas

EXHIBIT A
DEPICTION OF TRINITY FALLS PARKWAY

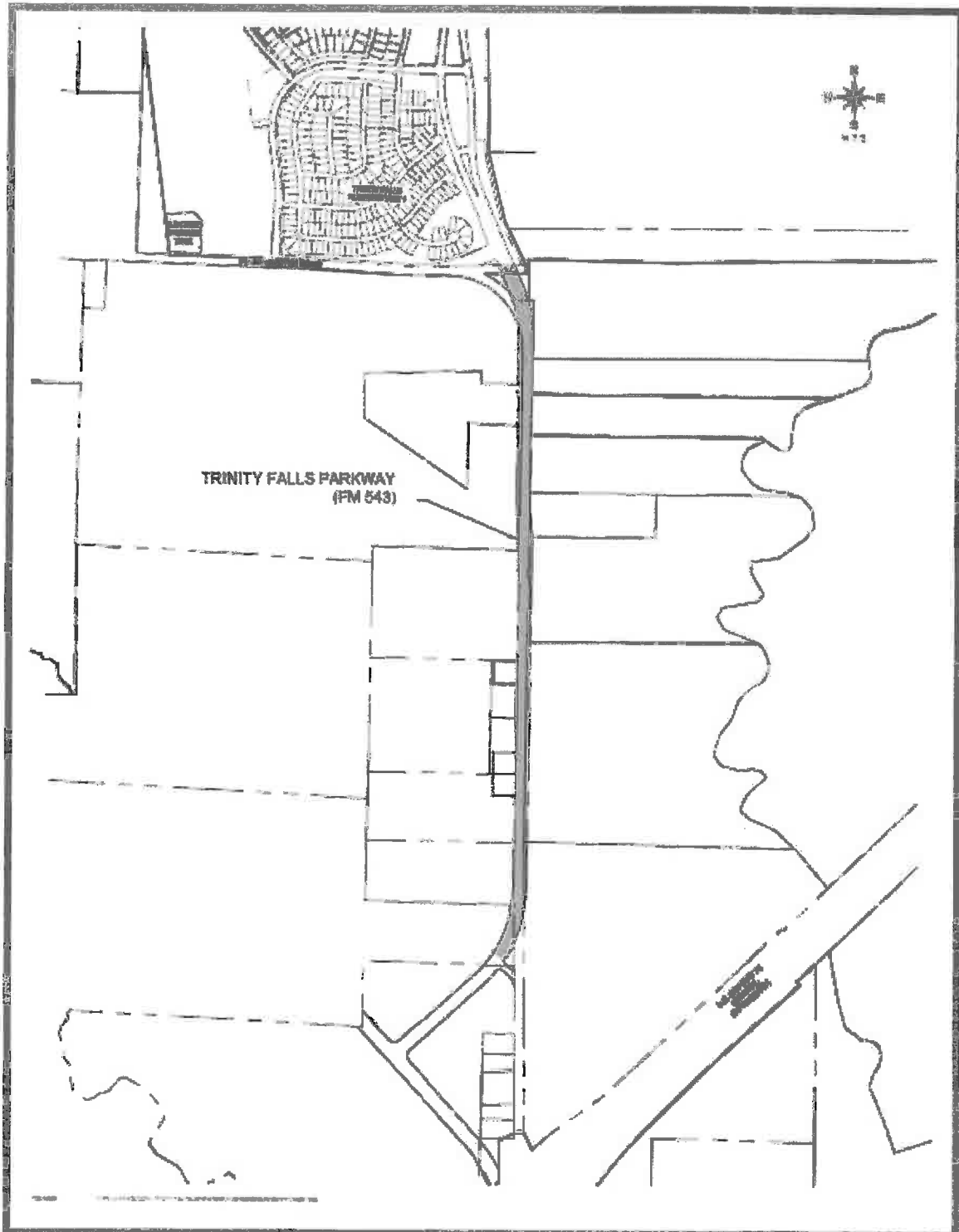
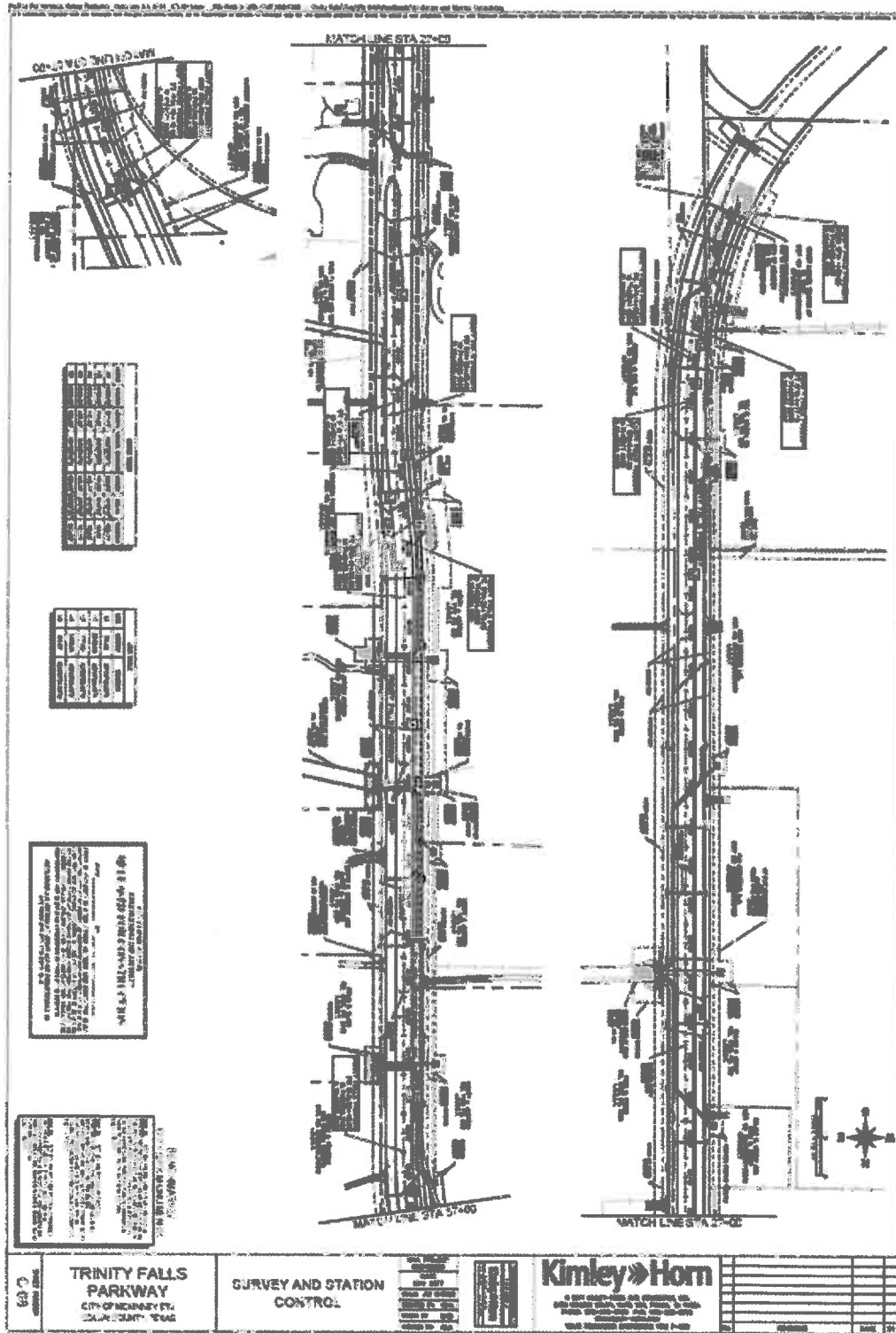


EXHIBIT B TRINITY FALLS PARKWAY SECTION



TRINITY FALLS PARKWAY LINK

SURVEY AND STATION CONTROL

Kimley-Horn

DATE: JULY 2011

PROJECT: TRINITY FALLS PARKWAY LINK

DRAWING: SURVEY AND STATION CONTROL

SCALE: 1" = 40'

PROJECT LOCATION: TRINITY FALLS, TEXAS

PROJECT NUMBER: 11-001

PROJECT DESCRIPTION: TRINITY FALLS PARKWAY LINK

PROJECT OWNER: CITY OF TRINITY FALLS

PROJECT ENGINEER: KIMLEY-HORN

PROJECT SURVEYOR: KIMLEY-HORN

PROJECT DRAFTER: KIMLEY-HORN

PROJECT CHECKER: KIMLEY-HORN

PROJECT APPROVER: KIMLEY-HORN

PROJECT REVIEWER: KIMLEY-HORN

PROJECT DATE: JULY 2011

PROJECT STATUS: IN PROGRESS

PROJECT LOCATION: TRINITY FALLS, TEXAS

PROJECT NUMBER: 11-001

PROJECT DESCRIPTION: TRINITY FALLS PARKWAY LINK

PROJECT OWNER: CITY OF TRINITY FALLS

PROJECT ENGINEER: KIMLEY-HORN

PROJECT SURVEYOR: KIMLEY-HORN

PROJECT DRAFTER: KIMLEY-HORN

PROJECT CHECKER: KIMLEY-HORN

PROJECT APPROVER: KIMLEY-HORN

PROJECT REVIEWER: KIMLEY-HORN

PROJECT DATE: JULY 2011

PROJECT STATUS: IN PROGRESS

RESOLUTION NO. 2018-11-___ (R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MCKINNEY MUNICIPAL UTILITY DISTRICT NO. 1 OF COLLIN COUNTY FOR FUNDING THE CONSTRUCTION OF TRINITY FALLS PARKWAY FROM LAUD HOWELL PARKWAY TO FM 543; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of McKinney, Texas, recognizes the need for the construction of Trinity Falls Parkway from Laud Howell Parkway to FM 543; and

WHEREAS, the City Council of the City of McKinney, Texas, has reviewed an Interlocal Agreement between McKinney Municipal Utility District No. 1 of Collin County, Texas and the City of McKinney concerning funding for the Improvements on Trinity Falls Parkway; and

WHEREAS, the City Council has determined it to be in the best interests of the citizens to enter into an interlocal agreement with McKinney Municipal Utility District No. 1.

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

SECTION 1. The City Council of the City of McKinney, Texas, hereby authorizes the City Manager to execute an Interlocal Agreement with McKinney Municipal Utility District No. 1 of Collin County for funding the construction of Trinity Falls Parkway from Laud Howell Parkway to FM 543.

SECTION 2. This Resolution shall become effective immediately upon passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 19th DAY OF NOVEMBER, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

ATTEST:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney



18-1011

TITLE: Consider/Discuss/Act on Appointing Members to the Census 2020 Complete Count Committee

COUNCIL GOAL: Enhance the Quality of Life in McKinney

MEETING DATE: November 19, 2018

DEPARTMENT: City Secretary

CONTACT: Empress Drane, City Secretary
Shirletta Best, Community Services Administrator

RECOMMENDED CITY COUNCIL ACTION:

- Appointment of members to McKinney's Census 2020 Complete Count Committee

ITEM SUMMARY:

- The Census 2020 Complete Count Committee is a partnership with the U.S. Census Bureau, the City of McKinney and its community leaders (community-based and faith-based organizations, schools, the media and others) for the purpose of improving awareness, outreach, and participation in the 2020 Decennial Census, through a locally developed and implemented grass-roots campaign.
- Staff requests 1-2 recommendations per category to appoint members to the committee. Structure areas include: Education; Community and Faith-Based Organizations; Businesses; Neighborhoods and Awareness; Outreach and Data Facilities, and Public Relations/Marketing. The citywide effort will include sub-committees to ensure grass-roots impact toward full participation and a census team comprised of city staff liaisons.
- The goal is to ensure every McKinney resident is counted in our community, and that information collected for all residents is confidential, regardless of status. The 18-month outreach effort leads to participation on Census Day, April 1, 2020.

BACKGROUND INFORMATION:

- The Census is a head count of all persons who reside in the United States. Mandated by the U.S. Constitution since 1790, it occurs every 10 years.
- The Census is important and data is used by citizens daily. Census data is used to determine how a community is changing and its needs. Based on data, federal funds are distributed to communities each year to be used locally for hospitals; transportation; Title 1 grants to educational institutions; emergency food and shelter and infrastructure, including roads and bridges. Other uses for census data includes the analysis of local labor supply trends, health services planning and facilities for persons with disabilities, and determines how many representatives each state receives in Congress.
- New technology will be introduced to make it easier to respond. Residents will be able to respond online, by phone, or by mail. The City is already working with the Census Bureau in this process.
- *The Census also provides job creation.* Census 2020 will also need local residents to support the local Area Census Office with part-time and full-time employment in preparation of and the closeout for census operations.

FINANCIAL SUMMARY:

- There is no impact to City Council to determine suggestions of those who will participate.

SUPPORTING MATERIALS:

[Census 2010 Data](#)
[Committee presentation](#)

City of McKinney 2010 Census Information



Population 1990 - 2010

	2010	Percentage	2000	Percentage	1990	Percentage
Total Population:	131,117	100.00%	54,369	100.00%	21,283	100.00%
Population 18 years and over	89,211	68%	37,542	69.0%	15,302	71.9%

2010 Housing Occupancy

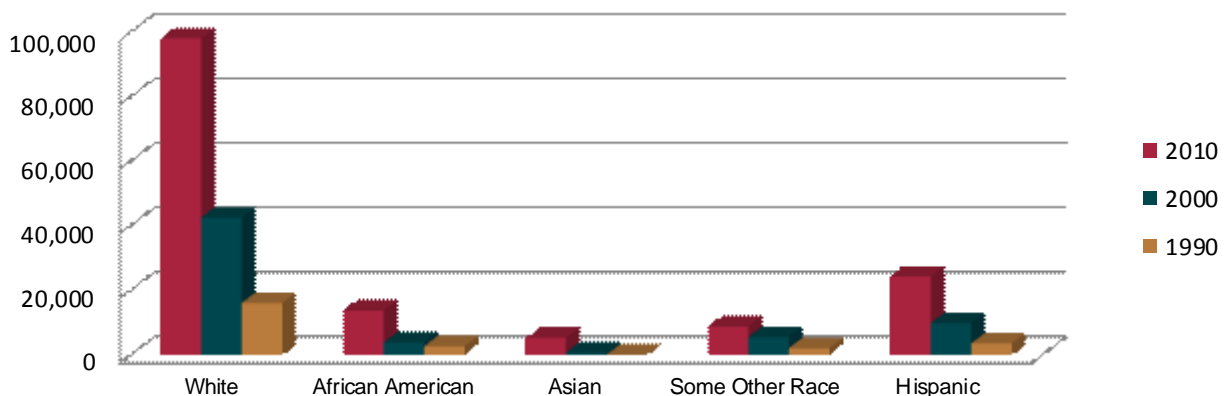
	2010	Percentage	2000	Percentage	1990	Percentage
Total # of Housing Units:	47,915	100%	19,462	100%	8,539	100%
Occupied	44,353	92.6%	18,186	93.4%	7,596	89.0%
Vacant	3,562	7.4%	1,275	6.6%	943	11.0%

Racial and Ethnic Distribution 1990 - 2010

	2010	Percentage	2000	Percentage	1990	Percentage
Population of one race only:	127,042	-	53,242	-	21,172	-
White alone	98,090	77.21%	42,628	80.06	16,152	75.89%
Black or African American alone	13,751	10.82%	3,913	7.35%	2,742	12.88%
Asian alone	5,325	4.19%	811	1.52%	111	0.52%
Some Other Race alone*	9,876	7.77%	5,562	10.45%	2,167	10.18%
Hispanic or Latino (ethnic group)**	24,406	18.61%	9,876	18.16%	3,598	16.91%

*Includes American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander, and some other race alone.

** Hispanic or Latino is listed separately as an ethnic group category



Census 2020

McKinney Complete Count Committee

November 19, 2018

City of McKinney City Council Special Meeting

Empress Drane, City Secretary

Shirletta Best, Community Services Administrator

Housing & Community Development





BACKGROUND

- The Decennial Census is a head count of all persons who reside in the United States. Mandated by the U.S. Constitution since 1790, it occurs every 10 years. Data is used to determine how a community is changing and its needs.
- Availability of federal and state funds distributed to meet local needs. Residents, businesses, educators, nonprofits, and emergency planners use census data. Census data also determines the number of representatives each state receives in Congress.
- Census 2020 Goal: Ensure a Complete and Accurate Count of McKinney residents.



"Count Everyone Once, Only Once, and in the Right Place."

MCKINNEY BENEFIT

- Census data confirmed McKinney recognition as one of the fastest growing communities in the U.S.
- Supported being named one of the best places to live in the U.S.
- Census 2020 will provide part-time and full-time job creation under the local Census office in Collin County (**estimated start: 2019**)
- Supports local planning, service improvements, and growth.
- Every resident can participate.



McKinney 2020

Complete Count Committee

City Council confirmed committee formation on October 16, 2018 under Resolution 2018-10-124 (R). The committee will meet as needed, developing an local outreach awareness campaign to support a complete, accurate count in the following ways:

- Seek sub-committee volunteers to also participate in outreach planning. City staff, community leaders, and residents working together.
- Ensure citywide and diverse census participation to increase the response rate.
- Engage partnerships with community, education, and business groups.



"Count Everyone Once, Only Once, and in the Right Place."

CITY COUNCIL: INPUT REQUESTED

- Staff requests City Council identify and appoint additional members to the Committee. Per Council member, *appointment of 1-2 persons, with a background in any category:*
 - Education
 - Community and Faith-Based Organizations
 - Neighborhoods/Awareness
 - Businesses
 - Outreach and Data Facilities
 - Public Relations/Marketing

Discussion/Questions?

Census Day
April 1, 2020

“Count Everyone Once, Only Once, and in the Right Place.”



18-1012

TITLE: Discuss Third Party Special Events Held Across the City of McKinney

COUNCIL GOAL: Enhance the Quality of Life in McKinney

MEETING DATE: November 19, 2018

DEPARTMENT: MPAC / Main Street & Community Events

CONTACT: Amy Rosenthal, Director
McKinney Main Street and McKinney Performing Arts Center

RECOMMENDED CITY COUNCIL ACTION:

- No action required - discussion only

ITEM SUMMARY:

- The City of McKinney hosts over 60+ special events annually. These events are comprised of City-produced events, events organized in support of non-profit organizations and events that are produced by commercial ventures.
- The Special Event Committee offers recommendations to consider designated routes, partial cost recovery options and restricted use streets.

BACKGROUND INFORMATION:

- Special Event Applications are evaluated on a monthly basis by a Special Events Committee comprised of representatives from different departments impacted by activities, including - McKinney Police, McKinney Fire, McKinney Fire Marshal, Public Works, Engineering and Code. This is a follow-up to the presentation from March 5, 2018.

FINANCIAL SUMMARY:

- Currently, policies require special event applicant to reimburse for McKinney Police and McKinney Fire/EMS services. Committee recommendations include partial cost recovery options for Public Works services, Parks and Recreation Trail fees, and increase of Special Event Permit Fee.

SUPPORTING MATERIALS:

[Presentation](#)

[Citizen Comments](#)



Special Event Permit Update

Amy Rosenthal
Director, MPAC & McKinney Main Street

Background:

- March 4, 2018 – recover costs, fixed routes, don't differentiate, set limits
- September 17, 2018 – proposal to increase application fee, implement trail fee, restricted use streets, designated routes

September 2018 Recommendations - Council Support for:

- Permit application fee increase from \$50 to \$100
- 'Restricted Use' Streets



‘Restricted Use’ Streets

(Due to traffic volumes and speed)

US 380 (University)
US 75 / US 75 Frontage Roads
FM 2478 (Custer)
SH 5 (McDonald)
Airport Dr
Industrial Blvd
FM 546 (Harry McKillop)
SH 121 / SH 121 Frontage Roads
Spur 399 / Spur 399 Frontage Roads
Eldorado Pkwy between Medical Center Dr & Hardin Blvd



Proposed Trail Fees:

- \$500 site restoration fee for 5k
- \$1,000 site restoration fee for 10k
- \$1,500 site restoration fee for half marathon

Trail Fees Considerations:

- Help manage requests – all trail requests file Special Event Permit application
- Assist with scheduling
- Revenues applied to trail maintenance & clean-up
- Flat fee as opposed to per participant
- Received feedback (attached) to proposed trail fees
- Must coordinate with MISD parking

- **Move forward with proposed Trail Fees?**
- **Modify proposed Trail Fees?**

Routes on NON 'RESTRICTED USE' STREETS

Preferred Routes & Independent Routes



Definition

“Preferred Routes”

- Routes with minimal impact
- City partially recover costs for devices & labor
- City costs are discounted rates based on private vendor quotes & labor rate history

Definition

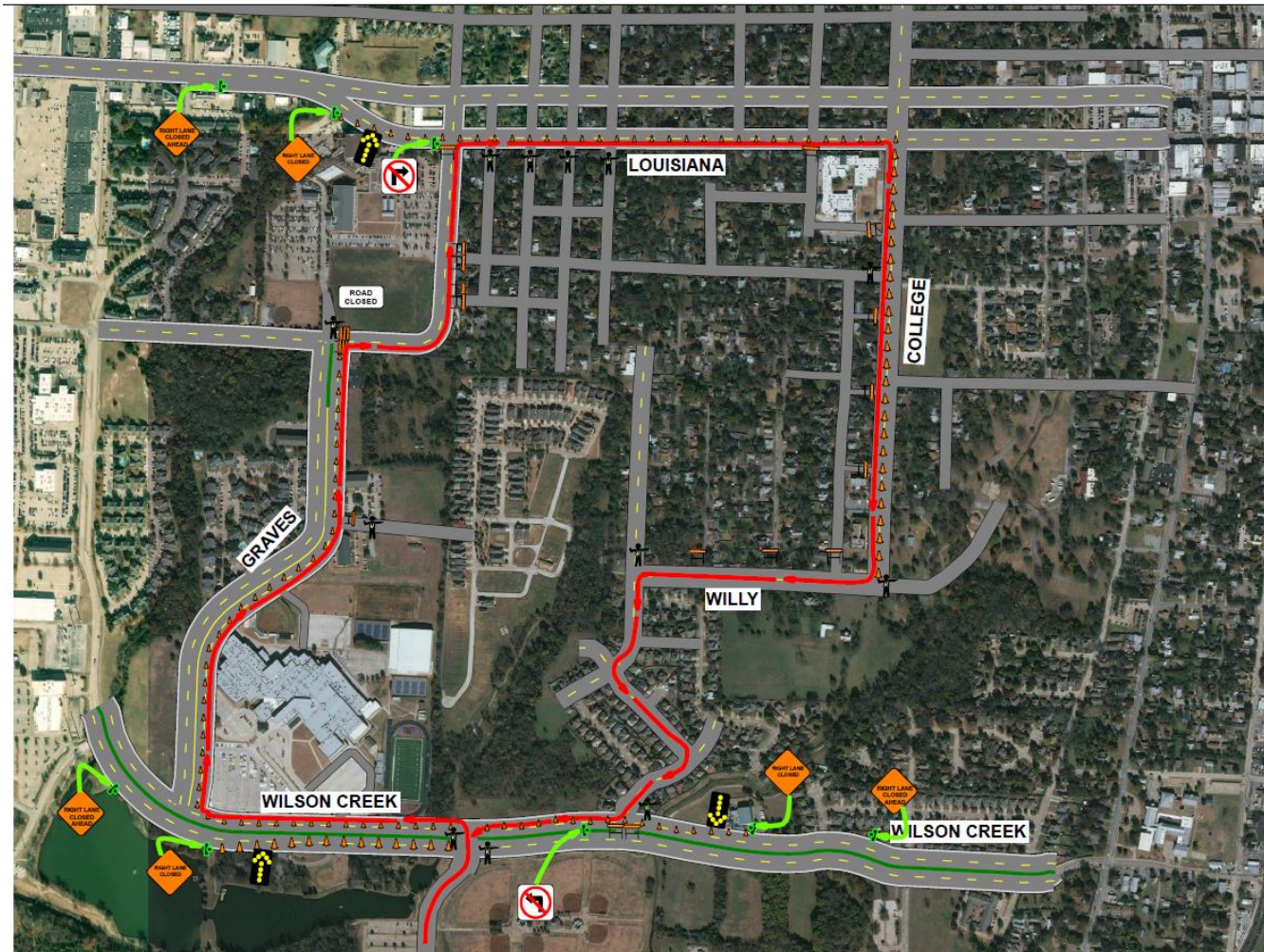
“Independent Routes”

- Event organizer selected
- Must avoid ‘off-limits’ streets
- Organizer responsible for costs of privately secured traffic control devices & personnel

5K - Preferred Route

- Travels 'Historic McKinney' streets
- City Discounted Device Rental: \$1,200
- City Discounted Labor Reimbursements: \$1,000
- **Total = \$2,200 + \$100 application fee**





5K - Preferred Route

5K - Independent Routes

- Must avoid 'off-limit' streets
- Organizer responsible for costs of privately secured traffic control devices & personnel
- 5K's impacted by new structure:
Believe Run, Tupps (St Patrick's, Monster Dash, Labor Day), Smiles Run



5K - Options

Option 1: Select Trail - \$500

Option 2: Select 'Preferred Route' - \$2,200

Option 3: Select 'Independent Route'
Event Organizer assumes cost

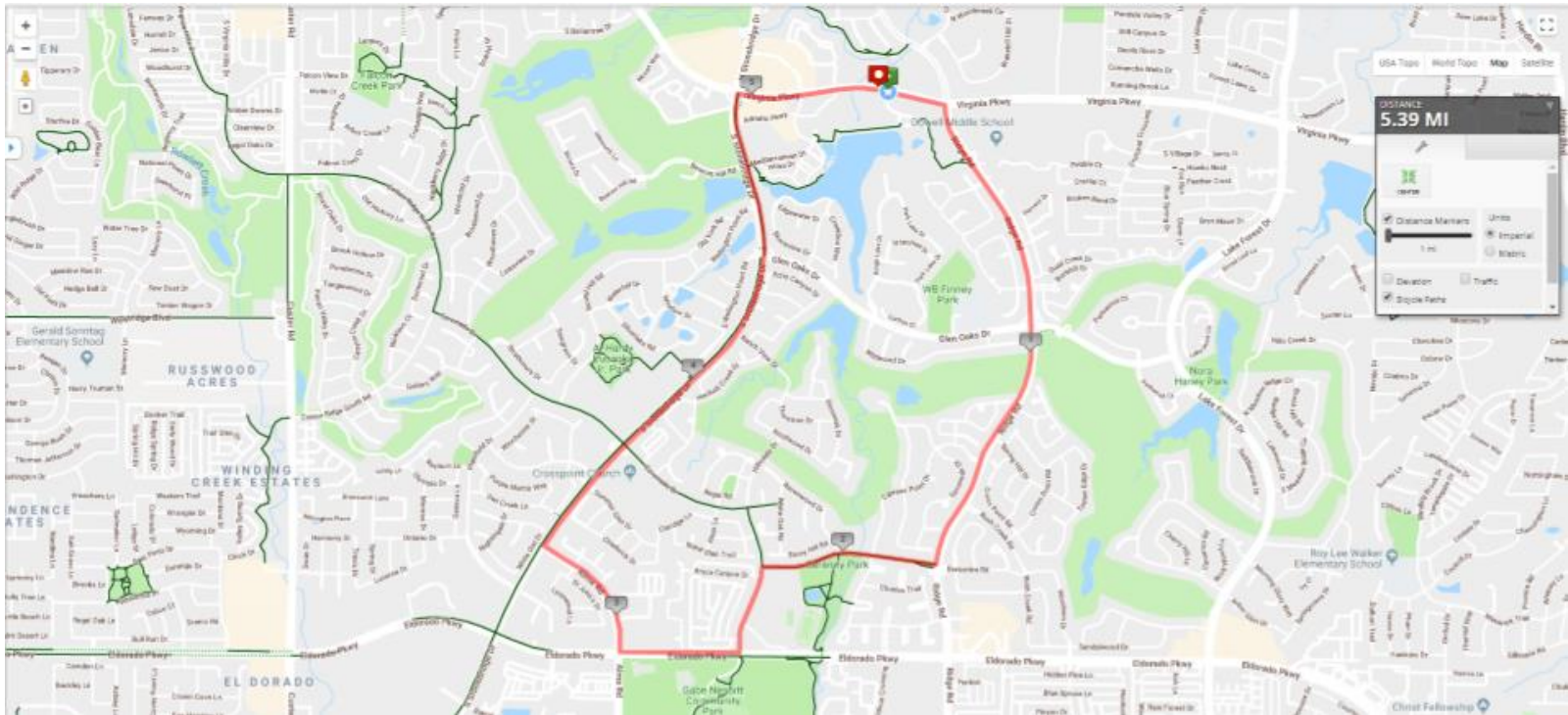


Triathlon – Preferred Route

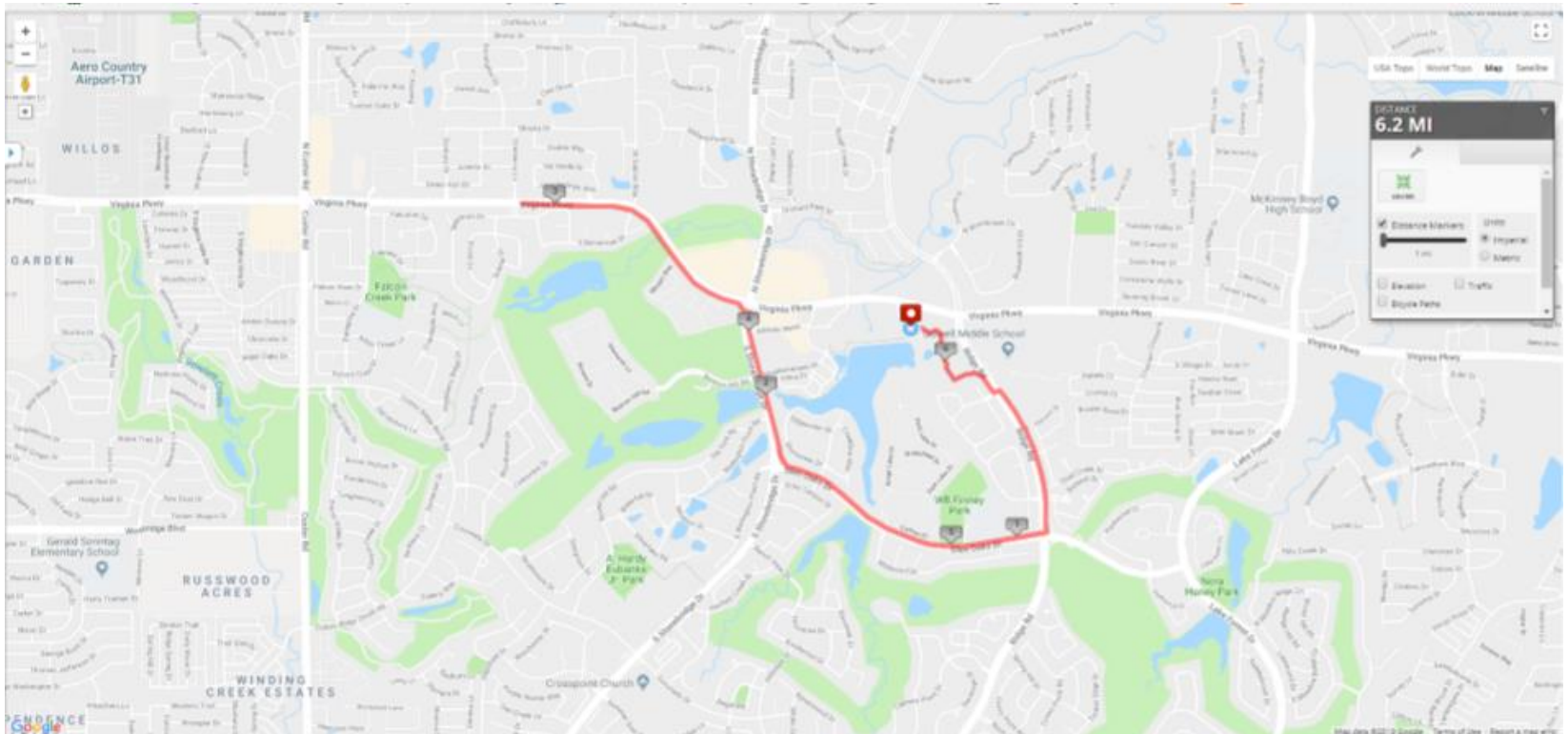
- Travels streets in Stonebridge Ranch
- Must be approved by SBR HOA
- SBR Rental Fees
- City Discounted Device Rental: \$1,750
- City Discounted Labor Reimbursements: \$1,500
- **Total = \$3,250 + \$100 Application Fee (not including SBR Rental)**



Triathlon – Bike Map



Triathlon – Run Map



Triathlon – Considerations

- Must include aquatic component
- Limited aquatic options
 - McKinney HS
 - Craig Ranch Fitness
 - Stonebridge Lake
 - APEX
- Current - 5 triathlons per year – 2 at Craig Ranch, 2 SBR, 1 Historic McKinney

Triathlon – Craig Ranch Fitness

- September - Council asks about Craig Ranch
- Prior routes included Custer
- Custer 'off-limits'
- Proposed new route submitted from CR
- Concerns about streets accommodating triathlon activities – one lane & on-street parking

Triathlon – APEX Centre

- Street use surrounding facility can accommodate run/cycling
- APEX member-based facility, activities disruptive to members
- Concerns about accommodating parking
- Facility policies – 20% of gross

Triathlon Options:

- Option 1: Select 'Preferred Route' at SBR - \$3,250 plus approval & rental from SBR HOA
- Option 2: Select 'Independent Route'
Event organizer assumes cost



Next Steps:

Based on Council discussion,
Modify Chapter 87
Bring back for approval

Email Correspondence:

Sun 11/11/2018 9:24 PM

Just wanted to catch all of you at once and discuss the upcoming discussion on trail fees and event changes. It appears that this all started with an overabundance of outside agencies from outside McKinney, using our trails to have races and make profits. Your proposal to charge large fees for the usage is an over the top proposal to control it. It would be simpler to just require a permit for all races. Non profits pay less and profit groups pay more. The permit process would allow you to control the number of events that use the trails. If someone is found to be without a permit they could be fined \$500. This would control all usage. If the school complains about the use of the parking lots then the schools should monitor the usage, not the city. It appears that this all has been included in the proposal I have seen and the original issue has been lost.

You should consider grandfathering the Believe Run. As far as I know there have been few complaints about the race. It is a McKinney event. The fees for usage you are proposing would hurt the event and having to change the race course is not necessary. There have been few complaints. Grandfathering the event would also do well as great PR for the council. This also goes for the Crepe Myrtle Trails run.

Don't forget what was the purpose for the changes and don't create a problem where there is none.

Thanks.

Dennis and Sandra Williams

Email Correspondence:

Thu 11/8/2018 11:15 AM

I suggest that the city council consider the following for the athletic events, such as our Triathlon, in McKinney.

We established our course to avoid residential concerns and we scheduled it on Sunday mornings to avoid traffic issues. To date we have had very little complaints about either issue. If you are basing the need to restrict Airport blvd and 546 and industrial I would hope that you looked at traffic data at the time we run our race and not overall data from total daily use. Your data should be looked at the time frame of 7A.M. until 10:30 on Sunday mornings.

If the decision is made to restrict the roads I listed then I would like you to know that we are considering moving our race to Stonebridge Beach club. The only problem is that the HOA has to approve it each year. There may be some time in the future when they don't allow any road closures.

Having said that I would like the city council to consider grandfathering our race as it is run today, and I will pursue moving it. This will give us a fall back if the Stonebridge option goes away.

Additionally I would like the city council to look at the use of the trails and the fees. If they require all races to submit for a permit, then they can control the amount of usage. Local entities, such as the Crepe Myrtle Trails run, should be charged less than the outside the city vendors. Non profits from our city should definitely be charged less so they can make the money needed to continue their charitable activities.

Thanks.

Dennis and Sandra Williams

Email Correspondence - Friday, November 2, 2018 1:02 PM

Subject: Proposed fees for 5K, 10K

Dear McKinney City Council,

Last fall, Bodies Race began using McKinney Texas as one of the locations for runs. We put on a series of holiday based 5K, 10K and 1 Mile run walks that are focused on Family, Fitness and Fun (our motto). It is our intention to have 3-4 of these events in the McKinney area per year.

Our races are relatively small, we started out with about 70 runners and have grown to a high of 369 this last month, The Spooky Sprint. Each race we choose a local charity to partner with and we ask our runners for in kind donations as well as monetary funds to help. Our causes in the McKinney area have been the Red Door Pantry and the Hope Clinic.

We have worked with the Parks and Rec folks, the police and the school facilities people. We pay the special events and facility use fees in order to offer our runners a safe, well organized good experience. We do not charge our vendors to set up booths, rather we ask that they provide the runners with swag, healthy snack options (no fresh food cooking or selling) or to pay for "scholarship" runners. We want to encourage the kids to get into a healthy fun outdoor activity.

I understand you are considering charging a fee for using the trails in McKinney for runs such as ours. The proposed fee is \$500 for a 5K and \$1000 for a 10K. This represents a steep increase in my costs, almost \$10 per runner.

A few questions please. What comes with the \$500 fee? Does it include the \$50 special event fee? Does it include the police costs we need to pay for the event? Are you charging that much for a half marathon?

When we use a McKinney trail, we pride ourselves in setting up and tearing down everything ourselves and leaving the trail, parking lot and grounds as clean if not cleaner than when we started. The runners have a good time and get to experience the beauty and nature of the City of McKinney doing a healthy outdoor activity.

I'm not exactly sure what the motive is of the City Council in this proposal to increase fees. This steep increase will force me to look at alternative, less expensive municipalities to host my runs.

Would you consider a lesser charge of say a \$100 base fee and a \$1 per registered runner? Something that doesn't punish the smaller races?

Bodies Race North Dallas loves McKinney and wants to continue to enhance the experiences of its residents as well as attract people living in other cities, demonstrating how wonderful the parks system and facilities are. I thank you for allowing us to use your trails in the past and hope that we can continue to do so in the future.

Can we discuss the fee increase and hopefully find an alternative that allows us to stay in McKinney?

Sincerely,

Georgia Rei | Race Director

Bodies Race Company - North Dallas