



**AGENDA
ELGIN CITY COUNCIL
REGULAR MEETING
TUESDAY, JANUARY 3, 2017
CITY ANNEX COUNCIL CHAMBERS, 310 NORTH MAIN STREET
7:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

Recess REGULAR MEETING and call to order PUBLIC HEARING

V. PUBLIC HEARING

None

VI. PUBLIC COMMENT

Individuals may request to speak on items on the agenda, and items not on the agenda, by requesting to speak during the meeting and under "PUBLIC COMMENT" and will be required to fill out a "PUBLIC COMMENT FORM" and present it, along with any material, handouts or information for Council, to the City Secretary prior to commencement of the Council meeting. Speaker comments are limited to three (3) minutes.

No formal action can be taken by the City Council on items not posted on the agenda. Items requiring a Public Hearing will allow a member of the public an opportunity to speak during the Public Hearing and does not require submission of a "PUBLIC COMMENT FORM". Speakers must address their comments to the Mayor or Presiding Officer rather than to an individual Council Member or member of Staff. All speakers must limit their comments to the specific subject matter noted on the "PUBLIC COMMENT FORM" and refrain from personal attacks or derogatory comments directed at any Council Member, member of Staff, other individual or group.

Close PUBLIC HEARING and Reconvene REGULAR MEETING

VII. CITY MANAGER'S REPORT

1. Monthly Departmental Activity Reports - November

VIII. PRESENTATIONS

1. A Proclamation declaring January 16, 2017 as Dr. Martin Luther King, Jr. and Coretta Scott King Day in the City of Elgin

IX. CONSENT AGENDA

All of the items on the consent agenda are considered to be self-explanatory by the Council and will be enacted with one

motion, one second, and one vote. There will be no separate discussion of these items unless a council member removes an item from the Consent Agenda and places it on the New Business section for Discussion and action.

1. City Council Meeting Minutes - December 6, 2016 Regular Meeting

X. UNFINISHED BUSINESS

None

XI. NEW BUSINESS

1. Consideration of the forfeiture of office by Councilmember Keith Joesel, pursuant to Article VI, Section 8 of the Elgin City Charter, including Keith Joesel's request his absence at the December 6, 2016 Regular Meeting be excused.
2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE SELECTION AND AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ELGIN RECREATION CENTER TO FT WOODS CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER AND/OR THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE TO EXECUTE THE CONTRACT
3. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH HAWES HILL CALDERON LLP AND THE CITY OF THE ELGIN RELATING TO TAX INCREMENT REINVESTMENT ZONE NO. 1 AND MAKING CERTAIN FINDINGS RELATED THERETO
4. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC ENGINEERS INC. FOR PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF THE LEE DILDY BOULEVARD CONSTRUCTION PROJECT AND MAKING CERTAIN FINDINGS RELATED THERETO
5. AN ORDINANCE AMENDING CHAPTER 34 TO INCLUDE ARTICLE III, DIVISION 3, RIGHTS-OF-WAY MANAGEMENT, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, BY AMENDING CHAPTER 34, TO INCLUDE DIVISION III AND BY ADDING NEW SECTIONS 34-70, 34-71, 34-72, 34-73, 34-74, 34-75, 34-76, 34-77, 34-78, 34-79, 34-80, 34-81, 34-82, 34-83, 34-84, AND 34-85 REGARDING CITY OF ELGIN RIGHTS-OF-WAY; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE
6. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC AND THE CITY OF ELGIN FOR ENGINEERING SERVICES FOR CSJ-0914-00-393 TAP TRANSPORTATION ALTERNATIVES PROGRAM GRANT FOR SIDEWALKS ON FM 1100, SH 95 NORTH AND COUNTY LINE ROAD.
7. Consideration of the filling of the City Council vacancy, pursuant to Article IV, Section 8 of the Elgin City Charter, resulting from Keith Joesel's forfeiture of office.

XII. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

~~Decease the Regular Council meeting and call to order Executive Session in a closed session~~

1. Adjourn into Executive Session pursuant to Section §551.072 Deliberation Regarding Real Property and Section § 551.087 Economic Development: to receive a staff briefing and deliberate regarding potential funding from USDA in support of an economic development project in Downtown Elgin

Adjourn Executive Session and call public back in to Reconvene Regular Council meeting.

RECONVENE

XIII. The City Council will return to open session for possible discussion and action as a result of the Executive Session.

XIV. ANNOUNCEMENTS

XV. ADJOURNMENT

NOTICE

Notice of Assistance at Public Meetings, the City of Elgin is committed to compliance with the Americans with Disabilities Act. Elgin City Hall and Council Chambers are wheelchair accessible and special marked parking is available. Persons with Disabilities who plan to attend this meeting and who may need assistance are requested to contact the City Secretary's Office at (512) 281-5724. Please provide forty-eight hours notice when feasible.

I, Amelia Sanchez, City Secretary for the City of Elgin, hereby certify this notice was posted at the City Hall Annex of the City of Elgin, Texas on or before December 30, 2016 at 4:00 pm in accordance with Chapter 551 of the Texas Government Code.

Amelia Sanchez

Amelia Sanchez, City Secretary



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Monthly Departmental Activity Reports - November

DEPARTMENT: Administration

PROPOSED ACTION:

Department reports are informational only for City Council and no action is required.

BACKGROUND:

Routine Monthly Reports

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☐ not included in the current-year budget ☒ N/A

RECOMMENDATION:

No action is required.

ATTACHMENTS:

Public Works November

Utility Billing - November

Community Development Report

Mainstreet Monthly Report

Library Report - November

OCA Report - November

Utility Maintenance Report - November

Parks Report - November

Police Department November Monthly Report Summary

Police Department November 2016 Monthly Report

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☒ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Public Works –November – 2016

Right of Way and Easement mowing and maintenance:

Right of way shredding and maintenance is ongoing

Weed Eat and mowing maintenance:

Mowing and weed eating down town area and TxDOT right of way are ongoing

Sign replacement:

Replaced stop sign at Louise Street and Lexington Road
Replaced speed limit sign and pole on Carlson lane
Replaced stop at South Avenue B and West Alamo Street
Replaced 15 mph on South Avenue B
Replaced no outlet sign on South Avenue B
Installed no parking sign and pole on Lexington Road
Replaced street signs at South Avenue B and West Alamo Street
Replaced handicap sign on North Main Street at the Brique restaurant
Replaced stop sign at Ball Park Road and East 9th Street
Replaced stop signs at East 4th Street and Ave G
Replaced 2 stop signs at North Avenue A and West 1st Street
Replaced stop sign at West 10th Street and Robin Street
Replaced stop sign at West 11th Street and Robin Street
Replaced stop sign at Jefferson Cove and Bandera Woods Boulevard
Replaced stop sign at Bexar Forest Cove and Bandera Woods Boulevard

Permanent Street, utility cut repairs, pot hole repairs and crack seal

East 8th Street
Hilltop Drive
South Avenue A
North Avenue C
Multiple saw cuts resulting from utility cuts within the City
Numerous pot hole patches throughout the City

Crack Seal

Approximately 3,375 pounds of material utilized on the following streets:
Q.S Goins Lane and East 6th Street
North Avenue E from East 2nd Street to Lexington Road
North Avenue F from East 2nd Street to Lexington Road
South Avenue B from dead end to El Paso Street
West 2nd Street from West 11th Street to South Avenue A
Vicksburg Loop
Vicksburg Cove
El Paso Street

Dumped Debris Removal:

Removed dumped debris off Alley A (3 chairs, couch and 2 tires)
Removed brush in right of way Gettysburg Loop and Antietam Drive
Removed dumped brush on Carlson Lane
Removed brush in right of way of Shenandoah alley

Trees and Brush:

Removed large fallen limb Lexington Road
Trimmed low hanging limbs on East Alamo between Madison Street and Old McDade Road
Trimmed low hanging limbs on Ellis Place between Q.S. Goins Lane and East 3rd Street
Trimmed brush and low hanging limbs West 11th Street and North Main Street
Trimmed brush and low hanging limbs South Avenue B from West Alamo Street to end of street
Removed brush on Central Avenue and Kennedy Street
Trimmed brush and low hanging limbs on East 10th Street
Trimmed trees and brush at Police Department and Lyndon Baines Johnson Bastrop County Health Clinic

Miscellaneous:

Called out November 5, 2016 for flooding – set up barricades water over road
Picked up trash on US Highway 290 from Texas 95 North to County Line Road
Installed construction fence around sidewalk on South Avenue C and West Austin Street Removed debris from drains down town from flooding
Replaced trailer wiring and brakes
Installed new lights on ATV
Preventive maintenance service on Toro and Grasshopper mowers
Repaired cylinder on 310 G backhoe

Events

Installed Holiday banners

Texas Capital Fund Project 7214372: Downtown Sidewalk Project:

Texas Department of License and Regulation A.D.A Inspection performed with items remaining for compliance prior to final acceptance.

2015-2016 Drainage Project - Proposal 1:

West Brenham Street Box Culvert – Skyblue Utilities, Inc. has mobilized, erosion control has been installed and construction is scheduled for December.

2016 Elgin Traffic Calming Project:

Signs have been installed; a material shipping error from supplier has postponed installation until December.

TxDOT S.H.-95 North Project:

Work continues.

TxDOT U.S. 290 Illumination Project:

Project has begun with conduit and pedestal installation.

Joe Parten

Director, Public Works
City of Elgin

UTILITY BILLING REPORT		November 2016
Billed out	\$402,281.55	
Past due notices	670	\$77,175.93
Work orders-Cut offs	89	
Disconnected for non pmt	18	
Extension to pay 1st	29	
Extension due for disconnect	0	
Meter tamper fee	0	
After Hour turn on	1	
Accounts set to final	3	for non pmt

METER REPORT		
WORK ORDERS	COMPLETED	INCOMPLETE
START READ	52	4
FINAL READ	49	0
TRANSFERS / IN AND OUT	6	0
CTO'S / DISCONNECT NON-PMT	100	0
SET METER	8	6
ERT REPLACEMENTS	0	17
METER REPLACEMENTS	27	31
VISUAL READS	23	0
FAILURE TO READ (MOBILE MISS)	70	0
RE READS	17	0
WL / CHECK FOR WATER LEAK	12	0
METERS DATA LOGGED	1	0
MISCELLANEOUS	45	0
TOTAL NUMBER OF WORK ORDERS	410	58
CURB STOPS		
BROKEN CURB STOPS	0	28
TOTAL NUMBER OF WORK ORDER	0	28
BULK WATER		
PURCHASES	10	
TRIPS/GALLONS	14/6,000	
TOTAL COLLECTED	\$30.17	

Dodie Navejas, Utility Billing Supervisor
Customer Service/A/R Supervisor

310 N. Main Street
512-229-3220 office



MEMORANDUM

To: Tom Mattis, City Manager
From: Amy Miller, Community Development Director
Date: December 8, 2016
RE: Community Development Department Report November 2016

The Holiday Lighting on November 18 kicked off the season for Elgin with a beautiful thirty feet tall LED lighted tree at City Hall. The new lights are the result of a successful local fundraising campaign that will continue into 2017.

Small Business Saturday on November 26 was extremely well attended and businesses reported that sales for the day were second only to Hogeys. December events from the Holiday Concert on the 2 through Stocking Stuffer Saturday December 17 and visits with Santa through Christmas Eve will make for a busy month in our community.

RFPs for engineering and environmental services for the FM 1100 TAP sidewalk project were received November 30 and scored for City Council on December 6. The TCF downtown Sidewalk project Contractor has one ramp repair to finish in December and that project should be ready for close out. The FM 1100 design schematic was submitted to Diana Schulze, TXDOT Bastrop District engineer for review.

Projects

- Annual report for Main Street program completed and submitted to THC.
- Live Downtown Work Downtown event for November was well attended.
- Where's Priscilla Scavenger Hunt for Shop Small Saturday was a big hit. Lots of families downtown with kids looking for Priscilla and parents shopping.
- Envision Elgin meeting for 4th quarter with Tom Mattis and Travis County transportation planner as guest speakers.
- Holiday lights dedication November 18, approximately fifty attendees.
- Planning Holiday by the Tracks and Hot Cocoa Stroll with the chamber for Saturday December 3.
- Planning Holiday Concert for Saturday December 2 with EISD.
- Planning additional Special holiday promotions for December.

- Graded RFQs for the TAP Grant FM 1100 sidewalk project.
- TCF sidewalk project, starting close out paperwork.
- Met with potential buyers and realtors for properties downtown.
- Met with property owners about renovation plans and possible tenants.
- Met with business owners seeking lease space.
- Marketing coordination and support for Sip Shop and Stroll, 2nd Thursdays from 5-8 downtown and for events in November and December.
- Working with Travis County on citizen participation in the Travis County Transportation plan.
- City of Elgin E-News
- Facebook Pages: City of Elgin, Visit Elgin, Envision Elgin
- Instagram – visitelgintx

Boards & Committees, Seminars

Attended Texas Downtown Association Annual Conference.

Community Advisory Council for 21st Century grant with EISD.

School Health Advisory Committee with EISD

Farm 2 school grant meeting with EISD

CAMPO Active Transportation Advisory Committee

Main Street Board

Promotion Tourism Committee

Organization Committee

Design Committee

Clean Air Coalition Advisory Committee, CAPCOG

Upcoming Events

First Saturday Sidewalk Sales from 10am-5pm in Downtown

Every Saturday Elgin Farmers' Market 9am – 1pm Downtown

December 2 Holiday Concert with the Students of Elgin ISD elementary schools

December 3 Home for Holiday By the Tracks, Hot Cocoa Stroll, & Lighted Parade

Saturday December 3 Project Celebration Breakfast with Santa at the Library

December 8 Sip Shop and Stroll

December 10, Holiday Open House

December 17 Stocking Stuffer Saturday and Artists showcase

Picture's with Santa Throughout the month downtown updates posted at www.elgintx.com

Saturday, December 3rd

Breakfast with Santa,

11am – 1 Elgin Farmers Market

2p – 4pm Elgin Local Goods

Thursday December 8th 10am-12pm Advocacy Outreach 200 Depot Street Ste. A

Thursday, December 8th 5pm Christmas Party with Santa Claus Elgin Public Library

December 10th

10am – noon Dorothy's Fine Jewelry

12:30– 2:30pm Elgin Local Goods

3pm – 6pm Daisy's Furniture and Home Décor 116 East First Street

December 16th 2pm – 6pm Daisy's Furniture and Home Décor 116 East First Street

December 20th 12pm – 2pm Prosperity Bank 31 North Main

December 24th 2pm – 6pm Daisy's Furniture and Home Décor 116 East First Street



MONTHLY ACTIVITY REPORT

For the local program, monthly reports are a way to track and document progress of both the program and the downtown revitalization effort. It is also an effective tool to use for updating the board on the program's overall activities and for communicating your progress to stakeholders, such as City Council and other funding entities. For the state office, monthly reports help us provide more direct and effective services by giving us a way to spot trends, challenges, issues etc. The report should reflect BOTH the work of staff and volunteers. While not all programs use the traditional four-committee structure any longer, the work of all programs should still be able to be reflected in the four-point categories below.

The Monthly Report is **due by the 10th of each month**. Please use electronic version, type or print legibly. Please use this electronic version and email to mainstreet-reports@thc.state.tx.us.

CITY: ELGIN

MONTH/YEAR: November 2016

DATE SUBMITTED: 12-9-2016

1. Updates on Projects, Activities for the month.

MAIN STREET BOARD: *(After typing, TAB to the next cell)*

Meeting Dates:	Update on projects or activities
September 15, 2016	Shop Small Saturday was a very big day in Elgin –stores reported that sales were 2 nd only to Hogeys day. Home for the Holidays – November 18 through December events. Hot cocoa stroll, Holiday by the Tracks, Holiday lights, lighted parade, holiday promotions in December including an open house and stocking stuffer Saturdays. property renovations and business development are continuing to be strong.

ORGANIZATION: *(After typing, TAB to the next cell)*

Meeting Dates:	Update on projects or activities
September 6, 2016	Work downtown? live downtown? - meet your neighbor event for , November was well attended. Businesses have commented they really appreciate this event and want to see it continue., Mary Beth Harvey volunteered to lead the planning for 2017. Next Downtown 78621 is the spring issue.

PROMOTION:

Meeting Dates:	
September 8, 2016	Small business Saturday included a Where's Priscilla hunt and was extremely successful. Very busy downtown. Home for the Holidays –December including holiday concert with Elgin ISD Elementary students. Sip Shop and Stroll themes – set

DESIGN:

Wednesday September 7, 2016	Holiday lights – November 18 lighting event had 50 attendees. The new 30 ft tall LED tree at City hall is amazing, in addition to the north pole, lighted trees etc. Very successful local fundraising effort. Great work by volunteers and
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	parks department to install the lights. TCF sidewalk project ADA repairs to be finished in December.

ECONOMIC RESTRUCTURING:

Meeting Dates:	Update on projects or activities
	We have multiple pending contracts for properties downtown that will bring lease space on the market that has not been available for recent years. Working with businesses to find lease space, and working with buyers and sellers on space. The occupancy rate continues to increase!

2. Program Commentary *(list critical issues, problems, and successes/ completed projects of the past month):*
Renovation underway on 30 North Main, 109 South Avenue C, 103 North Main Street. Work completed on Frank's Barber Shop – great new paint job.
3. Outlook. *Goals and challenges; plans for upcoming major projects such as public improvements etc.:*
Plan for a retreat for the board at beginning of the year.
In December start an ad hoc committee for annual event and marketing planning.
Plan training classes for 2017 with EDC and Chamber
4. Suggestions for Texas Main Street Center *(list suggestions on services or training topics; new resources; questions):*
5. Main Street in the News. *If your programs or its activities have been spotlighted in press coverage during the month, please provide a link here. If there is a newsworthy event or announcement that would be appropriate for the Main Street Matters e-newsletter, please email mainstreet-reports@thc.state.tx.us with the information. Please provide event information as many months in advance as possible.*

First Saturday Sidewalk Sales from 10am-5pm in Downtown
Every Saturday Elgin Farmers' Market 9am – 1pm Downtown
December 2 Holiday Concert with the Students of Elgin ISD elementary schools
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Friday December 2 Holiday Concert

Share your Goodwill by EISD Elementary students 6pm Veterans Memorial Park

Saturday December 3 Holiday BY the Tracks and Hot Cocoa Stroll

Featuring an Elgin Hot Cocoa Stroll, Holiday Bazar at the Elgin Farmers Market, store specials throughout downtown, Lighted parade and more starts at 9am continues through evening. Details at www.elgintx.com

December 8 – Holiday Sip Shop and Stroll

From 5- 8 stores open with Extended hours, refreshments, music and specials

December 10 – Holiday Open House

Businesses will host Open house and have special activities for the day. One is planning to have live mannequins.

December 17 – Stocking Stuffer Saturday and Artist showcase

Stores featuring items under \$20 and hosting artists. Barry Perez Studio show at 621 Lexington Road.

Picture’s with Santa Throughout the month downtown

Saturday, December 3rd Elgin Farmers Market

Thursday December 8th 10am-12pm Advocacy Outreach 200 Depot Street Ste. A

Thursday, December 8th 5pm Christmas Party with Santa Claus Elgin Public Library

December 10th 2pm – 6pm Daisy’s Furniture and Home Décor 116 East First Street

December 16th 2pm – 6pm Daisy’s Furniture and Home Décor 116 East First Street

December 15th 4pm to 8pm The Owl Wine Bar & Home Goods Store 106 North Main

December 20th 12pm – 4pm Prosperity Bank 31 North Main

December 24th 2pm – 6pm Daisy’s Furniture and Home Décor 116 East First Street

Library Report for November 2016

Circulation was down 2% from November 2015 with the collection size increasing by 1%.

Grants:

- Staff has purchased another children's AWE computer and ordered some reading materials with Ladd and Katherine Hancher Library grant.
- The grant report for the Texas Book Festival Literacy Initiative is completed and a new application will be completed before January 27th. Several staff members attend the Texas Book Festival, listen to authors speak, and peruse and shop for new materials for the collection.

Special programs included Day of the Dead celebration on November 2nd and the Texas Writes presentations by Debra Winegarten and Greg Garrett, two local Austin authors, by the Writers' League of Texas. The Texas Writes program will be the springboard for a writing group to start meeting on the 4th Friday of the month starting in January.

Staff has increased with the addition of Sarah Kaczynski as part time library clerk.

Technology has improved with a new Xerox copier for staff and the public to use. Staff had a one hour training session for its use.

Staff answered many directional questions throughout early voting and helped voters find correct precincts for voting on November 8th.

Categories	Units	Nov. '15	Nov. '16	Fiscal YTD '16	Fiscal YTD '17
Total Circulation		6,541	6,442	13,469	12,966
+ or - Same month previous year	Percent	1%+	2%-		
Additions					
Interlibrary Loans	Each	2	2	5	2
New Patrons	Each	61	83	145	176
Collection					
Items Added	Each	224	198	717	445
Items Withdrawn	Each	152	220	228	506
Total Collection	Each	38,843	39,505	38,843	39,505
General Statistics					
Gate Count		3,179	4,019	8,070	8,704
Hours Open	Each	129	146	306	306
Library Tours	Each	0	1	0	1
Program Visitors	Each	357	546	1,118	1,011
Public Computer Use	Hours	597	377	1,149	866
Patrons using computers	Each	1,020	623	1,862	1,317
Volunteer Hours	Each	93	204	261	439
Receipts					
		\$1,428	\$693	\$2,622	\$1,669
Civic Center Use					
City	Each	2	2	4	8
Library	Each	11	19	20	38
Public Rental	Each	6	2	9	3
Other - not for profit	Each	7	7	24	16
Total Civic Center Use		26	30	57	65

OFFICE OF COURT ADMINISTRATION

TEXAS JUDICIAL COUNCIL



OFFICIAL MUNICIPAL COURT MONTHLY REPORT

Month November

Year 2016

Municipal Court for the City CITY OF ELGIN

Presiding Judge Amanda Carter

If new, date assumed office

Court Mailing Address P.O. BOX 591

City ELGIN

, TX Zip 7-8621

Phone Number (512) 281-0318

Fax Number

Courts Public Email

Court's Website

THE ATTACHED IS A TRUE AND ACCURATE REFLECTION OF THE RECORDS OF THIS COURT

Prepared by Yadira Duque

Date Dec 14, 2016

Phone Number (512) 281-0318

PLEASE RETURN THIS FORM NO LATER THAN 20 DAYS FOLLOWING THE END OF THE MONTH REPORTED TO:

OFFICE OF COURT ADMINISTRATION

P O BOX 12066

AUSTIN, TX

78711-2066

PHONE: (512) 463-1625

FAX: (512) 463-6122

CRIMINAL SECTION

City of CITY OF ELGIN
Month November Year 2016

	Traffic Misdemeanors			Non-Traffic Misdemeanors		
	Non-Parking	Parking	City Ordinance	Penal Code	Other State Law	City Ordinance
1. Total Cases Pending First of Month:	12,910	13	0	0	2,515	21
a. Active Cases	8,945	11	0	0	1,232	4
b. Inactive Cases	3,965	2	0	0	1,283	17
2. New Cases Filed	317	0	0	0	55	0
3. Cases Reactivated	28	0	0	0	19	0
4. All Other Cases Added	0	0	0	0	0	0
5. Total Cases on Docket	9,290	11	0	0	1,306	4
6. Dispositions Prior to Court Appearance or Trial						
a. Uncontested Dispositions	159	0	0	0	29	0
b. Dismissed by Prosecution	5	0	0	0	4	0
7. Dispositions at Trial:						
a: Convictions						
1) Guilty Plea or Nolo Contendere	19	0	0	0	15	0
2) By the Court	0	0	0	0	0	0
3) By the Jury	0	0	0	0	0	0
b: Acquittals:						
1) By the Court	0	0	0	0	0	0
2) By the Jury	0	0	0	0	0	0
c. Dismissed by Prosecution	0	0	0	0	0	0
8. Compliance Dismissals:						
a: After Driver Safety Course	10					
b: After Deferred Disposition	0	0	0	0	4	0
c: After Teen Court	0	0	0	0	0	0
d: After Tobacco Awareness Course					0	
e: After Treatment for Chemical Dependency				0	0	
f: After Proof of Financial Responsibility	2					
g: All Other Transportation Code Dismissals	0	0	0	0	0	0
9. All Other Dispositions	16	0	0	0	2	0
10. Total Cases Disposed	211	0	0	0	54	0
11. Cases Placed On Inactive Status	35	0	0	0	9	0
12. Total Cases Pending End of Month:	13,016	13	0	0	2,516	21
a: Active Cases	9,044	11	0	0	1,243	4
b: Inactive Cases	3,972	2	0	0	1,273	17
13. Show Cause Hearings Held	8	0	0	0	3	0
14. Cases Appealed:						
a: After Trial	0	0	0	0	0	0
b: Without Trial	0	0	0	0	0	0

JUVENILE / MINOR ACTIVITY

Court CITY OF ELGIN	TOTAL
Month November Year 2016	
1. Transportation Code Cases Filed	4
2. Non-Driving Alcoholic Beverage Code Cases Filed	0
3. Driving Under the Influence of Alcohol Cases Filed	0
4. Drug Paraphernalia Cases Filed	2
5. Tobacco Cases Filed	0
6. Failure to Attend School Cases Filed	0
7. Education Code (Except Failure to Attend) Cases Filed	0
8. Violation of Local Daytime Curfew Ordinance Cases Filed	0
9. All Other Non-Traffic Fine-Only Filed	0
10. Transfer to Juvenile Court: a. Mandatory Transfer	0
b. Discretionary Transfer	0
11. Accused of Contempt and Referred to Juvenile Court (Delinquent Conduct)	0
12. Held in Contempt by Criminal Court (Fined and/or Denied Driving Privileges)	0
13. Juvenile Statement Magistrate Warning: a. Warnings Administered	0
b. Statements Certified	0
14. Detention Hearings Held	0
15. Orders for Non-Secure Custody Issued	0
16. Parent Contributing to Nonattendance Cases Filed	0

ADDITIONAL ACTIVITY

Court CITY OF ELGIN		Number Given	Number Requests For Counsel
Month November	Year 2016		
1. Magistrate Warnings:			
a. Class C Misdemeanors		47	
b. Class A and B Misdemeanors		22	10
c. Felonies		8	1
			TOTAL
2. Arrest Warrants Issued:			
a. Class C Misdemeanors			44
b. Class A and B Misdemeanors			2
c. Felonies			0
3. Capiases Pro Fine Issued			30
4. Search Warrants Issued			0
5. Warrants for Fire, Health and Code Inspections Filed			0
6. Examining Trials Conducted			0
7. Emergency Mental Health Hearings Held			0
8. Magistrate's Orders for Emergency Protection Issued			0
9. Magistrate's Orders for Ignition Interlock Device Issued			3
10. All Other Magistrate's Orders Issued Requiring Conditions for Release on Bond			0
11. Driver's License Denial, Revocation or Suspension Hearings Held			0
12. Disposition of Stolen Property Hearings Held			0
13. Peace Bond Hearings Held			0
14. Cases in Which Fine and Court Costs Satisfied by Community Service:			
a. Partial Satisfaction			1
b. Full Satisfaction			3
15. Cases in Which Fine and Court Costs Satisfied by Jail Credit			18
16. Cases in Which Fine and Court Costs Waived for Indigency			0
17. Amount of Fines and Court Costs Waived for Indigency			\$0.00
18. Fines, Court Costs and Other Amounts Collected:			
a. Kept by City			\$26,082.56
b. Remitted to State			\$16,512.96
c. Total			\$42,595.52

Monthly Reports November 2016

Department 023 Water Treatment

Well # 10	0 Gallons
Well # 11	0 Gallons
Well # 14	17,153,000 Gallons
Well # 15	14,852,000 Gallons
Water loss due to leaks or flushing	50,000 Gallons
Total Water Pumped	31,955,000 Gallons

Chemicals Used

Chlorine	708 Pounds
Sequest	100 Pounds

Distribution Samples

Bacteriological Samples Taken	12
Average Chlorine Residual	1.64 mg/l
Violations	0

Department 024 Distribution

Line Repairs/New installations

Main Line Breaks	3
Service Line Breaks	8
Miscellaneous Repairs/Complaint Calls	20
New Connections/Taps	0
Installation of New Water Main	0

Department 026 Wastewater

Collections

Backups

Main Lines	3
Service Lines	10
After Hours Call-Outs	15

Line Repairs/New Installations

Curb Side Cleanout Caps Replaced	5
Curb Side Cleanouts Installed	0
Main Line Repairs	0
New Main Line Installed	0
New Taps Installed	0
Lines TV'd	3
Manholes Installed/Repaired	0

Lift Station Maintenance/Repairs

Hour Meter Reads/Daily Site Checks	9 Daily
Pumps Pulled	0
Pumps Installed	0
Pumps De-rated	1
Motors Pulled	0
Motors Installed	0
Electrical Issues (Repair/Replace Parts)	0
Floats Cleaned/Replaced	2
Grass/Weed Maintenance	3
After Hours Call Outs	11

Wastewater Treatment Plant**Maintenance/Repairs**

Pumps Pulled	3
Pumps Installed	3
Motors Pulled	1
Motors Installed	1
Control System/Electrical Repairs	1
Cleaned Wet Well Floats	1
Miscellaneous Repairs	12
After Hours Call-Outs	0

Chemicals Used

Alum/Gallons	4,000
Bleach 10%/ Gallons	2,000
Polymer/ 55 gallon drums	2

Monthly Plant Flows and Test Results

Minimum Daily Flow	395,600 Gallons
Maximum Daily Flow	1,482,200 Gallons
Average Daily Flow	598,300 Gallons
Total Monthly Flow	17,949,300 Gallons

Effluent DO (Dissolved Oxygen) Average	7.53
Effluent Chlorine Residual Average	1.59 mg/l
Effluent pH Average	7.4
Total Phosphorus Average	0.239
CBOD (Carbonaceous Biochemical Oxygen Demand) Average	2.56
TSS (Total Suspended Solids) Average	3.63
Ammonia/Nitrates Average	0.175

Remarks :

Michael Gonzalez
Parks and Recreation Director
mgonzalez@ci.elgin.tx.us 512-285-6190



November 2016 Parks Report.

Happy Anniversary to the Elgin Parks Department. We are excited to have made it a year as a fully functioning City Department. As we look back on the year we would like to thank everyone for their support and encouragement. We would also like to note some of our accomplishments. In 2016, as a team we managed over a thousand park rentals and Fleming Center rentals and averaging 130 visitors to our pool each day. We maintained near 120 acres of City property, and planted about 75 trees and 150 plants. We expect to perform even better in 2017. Thanks again for all your support.

Downtown Lights

The Parks Department assisted the Main Street Board in some repairs to lighting of downtown buildings. Stringers of C9 LED bulbs outline the downtown skyline, many bulbs needed replacement and some timers also needed adjustment. The Parks Department along with a contractor worked on getting as many lights burning as possible, improving the look of the lights downtown.

Gazebo and Museum Repairs

The Depot Museum recently had some roof leaks that were addressed and taken care of. A contractor looked at some problem areas for some additional repair. The Department is looking to make some repairs to the gazebo in Veterans' Park as well. We will have a few different contractors look at replacing the Gazebo roof and repairs to other buildings. The Police Department is also on the list for roof repairs.

Tennis Court Repairs

The Parks Department has met with two companies so far to address the condition of the Tennis Courts in Elgin Memorial Park. Staff will evaluate these bids and see if a plan can be put together to repair the tennis courts. This project depends on some community partners who have showed interest in helping the City with these repairs we will have more updates in the December parks report.

Goals for December 2016

- Trim Trees at Shenandoah Trail
- Replace seating at Thomas Baseball Field
- Christmas Tree Recycling

Park Activity Summary		2016
Facility		Number of uses
Park/ Pavilion Rental		4
Ball Field Rental		30
Fleming Community Center		48
Deposits		\$821.25



Elgin Police Department

Office of the Chief

202 Depot Street • Elgin, Texas 78621 • 512 / 281-3330



Elgin Police Department

Monthly Summary November 2016

November marked the start of the holiday season and with that comes a busy time for the Police Department. We answered over 1600 calls for service during the month of November and responded to just over 1 accident per day during the month. Thanksgiving showed no slowdown in call volume and our traffic is continuing to grow to over 1,500,000 cars per month travelling through town on Hwy 290 alone. The department tested 8 applicants for the two current openings and had 2 applicants pass the written test and move on to the background phase. Hopefully both will prove to be quality applicants and we will be able to fill our two new positions before the end of the year.

On a different note, Detective Chris Walker announced his retirement from the Elgin Police Department. He is leaving municipal policing and will begin working for the Travis County District Attorney's Office as an investigator beginning in early January. We will be looking to move an officer into the investigator's position by the end of December or early in January.

Elgin Police Department

November 2016

CATEGORY	2016 November	2015 November	2014 November	2013 November	2012 November
Calls for Service					
Total Calls for Service	1645	886	951	963	609
Police calls	1421	665	599	606	469
Fire calls	31	40	53	33	28
Animal calls	66	80	101	72	51
Activity logs	102	67	187	249	61
City calls	25	34	11	3	0
Offense Reports					
Total Offense Reports	82	80	65	76	77
Active (Open) cases	19	27	18	17	27
Cases Inactivated	15	14	18	24	19
Cases Closed	3	3	1	1	1
Documentation (no crime)	1	0	0	1	7
Other	2	0	1	2	5
Unfounded	2	0	0	5	2
Referred to other agency	1	2	4	0	3
Citations					
Total Citations	705	247	303	366	154
Citations for violations	347	135	190	176	82
Warnings	358	112	113	190	72
Collisions					
Total Accidents	38	35	33	31	22
Major accidents (with injury)	4	5	3	4	1
Minor accidents (no injury)	29	22	25	18	16
Leaving the scene accidents	5	8	5	9	5
Alarms					
Business alarms	15	20	12	13	10
Residential alarms	9	6	7	4	3
Fire alarms	3	9	4	1	2
Arrests					
Felony arrests	3	7	7	4	4
Misdemeanor arrests	33	25	16	18	12
Other arrests	5	4	4	3	0
Animal Control					
Total Animal Control calls	66	80	101	72	51
Animal Cruelty calls	0	0	0	0	0
Canine Impounds	5	10	9	15	17
Feline Impounds	3	12	9	6	2
Citations issued	4	8	4	1	4
Bite Cases	0	3	0	1	1
Dead animal calls	7	8	7	2	2
Wildlife calls	3	5	8	3	2
Rabies cases	1	0	0	0	0
Rabies cases positive	0	0	0	0	0



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

A Proclamation declaring January 16, 2017 as Dr. Martin Luther King, Jr. and Coretta Scott King Day in the City of Elgin

DEPARTMENT: Community Development

PROPOSED ACTION:

Present proclamation and have a photo with the volunteers attending.

BACKGROUND:

The City of Elgin hosts the Bastrop County MLK Walk and program every three years. 2017 is the Elgin year to host. Thanks to the work of great local volunteers, there will be a special Walk and Program on January 16 starting at 10 am at Veterans Memorial Park downtown with the program following at Booker T. Washington Elementary School gymnasium.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☒ included ☐ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Adoption of Proclamation as presented.

ATTACHMENTS:

MLK Day Proclamation 2017

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

PROCLAMATION

Whereas, Dr. Martin Luther King, Jr. was felled by an assassin's bullet on April 4, 1968, at the age of thirty-nine; and,

Whereas, the President and the Congress of the United States of America, the Governor of the State of Texas, the County Judge and Commissioners of Bastrop County and the Mayor and City Council of the City of Elgin have declared the birthday of Dr. Martin Luther King, Jr. as a National, State and Local Holiday; and,

Whereas, Dr. King gained acclaim through his work to bring about social, political and economic equality for all Americans by peaceful means and nonviolent resistance; and,

Whereas, despite the honors bestowed upon him, including the Nobel Peace Prize, he wanted most to be remembered as a servant to others; and,

Whereas, Coretta Scott King died on January 30, 2006 at age 78 after almost forty years of carrying on the legacy established by her husband; and,

Whereas, Coretta Scott King is worthy of honor in her own right as she did not hesitate to pick up the mantle of her late husband by continuing to honor his work; and,

Whereas, Mrs. King helped lead the effort to establish a national holiday in her husband's honor and in founding the Martin Luther King Jr. Center for Non-Violent Social Change in Atlanta ; and,

Whereas, the theme for this holiday is

"Remember! Celebrate! Act! A Day on...Not a Day Off!!!" and

Whereas, the 28th annual walk and program will be held in Elgin on Monday, January 16, 2017

NOW THEREFORE be it proclaimed by the Mayor and City Council of the City of Elgin, Bastrop County, Texas, that **Monday, January 16, 2017** be recognized as

Dr. Martin Luther King, Jr. and Coretta Scott King Day

AND THAT, all citizens are urged to unite with the **Cities of Bastrop, Elgin and Smithville, County of Bastrop, and the Bastrop County Martin Luther King, Jr. Holiday Commission** in their 28th annual walk for universal peace, justice, human rights, and social and economic progress for all people; and to join with the **Bastrop Martin Luther King, Jr. Scholarship Committee in their 30th Anniversary** and others in preserving the memory of these truly remarkable Americans.

IN WITNESS WHEREOF I have set my hand and caused the seal of the City of Elgin to be affixed this 3rd day of January, 2017.

*Chris Cannon,
Mayor, City of Elgin*



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

City Council Meeting Minutes - December 6, 2016 Regular Meeting

DEPARTMENT: Administration

PROPOSED ACTION:

Consideration of Council Meeting Minutes as presented

BACKGROUND:

Recording of proceedings of regular meeting of the Elgin City Council on December 6, 2016

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☒ included ☐ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Approval of Council Meeting Minutes as presented; or as may be amended.

ATTACHMENTS:

Meeting Minutes - December 6, 2016

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☒ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

**MINUTES
ELGIN CITY COUNCIL
REGULAR MEETING
TUESDAY, DECEMBER 6, 2016
CITY ANNEX COUNCIL CHAMBERS, 310 NORTH MAIN STREET**

CALL TO ORDER

Mayor Chris Cannon called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Chris Cannon, Mayor
Juan Gonzalez, Mayor Pro Tem
Sue Brashar, Council Member
Mary Penson, Council Member
Jessica Bega, Council Member
Phillip Thomas, Council Member
Craig Fromme, Council Member

Absent: Susie Arreaga, Council Member
Keith Joesel, Council Member

STAFF

Thomas L. Mattis, City Manager
Chris Bratton, Police Chief
Buck LaQuey, Finance Director
Melissa Lipiec, Planning & Development Admin. Assistant
Owen Rock, ED Director
Michael Gonzalez, Parks Director
Gary Cooke, Planning Director
Amy Miller, Community Development Director
Sue Beckwith, Grant Development
Charles Crossfield, City Attorney

INVOCATION

Council Member Phillip Thomas gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Chris Cannon led the pledge of allegiance to the United States and Texas flags.

CITY COUNCIL MEETING MINUTES

December 6, 2016 – Page 2

City Annex Council Chambers

PUBLIC COMMENT

None

PRESENTATIONS

None

CITY MANAGER'S REPORT

1. Review and consideration of Recreation Center Building Committee recommendation on City Recreation /Emergency Shelter.

City Manager Tom Mattis stated that they would be showing the Council the new plans for the rec center and that they were in the process of renegotiating the contracts and hoped to have those completed by the next meeting. Mr. Mattis introduced Michael Gonzalez, Parks Director who presented an updated version of the rec center.

2. Monthly Departmental Activity Reports

Mr. Mattis mentioned to the City Council a minor change to the cover sheets to each item on the agenda that includes the contact person for that item, and on the background portion provide more detail on the item for transparency especially for the public as well as budget information.

CONSENT AGENDA

All of the items on the consent agenda are considered to be self-explanatory by the Council and will be enacted with one motion, one second, and one vote. There will be no separate discussion of these items unless a council member removes an item from the Consent Agenda and places it on the New Business section for Discussion and action.

1. City Council Meeting Minutes – December 6, 2016 Regular Meeting
2. Approval of waiving the open container ordinance on Main Street from Lexington Road to Brenham Street; and on Second Street, First Street, Depot Street, Central Avenue, Austin Street, Brenham Street from Main Street to Avenue C; and on Avenue C from Brenham Street to 2nd Street on 2nd Thursdays January 12, February 9, March 9, April 13, May 11, June 8, July 13, August 10, September 14, October 12, November 9, December 14 from 5pm to 8pm for Sip Shop and Stroll.

CITY COUNCIL MEETING MINUTES

December 6, 2016 – Page 3

City Annex Council Chambers

3. AN ORDINANCE TO READOPT AND CONTINUE CHAPTER 1, SECTION 1-27, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013, REGARDING A JUVENILE CURFEW IN CONFORMITY WITH SECTION 370.002 OF THE TEXAS LOCAL GOVERNMENT CODE; AND TO REPEAL CHAPTER 24, ARTICLE IV. - JUVENILE CURFEW; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

Council Member Brashar moved to approve the consent agenda items. Council Member Fromme seconds the motion. Motion carried unanimously 7-0.

UNFINISHED BUSINESS

None

NEW BUSINESS

1. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH ELGIN AGRARIAN, LLC FOR THE RE-ZONING AND DEVELOPMENT OF CERTAIN PROPERTY AT THE INTERSECTION OF LEXINGTON ROAD AND LOUISE ROAD AS A PLANNED DEVELOPMENT DISTRICT AND MAKING CERTAIN FINDINGS RELATED THERETO

Council Member Thomas moved to approve A Resolution authorizing the City Member to execute an agreement with Elgin Agrarian, LLC for rezoning property at the intersection of Lexington road and Louise road as a Planned Development District. Council Member Brashar seconds the motion. Motion carried unanimously 7-0.

2. AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ELGIN, TEXAS ADOPTED IN SECTION 46-3, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013, AND MAKING THIS AMENDMENT A PART OF THE SAID OFFICIAL ZONING MAP, TO WIT: TO ORIGINALLY ZONE 23.1 ACRES OF LAND KNOWN AS THE ELGIN AGRARIAN COMMUNITY, IN ELGIN, BASTROP COUNTY, TEXAS, AS THE ELGIN AGRARIAN COMMUNITY PLANNED DEVELOPMENT DISTRICT (PDD); AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

Council Member Brashar moved to approve An Ordinance amending the Zoning Map to zone 23.1 acres known as the Agrarian Community (PDD). Council Member Bega seconds the motion. Motion carried unanimously 7-0.

CITY COUNCIL MEETING MINUTES

December 6, 2016 – Page 4

City Annex Council Chambers

3. AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF ELGIN, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2016 SPECIFYING THE TERMS AND FEATURES OF SAID CERTIFICATES; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND A LIMITED PLEDGE OF SURPLUS REVENUES FROM THE OPERATION OF THE CITY'S WATERWORKS AND SEWERSYSTEM; APPROVING AN OFFICIAL STATEMENT; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SAID CERTIFICATES

Council Member Penson moved to approve An Ordinance authorizing the issuance of City of Elgin, Texas, combination tax and revenue certificates of obligation series 2016. Council Member Fromme seconds the motion. Motion carried unanimously 7-0.

4. AN ORDINANCE AMENDING CHAPTER 16, ARTICLE II, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, 2013, REGARDING WEEDS, WILD GROWTH AND UNSANITARY CONDITIONS; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE

Council Member Thomas moved to approve An Ordinance amending Chapter 16 Article II, regarding weeds, wild growth and unsanitary conditions. Council Member Bega seconds the motion. Motion carried unanimously 7-0.

5. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING THE MEMORANDUM OF AGREEMENT, SERVIC MEMBERSHIP AGREEMENT WITH THE TEXAS CENTER FOR LOCAL FOOD AND THE CITY OF THE ELGIN ECONOMIC DEVELOPMENT CORPORATION AND MAKING CERTAIN FINDINGS RELATED THERETO

Council Member Brashar moved to approve A Resolution approving a memorandum of agreement with the Texas Center and the City of Elgin ED Corp. Council Member Bega seconds the motion. Motion carried unanimously 7-0.

6. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING THE EXPENDITURE OF \$25,000 BY THE ELGIN ECONOMIC DEVELOPMENT CORPORATION FOR DONALD KOSLOSKY 19 N. MAIN STREET BUILDING REMODELING PROJECT AND MAKING CERTAIN FINDINGS RELATED THERETO

CITY COUNCIL MEETING MINUTES

December 6, 2016 – Page 5

City Annex Council Chambers

Council Member Penson moved to approve A Resolution approving the expenditure of \$25,000.00 by the Elgin ED Corp. for Donald Koslosky. Council Member Thomas seconds the motion. Motion carried unanimously 7-0.

7. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING THE EXPENDITURE OF \$25,000 BY THE ELGIN ECONOMIC DEVELOPMENT CORPORATION FOR J.D. HARKINS NEW BUILDING PROJECT LOCATED AT 618 HWY 95 NORTH AND MAKING CERTAIN FINDINGS RELATED THERE

Council Member Penson moved to approve A Resolution approving the expenditure of \$25,000.00 by the Elgin ED Corp. for DJ. D Harkins. Council Member Fromme seconds the motion. Motion carried unanimously 7-0.

8. Consideration of a request to authorize the City Manager to negotiate a contract for engineering services with the highest ranked firm and/or consecutively ranked firms for engineering services for Texas Department of Transportation Alternatives Program Project, pedestrian connections from SH 95 to FM 1100, FM 1100 to Vicksburg Loop, and County Line Road from Bandera Woods to Austin Community College Elgin campus

Council Member Brashar moved to authorize the City Manager to negotiate a contract for engineering services for Texas Department of Transportation Alternatives Program Project. Council Member Bega seconds the motion. Motion carried unanimously 7-0.

Mayor Cannon stated he would skip down to the announcements before going into Executive Session.

XII. ANNOUNCEMENTS

Mr. Mattis mentioned the employee party on Friday and Mayor Cannon reminded everyone about the TML Region X meeting that the City of Elgin is hosting on December 14th at the Southside Bar BQ.

X. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

CITY COUNCIL MEETING MINUTES
December 6, 2016 – Page 6
City Annex Council Chambers

Mayor Cannon recessed the meeting at 7:56 p.m.

Mayor Cannon called to order the Executive Session at 8:08 p.m.

Recess the Regular Council meeting and call to order Executive Session in a closed session.

1. Adjourn into Executive Session pursuant to Section § 551.071 Consultation with Attorney: to receive legal advice from the City Attorney regarding pending litigation, to wit: Brent Amos vs. City of Elgin HUD Housing Discrimination Complaint
2. Adjourn into Executive Session pursuant to Section §551.072 Deliberation Regarding Real Property and Section § 551.087 Economic Development: to receive a staff briefing and deliberate regarding a potential economic development project located within the City Tax Increment Reinvestment Zone (TIRZ)

XI. RECONVENE FROM EXECUTIVE SESSION

The City Council will return to open session for possible discussion and action as a result of the Executive Session.

Mayor Cannon reconvened into open session at 9:14 p.m.

XIII. ADJOURNMENT

Mayor Cannon adjourned the City Council meeting at 9:14 p.m.

APPROVED:

CHRIS CANNON
Mayor, Elgin, Texas

ATTEST:

AMELIA SANCHEZ
City Secretary



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Consideration of the forfeiture of office by Councilmember Keith Joesel, pursuant to Article VI, Section 8 of the Elgin City Charter, including Keith Joesel's request his absence at the December 6, 2016 Regular Meeting be excused.

DEPARTMENT: Administration

PROPOSED ACTION:

Consideration of the agenda item as described.

BACKGROUND:

See attached City Attorney memorandum

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☐ not included in the current-year budget ☒ N/A

RECOMMENDATION:

Action, as any, as deemed appropriate by the City Council

ATTACHMENTS:

City Attorney Memorandum

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☒ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional

information regarding this item are encouraged to contact the City Manager at their earliest convenience.

MEMO

12/27/2016

To: Tom Mattis
From: Charlie Crossfield, City Attorney
Re: Elgin – City Councilmember Office Forfeiture

- Issues: (1) Does an Elgin City Councilmember automatically forfeit his/her office by failing to attend three consecutive council meetings without being excused by the Council?
- (2) If a councilmember forfeits his/her office by missing three consecutive meetings, is council action required to dismiss the councilmember?
- (3) If Council is willing to hear the councilmember's excuses for missing the meetings after-the-fact, how is such an item to be placed on the agenda?

Removal of City Councilmember

The authority to remove municipal officers is conferred by city charter and the charter must be complied with when removing councilmembers. *Fuller v. Mitchell*, 269 S.W.2d 517 (Tex. Civ. App. Dallas 1954); *City of San Antonio v. Serna*, 99 S.W. 875 (1907).

Elgin City Charter

Section 8, Article IV, of the Elgin City Charter states, in part:

- A. *Vacancies*. The office of a councilman or office of the mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
- B. *Forfeiture of Office*. A councilman or the mayor shall forfeit his office if he:
 - 1. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
 - 2. Is convicted of a crime involving moral turpitude; or
 - 3. Fails to attend three (3) consecutive regular council meetings without being excused by the council.

Rules of Procedure – Elgin Ordinances

Who May Place Item on Agenda:

Section 2-67, Article III, of the Elgin Code of Ordinances states, in part:

- (a) *Council meeting agendas*. The following persons are authorized to request that a matter (or item) be placed on an *agenda* of an upcoming council meeting:
 - (1) The mayor.
 - (2) A council member.
 - (3) The city manager.

Additionally, should a member of the city staff, acting in that member's capacity as a city employee, determine/desire that a matter should be presented to the council (for

example for the staff's compliance with procedures of this Code, etc.) then, the staff member may request, through written communication addressed to the city manager, that the item be placed on the *agenda*.

...

A citizen of the community desiring to have an item placed on the *agenda* may ask either the mayor, a council member, or the city manager for such consideration and the mayor, council member or city manager may, at his discretion elect to have such an item placed on the *agenda*.

Conclusion

1. The City of Elgin Charter states a councilmember “**shall**” forfeit his office if he fails to attend three (3) consecutive regular council meetings without being excused by the council. The word “shall” generally means “imperative” or “mandatory.” *Simms v. Lakewood Villa POA, Inc.*, 895 S.W.2d 779 (Tex. Civ. App. Corpus Christi 1995). Accordingly, the Elgin Charter does not allow for discretion when a councilmember has three consecutive unexcused absences – he/she automatically forfeits their office.
2. Although the Charter does not require the Council to take explicit action to remove a councilmember who has forfeited their office, it is not unreasonable for the Council to formally recognize the councilmember’s forfeiture of office.
3. Failure to attend a Council meeting “without being excused” is not defined in the Elgin Charter. If the council desires to allow a councilmember to continue to serve despite three consecutive unexcused absences, it may be possible to retroactively “excuse” one or more of the absences at issue. Although no specific authority exists, a retroactive excuse does not appear to violate the Elgin Charter.

Pursuant to Section 2-67, the mayor, a councilmember, the city manager, or city staff may request the matter be placed on the agenda. Because the subject councilmember has already forfeited his office, he cannot request an agenda item as a councilmember. He can, however, request the item as a citizen of the community – it is then up to the discretion of the mayor, a councilmember, or the city manager to have the item placed on the agenda.



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE SELECTION AND AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ELGIN RECREATION CENTER TO FT WOODS CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER AND/OR THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE TO EXECUTE THE CONTRACT

DEPARTMENT: Parks & Recreation

PROPOSED ACTION:

Discussion to consider authorizing the City Manager to enter into an agreement with T.F. Woods as the selected contractor for the construction of the Elgin Recreation Center and Emergency Shelter

BACKGROUND:

Discussed at previous meetings; This item is to effectively authorize construction of the new City Recreation Center/Shelter Project through the selection of a general contractor for this project that has been discussed for the past 3 years.

Following a detailed planning process completed by the staff and design team, the Recreation Center Building Committee was formed from members of Council and staff to review and consider final plans for the project. The Committee held two meetings and achieved a consensus on a recommendation to Council as a whole on a final design. The final plans and design were then reviewed and approved by the Council as a whole at their 12/6 Regular Meeting.

Subsequent to said approval, construction bids were solicited and opened on December 15th, 2016. Staff as well as Jim Tharp from Oxley Williams Tharp Architects (design team consultant) have evaluated the bids and contractors as well as interviewed references.; and have now recommended selecting T.F. Woods as the contractor for the project as described. Total project cost is anticipated at \$3.88M; which is within the approved budget

parameters.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☒ included ☐ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Adoption of the Resolution and authorization to execute an agreement with T.F. Woods as contractor for the construction of the Elgin Recreation Center and Emergency Shelter s presented; and as may be amended or otherwise directed by Council.

ATTACHMENTS:

Resolution

Contractor Recommendation Letter

Bid Tabulation 2nd Round

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE SELECTION AND AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE ELGIN RECREATION CENTER TO FT WOODS CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER AND/OR THE MAYOR TO ACT AS THE CITY'S EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE TO EXECUTE THE CONTRACT.

WHEREAS, the City of Elgin has completed the appropriate procurement procedures through the competitive bidding process; and

WHEREAS, all bids were received fairly and ranked according to lowest best responsible bid; and

WHEREAS, the City's contracted architect for the project, Oxley Williams Tharp Architects, has reviewed all bid documents and recommends the award of the contract to FTWOODS Construction;

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

1. That the City award a construction contract to FTWOODS Construction for \$3,880,000.
2. That the City Council directs and designates the City Manager and/or the Mayor as the City's Chief Executive Officer and Authorized Representative to act as the City's executive officer and authorized representative to execute the construction contract for the Elgin Recreation Center

Passed and approved this _____ day of January , 2017.

Chris Cannon, Mayor

Amelia Sanchez, City Secretary

OXLEY WILLIAMS THARP

December 23, 2016

Mr. Thomas Mattis
City Manager
City of Elgin
310 North Main Street
Elgin, Texas 78621

Re: Elgin Recreation Center / Emergency Shelter

Mr. Mattis,

On December 15, 2016, the City of Elgin received three competitive bids for construction of its new recreation center. The three bidding contractors and their base bids were as follows.

- FT Woods Construction, Georgetown, Texas - \$3,880,000
- Gaeke Construction Company, Inc., Giddings, Texas - \$3,956,280
- Lyness Construction L.P., Cleburne, Texas - \$5,180,000

Oxley Williams Tharp Architects has reviewed FT Woods Construction's bid, and spoken to several of their references. (Architects and owners) Their total project bid is in-line with what we anticipated and the references we spoke with had nothing but good things to say about them.

Based on their bid and references, our recommendation would be for the City of Elgin to contract with FT Woods Construction to construct the new recreation center facility.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Tharp', followed by a long horizontal line.

Jim Tharp AIA NCARB
Principal
Oxley Williams Tharp Architects, PLLC.

12-15-16

[illegible]



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH HAWES HILL CALDERON LLP AND THE CITY OF THE ELGIN RELATING TO TAX INCREMENT REINVESTMENT ZONE NO. 1 AND MAKING CERTAIN FINDINGS RELATED THERETO

DEPARTMENT: Economic Development

PROPOSED ACTION:

Consideration of the Resolution and associated agreement as proposed.

BACKGROUND:

In November, 2012, the City created the Tax Increment Reinvestment Zone (TIRZ) #1 to support anticipated economic development projects through funding of capital improvement and public infrastructure projects as may be desirous in previously undeveloped areas of the city.

In support of the original goals of the TIRZ (and development now anticipated for the area), it is the staff recommendation that the TIRZ Plan be properly updated to reflect the current environment; which will include a revised revenue schedule based upon current development and values coupled with proposed development of the TIRZ area based on current demand and market conditions. The updated TIRZ Plan will include a comparative analysis of the revenues that have been generated to those that were initially forecast to measure the actual impact of the zone on the City of Elgin and Bastrop County. To that end, the staff has received a proposal from Hawes Hill Calderon LLP for professional services related to this effort; a copy of which is included with this agenda item and describes in detail the services to be provided. The total cost for this procurement is \$416,721.

In conjunction with this effort, staff has also recommended proceeding with the initial phase of the TIRZ Project Plan and the Lee Dildy Construction Project, that will include the construction of Lee Dildy Boulevard and the extension of Saratoga Farms Drive and Roy

Rivers Boulevard with appropriate road, drainage, and utility improvements.

NOTE: Costs associated with this Agreement will initially/preliminarily be incurred by the City; however, it is anticipated that said costs will be reimbursed by TIRZ revenue and/or debt proceeds.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☒ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Adoption of the Resolution and authorization to execute the agreement as presented; and as may be amended or otherwise directed by Council.

ATTACHMENTS:

Resolution

Proposal

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING
THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH
HAWES HILL CALDERON LLP AND THE CITY OF THE ELGIN
RELATING TO TAX INCREMENT REINVESTMENT ZONE NO. 1
AND MAKING CERTAIN FINDINGS RELATED THERETO**

WHEREAS, the City of Elgin, Texas (the “City”) on the 6th day of November, 2012 adopted Ordinance No. 2012-11-06-26, which created the Tax Increment Reinvestment Zone #1, City of Elgin, Texas (the “TIRZ”) after complying with all applicable provision and requirements of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City desires to update the TIRZ plan revenue schedule based upon current development and values coupled with proposed development of the TIRZ area based on current demand and market conditions as provided by the developer; and

WHEREAS, the City desires to update the TIRZ plan to generate a comparison analysis of the revenues that have been generated compared to those that were initially forecast to measure the actual impact of the zone on the taxing jurisdictions; and

WHEREAS, the City desires to update the TIRZ plan to recommend a funding level to each jurisdiction based on the analysis, and take and present the findings to the appropriate elected officials and city and county administrators; and

WHEREAS, the amount of the agreement shall not exceed \$25,000.

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

Section 1. That the above recitals are true and correct; and the City Manager is authorized to execute an Agreement with Hawes Hill Calderon LLP to update the TIRZ No. 1 plan, a copy of said Agreement being attached hereto and made part of this Resolution as if copied verbatim therein

Section 2. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 3rd^h day of January, 2017.

CHRIS CANNON, Mayor
City of Egin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary

**AGREEMENT BY AND BETWEEN
THE ELGIN ECONOMIC DEVELOPMENT COUNCIL AND HAWES HILL CALDERON LLP**

This agreement is made by and between the ELGIN ECONOMIC DEVELOPMENT COUNCIL (the "Client") and HAWES HILL CALDERÓN LLP (the "Consultant").

W I T N E S S E T H :

WHEREAS, the Client desires that the Consultant provide certain professional services related to amendments to the project plan and related agreements with the Tax Increment Reinvestment Zone No. 1, City of Elgin, Texas; and

WHEREAS, the Consultant has the employees, office operations, and knowledge to ably provide the professional services required by the Client;

NOW THEREFORE, Client and Consultant, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do agree as follows:

I.
Services

The Consultant hereby agrees to provide, furnish, or perform certain professional services with respect to amending the Project Plan for Tax Increment Reinvestment Zone No. 1, City of Elgin, Texas, including preparing amendments to the participation agreements and related documents, and including the services described on Exhibit A, attached hereto. Such services herein collectively referred to as the "Services."

II.
Performance of Services

Consultant shall have the right to determine the method, details, and means of performing the Services. The Client, however, shall be entitled to ensure satisfactory performance, including the rights to inspect, to stop work, to make suggestions or recommendations as to the details of the work, and to propose modifications to the Services. Consultant will provide all required resources and personnel to complete the Services and use its best efforts to accommodate work schedule requests in a timely manner.

III.
Compensation and Reimbursement to Consultant

For and in consideration of the professional services rendered by the Consultant as specified in Exhibit "A," *Scope of Professional Consulting*, of this Agreement, the Client agrees to pay the Consultant a fixed fee of TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) due and payable according to the following schedule:

- ☐ FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) due upon the approval of adoption of the amended Plan by the Board of Directors of the Tax Increment Reinvestment Zone; and
- ☐ TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) due upon City Council's approval of an ordinance adopting the amended Plan.

Reimbursable out-of-pocket expenses and other expenses and charges incurred by the Consultant in performing the Services under this Agreement shall be made on a monthly basis upon submission by the Consultant of invoices and other documentation setting forth such expenses and charges; *provided, however*, all expenses and charges proposed to be incurred by the Consultant for the performance of the Services shall be subject to the Client's prior written approval.

The *Schedule of Maximum Charges and Rates of Hawes Hill Calderon LLP* for the performance of the Services by the Consultant under this Agreement as set forth on Exhibit “B” attached hereto for reference are hereby approved by the Client. The Client expressly disclaims any liability for reimbursement to the Consultant of any amounts in excess of those approved in writing by the Client.

Consultant shall tender to the Client a detailed invoice of the services performed and the allowable reimbursable expenses incurred to the Client each month during the term of this Agreement. Payments on account of services rendered and for reimbursable expenses incurred shall be made within 30 days after the Client receive Consultant’s detailed invoice therefore. In the event of a disputed or contested invoice, the Client may withhold any such disputed or contested amount without penalty.

IV.

Right of Ownership

All data, information, maps, books, reports, files, photography, artwork, software, equipment, and materials purchased, created or maintained by the Client or purchased, created or maintained by the Consultant on behalf of the Client shall remain the property of the Client. It shall be clearly marked as property of the Client in such manner that it may at any time be removed from the premises of the Consultant.

V.

Laws to be Observed

In performing its obligations under this Agreement, the Consultant at all times shall observe and comply with all federal and state laws, local laws, ordinances, orders, and regulations of the federal, state, county, or city governments. The federal, state, and local laws, ordinances, and regulations which affect those engaged or employed in the work, or the equipment used in the work, or which in any way affects the conduct of the work, shall be at all times in effect, and no pleas of misunderstanding will be considered on account of ignorance thereof.

VI.

Successors and Assigns

This Agreement shall bind and benefit the respective parties and their legal successors, and shall not be assignable, in whole or in part, by any party hereto without first obtaining the written consent of the other party. Nothing herein shall be construed as creating any personal liability on the part of any officer or director of the proposed Authority or the Zone.

VII.

Independent Contractors

The Consultant shall be an independent contractor to the Client, and nothing in this Agreement shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. This Agreement shall not be interpreted or construed as creating or establishing the relationship of employer and employee between the Client and the Consultant, or any of the Consultant’s employees or agents.

VIII.

Conflict of Interest

In keeping with Consultant's duties to the Client, Consultant agrees that it shall not, directly or indirectly, become involved in any conflict of interest, or upon discovery thereof, allow such a conflict to continue. Moreover, Consultant agrees that it shall promptly disclose to the Client any facts which might involve any reasonable possibility of a conflict of interest.

IX.

Term and Termination

This Agreement shall become effective as of the date executed by the Client and the Consultant as set forth on the signature page hereof. Either party may terminate this Agreement at any time by giving the other party at least thirty (30) days' prior written notice thereof, specifying in such notice the effective date of such termination. In the event of termination, it is understood and agreed that only the amounts due the Consultant for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

X.

Amendment or Modification

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only upon the written consent of the parties hereto, executed by authorized representatives of both parties to this Agreement.

XI.

Miscellaneous

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas, including all matters of construction, validity, performance and enforcement.
2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Client and the Consultant, their respective successors and assigns; provided however, that neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties thereto.
4. Waiver. A waiver by either party of a breach of any of the terms or provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

(EXECUTION PAGE FOLLOWS)

XII.

Acceptance

This instrument is being executed in two (2) counterpart originals, each of which has the full force and effect of an original.

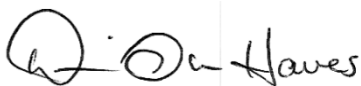
The venue for all disputes and related purposes shall be in Harris County, Texas.

AGREED AND ACCEPTED THIS _____ DAY OF _____, 2016.

On Behalf of ELGIN ECONOMIC DEVELOPMENT COUNCIL:

By: _____
Name: _____
Title: _____
Address: _____
City/State/Zip _____
Telephone: _____
Fax: _____
E-mail: _____

On Behalf of HAWES HILL CALDERÓN LLP:



By: _____
David Hawes, Senior Partner
Hawes Hill Calderón LLP
PO Box 22167
Houston TX 77227-2167
Telephone 281-923-2504
Fax 281-888-6314
E-mail: dhawes@hhcllp.com

Exhibit “A”
Scope of Professional Consulting Services

A project team comprising David Hawes, Principal, with Naina Magon, Tony Allender, and Patrick Horton will carry out the scope of professional consulting services described below.

- Update the project plan revenue schedule based on current development and values, coupled with proposed development of the TIRZ area based on current demand and market conditions as provided by the developer.
- Generate a comparison analysis of the revenues that have been generated compared to those that were initially forecast to measure the actual impact of the zone on the taxing jurisdictions.
- Recommend a funding level to each jurisdiction based on the analysis, and take and present the findings to the appropriate elected officials and city and county administrators.
- Determine whether consensus on approval of a plan amendment can be achieved.
- PROVIDING THERE IS CONSENSUS TO MOVE AN AMENDMENT FORWARD, prepare the project plan amendment document, and revised participation agreements for the City and County for presentation to the TIRZ board.
- Work with County staff to get the interlocal agreement amended and approved by Commissioner’s Court.
- Work with the City staff to get the interlocal agreements amended, and approved by the City Council.
- Work with the City staff to amend the plan, including the preparation of public hearing notices, plan amendment ordinances, and related plan documents.

Exhibit "B"

Schedule of Maximum Charges and Rates of Hawes Hill Calderon LLP

Professional consulting

Total contract: \$25,000.00

Out-of-pocket expenses including, without limitation, the following:

actual cost*

- ☐ prints, photocopies, reproductions, graphics, art supplies*
- ☐ postage, deliveries
- ☐ posting, filing and submittal fees
- ☐ publication of public notices
- ☐ parking fees and tolls
- ☐ travel, lodging and incidentals

Automobile mileage directly attributable to this project shall be charged at the current rate allowable under Internal Revenue Service regulations.

*REIMBURSABLE PRINTS, PHOTOCOPIES, REPRODUCTIONS, GRAPHICS (The following schedule is effective August 1, 2015)

Telephone calls/faxes	No charge for local or domestic long distance calls or faxes
In-house photocopies	<i>Black & white</i> 8½ x 11, \$0.15 per page 8½ x 14, \$0.20 per page 11 x 14, \$0.25 per page <i>Color</i> 8½ x 11, \$0.50 per page 8½ x 14, \$0.65 per page 11 x 14, \$0.70 per page
Data copies	Flash Drive -- \$20.00
GIS mapping	\$150.00 per hour plus actual costs for printing, paper, ink and special mounting
Binding supplies	<i>Cover stock and binding combs</i> \$1.00 per set
Supplies	Special supplies required for a specific project are billed at actual cost
Delivery services	Billed at actual cost
Postage	Billed at actual cost
Mileage	Maximum rate per mile allowed under IRS regulations



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC ENGINEERS INC. FOR PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF THE LEE DILDY BOULEVARD CONSTRUCTION PROJECT AND MAKING CERTAIN FINDINGS RELATED THERETO

DEPARTMENT: Economic Development

PROPOSED ACTION:

Consideration of the Resolution as proposed, authorizing the execution of an agreement with TRC Engineers Inc. as stated.

BACKGROUND:

In November, 2012, the City created the Tax Increment Reinvestment Zone (TIRZ) #1 to support anticipated economic development projects through funding of capital improvement and public infrastructure projects as may be desirable in previously undeveloped areas of the city.

In support of the original goals of the TIRZ (and development now anticipated for the area), it is the staff recommendation that the City proceed with the initial phase of the TIRZ Project Plan and the Lee Dildy Construction Project, that will include the construction of Lee Dildy Boulevard and the extension of Saratoga Farms Drive and Roy Rivers Boulevard with appropriate road, drainage, and utility improvements. To that end, the staff has received a proposal from TRC Engineers Inc. for professional engineering services related to this project; a copy of which is included with this agenda item and describes in detail the services to be provided. The total cost for this procurement is \$416,721.

In conjunction with this effort, staff has also recommended that the TIRZ Plan be properly updated to reflect the current environment and proposed development within the TIRZ.

NOTE: Costs associated with this Agreement will initially/preliminarily be incurred by the

City; however, it is anticipated that said costs will be reimbursed by TIRZ revenue and/or debt proceeds.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐ included ☒ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Adoption of the Resolution and authorization to execute an agreement as presented; and as may be amended or otherwise directed by Council.

ATTACHMENTS:

Resolution

Proposal

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING
THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC
ENGINEERS INC. FOR PROFESSIONAL ENGINEERING SERVICES
IN SUPPORT OF THE LEE DILDY BOULEVARD CONSTRUCTION
PROJECT AND MAKING CERTAIN FINDINGS RELATED
THERETO**

WHEREAS, the City of Elgin, Texas has created the Tax Increment Reinvestment Zone to support economic development through the funding of capital improvement and/or public infrastructure projects; and

WHEREAS, the City is now desirous within moving forward with the initial phase of the TIRZ Project Plan with the Lee Dildy Construction Project, that will include the construction of Lee Dildy Boulevard and the extension of Saratoga Farms Drive and Roy Rivers Boulevard with appropriate road, drainage, and utility improvements; and

WHEREAS, the City has received a proposal from TRC Engineers Inc. for professional engineering services related to the proposed Lee Dildy Construction Project.

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

Section 1. That the above recitals are true and correct; and the City Manager is authorized to execute an Agreement with TRC Engineers Inc. for professional engineering services related to the proposed Lee Dildy Construction Project, a copy of said Agreement being attached hereto and made part of this Resolution as if copied verbatim therein.

Section 2. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 3rd^h day of January, 2017.

CHRIS CANNON, Mayor
City of Egin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary



T.B.P.E. #F-8632

505 East Huntland Drive
Suite 250
Austin, TX 78752

512.454.8716 PHONE
512.454.2433 FAX

www.TRCSolutions.com

December 22, 2016

Mr. Thomas Mattis, City Manager
City of Elgin
310 N. Main Street
Elgin, Texas 78621

**Re: Lee Dildy and Roy Rivers Boulevard Extension
Road, Drainage and Utility Project
Engineering Services Contract.**

Dear Mr. Mattis:

TRC Engineers, Inc. has prepared this Proposed Engineering Letter for professional engineering services for the proposed Lee Dildy and Roy Rivers Boulevard Extension which includes road, drainage and utility improvements.

The project consists of approximately 3,000 linear feet of a boulevard road extension approximately 500 linear feet south of existing Roy Rivers Road, 1,000 feet west of future Lee Dildy Boulevard and 1,500 feet east of future Lee Dildy Boulevard tying with West 11th Street. The work will consist of storm sewer mains, street design, drainage study, sidewalks and extension of water and wastewater services from future Saratoga Farms Subdivision to north of proposed boulevard. The services provided will include an Engineering Report to confirm drainage areas, provide preliminary storm sewer sizing and construction cost estimates. At the request of the City, TRC will provide a presentation to City Staff and City Council.

TRC Engineers, Inc. will perform the following Scope of Work:

Engineering Drainage Study Scope of Work:

1. Confirm drainage areas for the proposed boulevard and determine runoff flows based on the planned storm events (10, 25 and 100 year).
2. Size storm sewer mains within the proposed boulevard on the planned storm events (10, 25 and 100 year).
3. Confirm areas where boulevard will carry the storm water runoff and areas where storm sewer will carry the runoff.
4. Complete a drainage study and make determinations about run off discharge from proposed

**CITY OF ELGIN
LEE DILDY AND ROY RIVERS BOULEVARD EXTENSION
ROAD, DRAINAGE AND UTILITY PROJECT
ENGINEERING SCOPE OF WORK (12/22/2016)**

5. Provide Opinion of Probable Construction Costs for all proposed work.
6. Prepare maps and diagrams as needed.
7. Provide draft sets of the report to City Staff for review, followed by submittal of final report.
8. Provide City Council presentation if requested.

Survey Scope of Work:

1. Acquire field topographical data for the design portions of the project on City's coordinate system (NAD 83 State Plane Coordinates, Texas Central Zone Grid and NAVD 88 Datum), to include:
 - Detailed survey including utility locates (as furnished by the specific utility provider) within City proposed right-of-way and extending approximately 150 feet downstream of storm sewer main discharge.
2. Provide survey field notes for future Right of Way acquisition purposes (max. of 7 sites), drainage easement metes and bounds (1) and ROW maps for the proposed boulevard. All documents will be signed and sealed by a Texas Professional Surveyor.

Geotechnical Scope of Work:

1. Geotechnical borings and geotechnical report and analysis, recommendations and conclusions for the proposed boulevard paving design.
2. A total of seven (7) borings will be drilled and will extend a maximum of ten (10) feet below existing grades within the proposed alignment of the new boulevard.
3. Staking of the seven (7) boring locations and completed maximum of seventy (70) feet of geotechnical drilling.
4. Soils will be visually classified by the geotechnical engineer during the process of editing the boring logs and assigning the appropriate laboratory testing program.
5. Assigned laboratory testing may include testing for Atterberg limits, swell potential, moisture content, hand-penetrometer strength readings/measurements, unconfined compressive strength testing and shear testing.
6. The completed laboratory test results will be reviewed by the geotechnical engineer prior to data entry onto the geotechnical boring logs.

CITY OF ELGIN
LEE DILDY AND ROY RIVERS BOULEVARD EXTENSION
ROAD, DRAINAGE AND UTILITY PROJECT
ENGINEERING SCOPE OF WORK (12/22/2016)

Environmental Scope of Work:

1. Natural Resources Services

- a) Delineation of Waters of the U.S. and threatened and endangered species habitat assessment. TRC will perform a background review of the existing and available data, including U.S. Geological Survey (USGS) topographic maps, U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) maps, U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) Soil Surveys, Federal Emergency Management Agency (FEMA) floodplain maps, aerial photography, as well as other available planning maps and reports.
- b) Following the background data review, a TRC biologist will conduct a field survey to determine the location and extent of any potential Waters of the U.S., including wetlands, within the Project Area. TRC will conduct the field investigation for the delineation of Waters of the U.S. in conjunction with the threatened and endangered (T&E) species habitat assessment. TRC's findings will be provided as a Technical Memorandum.
- c) In accordance with USACE Section 404 permitting requirements, the Endangered Species Act of 1973, and State of Texas regulations, TRC will perform a background review of existing and available data to determine the potential for protected species to occur within the Project Area. The background data review will include a search for the current listing of federal and state-listed rare, threatened, and endangered species for Bastrop County; federally designated Critical Habitat; the TPWD's Texas Natural Diversity Database (TXNDD); as well as other available data to assess the potential for protected species to occur within the Project Area.
- d) Following the background data review, TRC biologists will conduct a survey, concurrent with the Waters of the U.S. delineation, for T&E species habitat, vegetation communities, and other sensitive natural resources that may be present within or adjacent to the Project Area. TRC will identify predominant vegetation communities and address their abilities to provide habitat to support T&E species. TRC's finding will be included in the previously mentioned Technical Memorandum.

2. Cultural Resource Services

- a) TRC will perform a desktop review to identify existing conditions and identify documented cultural resources within the area of potential effect (APE) that could potentially be impacted by the proposed project. This data will be summarized in a letter of consultation and submitted to the THC for review.
- b) TRC will perform an archeological site file search using the THC Archeological Sites Atlas (THC Atlas) to compile current information on recorded resources that are situated within a 1 mile radius of the APE. Other documents including historic aerial photographs, USGS topographic maps, Sanborn maps, Texas General Land Office (GLO) documents, Historic Texas Overlay Database maps, and cemetery records may also be reviewed. The results of this site file search

**CITY OF ELGIN
LEE DILDY AND ROY RIVERS BOULEVARD EXTENSION
ROAD, DRAINAGE AND UTILITY PROJECT
ENGINEERING SCOPE OF WORK (12/22/2016)**

will be compiled in a letter of consultation for submission to THC. THC will review the letter of consultation and provide a response within 30 days.

Electrical Scope of Work:

1. The electrical design includes photometric, electrical services and lighting power for the boulevard in conformance with the current construction on Roy Rivers Drive.
2. All correspondence with Oncor as needed.

Landscape and Irrigation Work:

1. Preparation of landscape plans per the City of Elgin Ordinances.
2. Preparation of irrigation plans per the City of Elgin Ordinances.

TDLR Scope of Work:

1. Submit applications and acquire acceptance and/or permits for:
 - Handicap Accessibility (ADA/TDLR)
2. The sidewalks will be designed for both sides of the boulevard with all applicable handicap ramps.

Engineering Scope Work:

1. Prepare construction plans/specifications for the proposed project, including all details, consisting of:
 - a) Storm Sewer – 100 year design storm event contained within the ROW
 - b) Potable Water Crossings – location of sleeves only to allow for future crossings
 - c) Sanitary Sewer – extension underneath boulevard to allow service to adjoining properties
 - d) Design of Boulevard
 - e) Sidewalks – both sides of the boulevard
 - f) SWPPP
 - g) Signage and striping
 - h) General Construction Notes
 - i) City of Elgin Standard Construction Details
2. Prepare traffic control plan for project extents.
3. Coordination with franchise utilities (gas, telephone, cable, etc.)
4. Attend public outreach meetings to discuss the proposed project, (Maximum 2).

**CITY OF ELGIN
LEE DILDY AND ROY RIVERS BOULEVARD EXTENSION
ROAD, DRAINAGE AND UTILITY PROJECT
ENGINEERING SCOPE OF WORK (12/22/2016)**

5. Organize and participate in construction pre-bid meeting and provide visual presentation, as needed.
6. Assist the City in bidding process including preparation of advertisement document, assist the City in the opening and tabulation of bids, prepare award recommendation letter and prepare construction contract documents.
7. Prepare conformed set of construction plans after the bid award
8. TRC to lead pre-construction meeting, contractor correspondence, submittal review, pay request review, periodic site visits (monthly meetings – 9 maximum), final inspection, preparation of contractor punch list, certificates of completion, and record drawing preparation (3 sets of hard copies and one CD electronic copy).
9. Submittal to TCEQ of utility related plans.
10. Submittal to TXDOT (if necessary)

Construction Inspection Scope of Work:

1. TRC will provide periodic construction inspection of the project assumed at 3 times per week for the duration of the project estimated at 9 months.
2. Daily, weekly, and monthly reports including photo logs will be provided to City staff for review.
3. Inspection of critical path items including but not limited to:
 - a) Rebar placement
 - b) Density tests (subgrade, base)
 - c) Concrete pouring
 - d) Utility coordination meetings

Assumptions:

As the basis for the preparation for this proposal and the associated cost of service, the following assumptions were made which, if found to be incorrect may result in additional compensation:

- The City will provide access agreements for access to all private properties.
- The City will provide curb cuts or driveway locations to undeveloped properties (if applicable).
- Monthly progress meetings will be held during engineering design and construction.
- All proposed boulevard will be curb and gutter with median and constructed of “light duty” concrete.
- Sidewalks will be located in both sides of the boulevard with a minimum width of five (5) feet.

CITY OF ELGIN
LEE DILDY AND ROY RIVERS BOULEVARD EXTENSION
ROAD, DRAINAGE AND UTILITY PROJECT
ENGINEERING SCOPE OF WORK (12/22/2016)

- TRC will coordinate with Texas One Call and the City of Elgin for all subsurface locations within the proposed project.
- The boulevard pavement width will have a 100' transition section to the existing width of Lee Dildy Boulevard near HEB.
- Median design will be based upon conceptual plans and approved plats submitted to date.
- Street lighting will match current poles on Roy Rivers Drive.
- Metering for street lighting will be to the City of Elgin. All account set up (if necessary) will be done by City of Elgin staff.
- Water supply for the irrigation system shall be determined during the design process.
- No additional detention ponds will be required for the boulevard sections.

Exclusions:

The following items are specifically excluded from the scope of work:

- Design of improvements or relocations for gas lines, telephone lines or other franchise utilities.
- Design improvements for water line upgrades – Aqua W.S.C.
- Construction staking
- Continuous construction inspection – limited to three (3) visits per week for assumed construction time frame of 9 months.
- Environmental or cultural review of project limits (other than listed above)
- Detailed title search or title policy
- Attendance at or preparation for condemnation hearings
- Easement or plat documents (other than listed above), landowner contact or easement negotiations
- Traffic Impact Analysis
- Archaeological surveys (if applicable)
- Detailed ESA compliance documentation for a NWP 14 PCN submittal package
- Clean Water Act Section 401 compliance
- Endangered species mitigations plans/cost (if applicable)
- Species-specific threatened and endangered survey
- Clean Water Act Section 404 individual permit
- Design of bank stabilization (if applicable)
- Trenching equipment needed for THC field survey (if applicable). It is assumed the City of Elgin forces will provide and operate the equipment.
- Permitting fees related to electrical or irrigation services.
- Design, survey, permitting, etc. of the current section of Saratoga Farms and Lee Dildy Boulevard being done by the Saratoga Farms developer.

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ENGINEERING SCOPE OF WORK (12/22/2016)

Compensation for Services:

The cost to provide the engineering services will be invoiced as a lump sum project, as follows:

Surveying:	\$ 34,500.00
Geotechnical Report:	\$ 4,400.00
Environmental Services:	\$ 12,500.00
Electrical Services:	\$ 16,500.00
Landscape and Irrigation Plans:	\$ 16,500.00
TDLR:	\$ 3,500.00
Engineering Design:	\$273,821.00
Construction Inspection:	\$ 55,000.00

Total:	\$416,721.00
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This lump sum fee includes labor and material costs associated with the Scope of Work identified above.

TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause by customer compensation.

The payment schedule will be via progress billing (percent complete for each task).

Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or material cost through a formal change order process, which results in approval of the additional cost prior to excluding the additional work.

Services will be provided in Bastrop County.

Fees for service quoted in this Letter of Agreement are valid for a period of time not to exceed 60 days from the date of this letter.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. Please review this Letter of Agreement and, upon acceptance, sign in the space provided below.

CITY OF ELGIN

TRC ENGINEERS, Inc.



By: _____
Mr. Thomas Mattis
City Manager

By: _____
K. Beau Perry, P.E.
Vice President



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

AN ORDINANCE AMENDING CHAPTER 34 TO INCLUDE ARTICLE III, DIVISION 3, RIGHTS-OF-WAY MANAGEMENT, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, BY AMENDING CHAPTER 34, TO INCLUDE DIVISION III AND BY ADDING NEW SECTIONS 34-70, 34-71, 34-72, 34-73, 34-74, 34-75, 34-76, 34-77, 34-78, 34-79, 34-80, 34-81, 34-82, 34-83, 34-84, AND 34-85 REGARDING CITY OF ELGIN RIGHTS-OF-WAY; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE

DEPARTMENT: Administration

PROPOSED ACTION:

Consideration and adoption of the Ordinance as presented amending the city code to establish rules and procedures for construction activities within city-owned rights-of-way.

BACKGROUND:

See attached Memorandum

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐included ☐not included in the current-year budget ☒N/A

RECOMMENDATION:

Approval and/or adoption of the Ordinance as presented; and/or as may be amended by Council (All applicable city departments and staff have reviewed the proposed Ordinance and recommend its approval as written).

ATTACHMENTS:

Staff memorandum

Ordinance

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Memorandum

Date: December 21, 2016

To: Mayor and City Council

Subject: Proposed ROW Ordinance



As listed for consideration on the agenda for the 1/3/17 Regular Council Meeting, the staff is proposing an Ordinance to amend the city code and establish rules and procedures for access to - construction activities within - city-owned rights-of-way (ROW).

The main objective of this amendment is to assist in the management of facilities placed in, on, under or over City of Elgin rights-of-way (primarily areas adjacent to city streets and alleys) in order to minimize the inconvenience, deterioration, and other adverse effects (as well as costs associated from the placement of facilities within the public ROW) and to generally assist the city in its efforts to protect the public health, safety and welfare.

These new rules and procedures will apply to all companies that place facilities in, on, under or over public ROW; and any compensation for use of the public ROW shall be paid in accordance with all applicable law and/or franchise agreements.

It is important to note that this Ordinance will apply to all *city-owned* rights-of-way on, below, or above all public roadways, highway, sidewalks, alleys, or utility easements; but does not include:

- a) "the airwaves above a public rights-of-way with regard to wireless telecommunications", nor
- b) property within the city owned by the State of Texas - meaning, for example, that these new regulations will not apply to the US Highway 290 ROW, as it is exclusively regulated by TxDOT.

It should also be noted that the staff is still in the process of confirming the viability of the *Construction permit application fee* of \$400 as described in Sec. 34-73(a)(3) on Page 4 of the proposed Ordinance. As with most fees, the primary objective of same is to cover the city's costs for processing these applications. While the staff is fully supportive of the Ordinance as written, we may ultimately determine that this fee should be higher. We will be prepared to make our final recommendation on this matter at the meeting.

Please let me know if you have any comments or questions; or require additional information.

Thomas L. Mattis
City Manager

ORDINANCE NO. 2016-_____

AN ORDINANCE AMENDING CHAPTER 34 TO INCLUDE ARTICLE III, DIVISION 3, RIGHTS-OF-WAY MANAGEMENT, REVISED CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, BY AMENDING CHAPTER 34, TO INCLUDE DIVISION III AND BY ADDING NEW SECTIONS 34-70, 34-71, 34-72, 34-73, 34-74, 34-75, 34-76, 34-77, 34-78, 34-79, 34-80, 34-81, 34-82, 34-83, 34-84, AND 34-85 REGARDING CITY OF ELGIN RIGHTS-OF-WAY; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR A SAVINGS CLAUSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

All ordinances, parts of ordinances, or resolutions in conflict herewith are That Chapter 34, Article III, Revised Code of Ordinances, City of Elgin, Texas, 2013, is hereby amended to include Division 3, Sections 34-70, 34-71, 34-72, 34-73, 34-74, 34-75, 34-76, 34-77, 34-78, 34-79, 34-80, 34-81, 34-82, 34-83, 34-84, and 34-85 as follows:

Sec. 34-70 - Purpose.

The purpose of this article is to assist in the management of facilities placed in, on, under or over the City of Elgin rights-of-way in order to minimize the congestion, inconvenience, deterioration, visual impact and other adverse effects, and the costs resulting from the placement of facilities within the public rights-of-way; and to generally assist the city in its efforts to protect the public health, safety and welfare.

Sec. 34-71 - Authority and scope.

This article applies to all companies that place facilities in, on, under or over public rights-of-way. Compensation for use of the public rights-of-way shall be paid in accordance with all applicable law.

Sec. 34-72 - Definitions.

For the purposes of this article, the following words, terms and phrases, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

Business day shall mean any day of the week, not including Saturday, Sunday or holiday observed by the city.

Certificated telecommunications provider shall mean the same as defined in V.T.C.A., Local Government Code § 283.002(2): any entity that has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Texas Public Utility Commission to offer local exchange telephone service or a person that provides voice service, as defined in V.T.C.A., Local Government Code § 283.002(2).

City shall mean the City of Elgin, Texas. As used throughout, the term city also includes the designated agent of the city.

City property shall mean all buildings, infrastructure, bridges, parks, golf courses, parking lots and other real property owned by the city that is not dedicated for utility or street transportation purposes.

Design and construction standards (DACS) shall mean any and all design and construction standards that have been adopted by the city council and as may be amended from time to time.

City Manager shall mean the City Manager, or the designee of the City Manager.

Emergency shall mean a customer service interruption or a condition that threatens imminent harm to property or to health and safety.

Facility or facilities shall mean any and all of the wires, cables, fibers, duct spaces, manholes, poles, conduits, pipes underground and overhead passageways and other equipment, structures, plants and appurtenances and all associated physical equipment placed in, on or under the public rights-of-way.

Person shall mean a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity.

Public rights-of-way shall mean the same as defined in V.T.C.A., Local Government Code § 283.002(6): the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the city has an interest. The term does not include the airwaves above a public rights-of-way with regard to wireless telecommunications. The term does not include city property and rights-of-way owned by the State of Texas or agency thereof.

Utility company or *utility companies* shall mean any person or entity that owns or operates facilities.

V.T.C.A. shall mean Vernon's Texas Codes Annotated

Sec. 34-73 - Municipal authorization required.

(a) *Construction permit required.*

(1) *Construction permit.* Any utility company seeking to place, replace, or alter facilities on, in, under or over the public rights-of-way, shall file an application for a construction permit with the City Manager or his designee, except certificated telecommunications providers and their contractors, per V.T.C.A. Local Government Code ch. 283 and holders of a state-issued certificate of franchising authority to provide cable or video services per V.T.C.A., and shall abide by the terms and provisions of this article pertaining to use of the public rights-of-way.

(2) *Construction permit application.* With such application, applicants shall submit to the City Manager or his designee written applications identifying the applicant and all affiliates that may have physical control of facilities within the public rights-of-way, with plans of the proposed work, general description of the services to be

provided, a construction schedule, and a general description of the expected impact and effect on public rights-of-way as detailed in subsection 34-75(f) below.

(3) *Construction permit application fee.* With such application, applicants shall also pay a cost-based construction permit application fee of **Four Hundred Dollars (\$400.00)**. If there are additional direct costs to the city in processing the application, the city may recover those costs from the applicant prior to the issuance of the construction permit. A construction permit application fee is not required for city initiated projects that require utility companies to place, replace, or alter facilities on, in, under or over the public rights-of-way.

(b) *City authorization.* Any utility company, except a certificated telecommunications provider under V.T.C.A., Local Government Code ch. 283, and holders of a state-issued certificate of franchising authority to provide cable or video services under V.T.C.A., prior to placing, replacing, or altering facilities in, on or over the public rights-of-way, must obtain separate authorization from the city. For use of the public rights-of-way, all users of the public rights-of-way shall compensate the city on the value of the rights-of-way used, being typically either on a gross receipts basis or on a linear foot basis, to the fullest extent allowed by law.

(c) *Franchise agreements.* Any utility company with a current and unexpired consent, franchise agreement or other authorization from the city ("grant") to use the public rights-of-way that is in effect at the time this Rights-of-Way Management Ordinance is adopted, shall continue to operate under and comply with that grant (except to the extent the police power regulations in such grant are inconsistent with this article, in which event, this article will control) until the grant expires or until it is terminated by mutual agreement of the city and the utility company, or is terminated as otherwise provided for in law.

(d) *Prerequisites to issuance of construction permit.* Each utility company must register with the city. In order for the city to know which utility companies own facilities in the

public rights-of-way within the city, each utility company that owns facilities shall register with the city and provide the following information:

- (1) Utility company's name; and
- (2) The current name, address and telephone number of a contact person employed by and with decision-making authority for the utility company and who is available 24 hours per day.

Each utility company shall update and keep current its registration with the city at all times and shall inform the city of any changes no more than 30 days after the date the change is made.

Sec. 34-74. - Administration and enforcement.

(a) *General.*

(1) The City Manager or his designee shall have the primary responsibility to administer and enforce compliance with this article and to bring to the city, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or enforcement officer of the city having information regarding an alleged violation of this article, shall report that information to the City Manager.

(2) A utility company shall report information related to the use of the public rights-of-way that the city requires in the form and manner reasonably prescribed by the city as set forth herein.

(b) *Civil enforcement.* When and if a violation of this Ordinance occurs, the City Manager shall determine what action is deemed proper, and the City Attorney is hereby authorized, without further authorization from City Council, to file suit in district court, in addition to any criminal penalties to enjoin the violation of any provision of this article.

Appropriate actions and proceedings may be taken by the city in law or in equity to prevent

any violation of these regulations, to prevent unlawful construction, to recover damages, and to restrain, correct, or abate a violation. These remedies shall be in addition to the penalties described in this section.

Sec. 34-75. - Construction obligations.

A utility company is subject to reasonable police power regulation of the city to manage its public rights-of-way in connection with the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities in the public rights-of-way, pursuant to the city's rights as a custodian of public property based upon the city's historic rights under state and federal laws. Such regulations include, but are not limited to the following:

(a) At the city's request, a utility company shall furnish the city accurate and complete information relating to the excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities performed by the utility company in the public rights-of-way, as set forth herein and DACS as applicable. Information provided to the city pursuant to this subsection may be designated by the providing utility company as confidential and will be kept confidential by the city to the extent allowed by law.

(b) A utility company shall perform excavations and other construction in the public rights-of-way in accordance with all applicable city ordinances. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property. Any facility placed within the public rights-of-way that is attached in any manner above ground shall either be placed on existing poles or equipment or be attached in accordance with the National Electrical Safety Code. A utility company shall follow all reasonable construction directions given by the city in order to minimize any such interference.

(c) A utility company shall be required to utilize trenchless technology wherever the proposed construction crosses any portion of a paved public street, public or private driveways, or the critical root zone of a tree, as those terms are defined by section 44-23; provided, however, that in exceptional cases where particular field conditions prevent the use of trenchless technology, the City Manager or his designee has the discretion to grant a waiver of this requirement.

(1) A utility company may be required to utilize trenchless technology wherever the proposed construction crosses any portion of a public sidewalk or occurs in an area of the city that is significantly developed. The City Manager may waive this requirement if it is determined, based upon information provided by the utility company, that the use of trenchless technology is not practical or technically feasible.

(2) A utility company will not be required to utilize trenchless technology wherever the proposed construction is in an undeveloped area and does not cross any portion of a paved public street, public or private driveways or the critical root zone of a protected tree.

(d) A utility company shall use its best efforts to coordinate construction and installation of facilities, including collocation of poles for aerial facilities and joint trenching, with any other utility companies which may be constructing in and along the same public rights-of-way. The city may mandate such coordination to the fullest extent allowed by law.

(e) To the extent known, plans for ongoing repair, maintenance and improvements that involve cutting into paved city roads or streets shall be submitted to the city on an annual basis, no later than April 1 of each year, and updated based upon any changes. This does not require any proprietary information, such as equipment or customer specific information. Such information may be designated confidential, and to the extent

allowed by law, will be kept confidential by the city. Alternatively, a utility company may meet with the appropriate representative of the city each calendar quarter to provide such plans to the extent known.

(f) *Construction permits.*

(1) Except as provided in subsections (f)(3) and (f)(4) below, all utility companies must obtain a construction permit before performing any new construction or replacement, upgrading, excavation, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities in the public rights-of-way. The permit will be in the name of the utility company who will own the facilities to be constructed. The permit must be completed and signed by a lawful representative of the owner of the facilities to be constructed. Failure to obtain a required construction permit will subject the utility company to a stop-work order from the city and enforcement action pursuant to this Code.

(2) Except as provided in subsections (f)(3) and (f)(4) below, a utility company must submit an application for a construction permit at least seven (7) days prior to the proposed commencement of work in the request and must obtain the construction permit forty-eight (48) hours prior to any excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the utility company's facilities. The aforesaid seven-day and/or forty-eight hour requirement may be waived or altered by the city for good cause shown by the applicant.

(3) No permit is required for the installation of facilities necessary to provide primary or regular service to a customer's property or performing routine repair or maintenance of existing facilities, unless the utility company's activities require:

- i. The breaking of the asphalt, concrete or similar surface of the public rights-of-way;
- ii. The installation of a pole within the public rights-of-way;
- iii. The installation of an appurtenance extending to or above the surface of the public rights-of-way within two feet of a curb, sidewalk, or driveway, or within public rights-of-way containing roadways without barrier curbs;
- iv. Excavation greater than three (3) feet in depth or ten (10) feet in length within the public rights-of-way;
- v. The closure of a traffic lane; or
- vi. Boring within the public rights-of-way.

(4) No permit is required before performing emergency repair or maintenance; provided, however, that if such emergency repair or maintenance requires breaking of the asphalt, concrete or similar surface of the public rights-of-way, the utility company performing such work shall notify the City Manager or his designee immediately, and in no event later than two hours, after the commencement of breaking of the asphalt, concrete or similar surface. Any utility company performing emergency repair or maintenance in the public rights-of-way that does not require the breaking of the asphalt, concrete or similar surface of the rights-of-way shall provide the city with notice of any work performed by the next business day from the commencement of such work. A utility company shall provide the City Manager with a written, reasonably detailed description of emergency repair or maintenance work performed in the public rights-of-way and an updated map of any facilities that were relocated within twenty (20) business days of completion of such work. In addition, the utility company shall comply with the requirements of this article for the restoration, replacement or repair of the public rights-of-way.

(5) If non-pavement excavation required for the installation of facilities necessary to initiate service to a customer's property or for routine repair or maintenance cannot be backfilled at the end of a business day, then the utility company performing the excavation shall fence off the excavated area. If such non-pavement excavation cannot be backfilled by the following business day, the excavation must be fenced off and a permit application must be submitted to the city the next business day.

(6) Insurance and bonding will be required in accordance with Section 34-79 below.

(7) If the utility company fails to act upon any permit within ninety (90) calendar days of issuance, the permit shall expire unless extended by the city upon a showing of good cause. Upon expiration of a permit, a utility company shall be required to obtain another permit pursuant to the requirements of this article.

(8) The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place, and any other reasonable conditions set out by the director.

(9) No permit shall be issued until the utility company requesting the permit provides the City Manager or his designee, in the format specified by the city, the following:

- i. The completed application with the approximate location and proposed routing of new construction or reconstruction of all facilities at least seven (7) days before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the public rights-of-way, unless otherwise approved by the City Manager or his designee and the applicant's plan for right-of-way construction or reconstruction. A utility company may

not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing. In the event a utility company is required to commence construction within less than seven (7) days in order to comply with service objectives set by the Public Utility Commission of Texas, the utility company shall provide notification of such requirement to the city with the completed application and the utility company may commence construction no sooner than one (1) business day following submission of the application to the city; in the event the city subsequently reasonably withholds approval, the utility company shall adjust its application and any associated installed facilities to comply with the city's requirements. Furthermore, the utility company shall provide personnel to respond to the city's requests regarding the application on a reasonably continual basis after the time the application is submitted.

ii. For review, one set of construction plans in an electronic format acceptable to the City Manager or his designee, or two hard copy sets of construction plans. Upon approval of the application by the city, three (3) sets of construction plans each with a copy of the approved application shall be delivered in hard copy to the City Manager or his designee. Construction plans shall clearly display footages, reference points, tie-ins and proposed alignments of items being constructed. It is recommended that non-structure construction plans be drawn to scale, but if not, they shall be of a size and of sufficient detail that is reasonably clear and readable as

determined by the City Manager. Construction plans for structures must be prepared on a recognized scale no smaller than one inch = 50 feet, unless otherwise approved by the City Manager, and must be sealed by a professional engineer to the extent required by The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes.

iii. Except as provided below, the construction plans shall show all features as set forth herein. For utility construction involving the placement of new or replacement poles or utilizing underground trenchless technology, the construction plans shall show all features located within seven (7) feet on either side of the proposed facilities. For utility construction utilizing excavated trenches, the construction plans shall show all features located within seven (7) feet on either side of the excavation. The features that are required to be shown on the plans include existing underground and aerial wires or conduits, ducts, poles, wires, pipes, sewerage, water lines, and cables as well as their ownership; traffic signal and street light poles; fire hydrants; driveways; curbs, inlets and drains; sidewalks and wheelchair ramps; and trees and large shrubs. If the nature of the proposed facilities or specific site conditions warrants it, the City Manager may increase the above distance to fifty (50) feet. For construction within rights-of-way containing streets, roads, or highways, drawings shall show horizontal dimensions from the curb line or edge of pavement, or if a sidewalk exists, from the edge of sidewalk when not on the road or street side of the sidewalk, provided however, the City Manager may require drawings to show dimensions from specific lines or features when a more uniform alignment would be achieved as determined by the director. Within other

rights-of-ways, drawings shall show horizontal dimensions from property lines or easement lines. Drawings shall show elevation data including depth of installation and separation distances from other utilities. Traffic control plans shall be in conformance with the latest revision of the Texas Manual on Uniform Traffic Control Devices (TMUTCD). The City Manager may accept construction plans which deviate from the standards contained herein, so long as good cause is shown, and such a deviation is applied in a competitively neutral, non-discriminating manner. Regardless of the above, features other than those to be utilized by the utility company for its construction need not be shown for projects that entail the installation of additional or replacement equipment on existing poles, or the installation of additional ducts, inner ducts, or cable within existing conduit, and which do not entail either the installation of new poles or conduit, or the alteration of the surface or subsurface of the public rights-of-way.

- iv. Location of all public rights-of-way and utility easements which applicant plans to use.
- v. Detail of all existing city utilities in relation to applicant's proposed route.
- vi. Description of what the applicant proposes to install, including but not limited to pipe size, number of conduits, and valves, with appropriate details attached.
- vii. Location of areas where asphalt or concrete in streets will be removed and replaced, with appropriate plans and details that include City of Elgin Standard Construction Details and DACS, as appropriate.
- viii. Drawings of any boxes, trenches, handholes, manholes, switch gears, transformers, pedestals, etc. including depth located in public rights-of-way.

- ix. Handhole and/or manhole typical of type of manholes and/or handholes applicant plans to use or access.
- x. Complete legend of drawings submitted by the applicant.
- xi. Name, address and telephone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information shall be provided as soon as it is known by the utility company, but in any event prior to the commencement of construction and shall be amended by the utility company as necessary during the course of the work by written notification to the City Manager.
- xii. The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way and the dates and times work will occur.
- xiii. A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located within the city, if requested by the City Manager.

(10) The City Manager shall have the authority to place reasonable conditions and restrictions on the permit in order to protect the health, safety and welfare of the citizens of the city, as well as for the protection of property located within or adjacent to the right-of-way.

(11) All construction and installation in the public rights-of-way shall be accomplished by the utility company in strict compliance with the permit for the facilities. The City Manager or his designee shall be provided access to the work and to such further information as may reasonably be required to ensure

compliance with the permit. No deviation whatsoever from the permit shall be allowed without the City Manager's approval in writing of a permit amendment. When conditions warrant, such permit amendment may be accomplished with a written amendment in the field.

(12) The City Manager may inspect the site to ensure compliance with the permit and shall conduct a final inspection of the site and provide final approval of the work permitted. The City Manager or his designee shall make a reasonable effort to complete the final inspection within five (5) days following notification by the utility company that the project has been completed. Upon final inspection, if the city finds that the permit has not been complied with, the City Manager will provide written notice to the utility company regarding the work to be performed in order to obtain final approval.

(13) Copies of the approved construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the city at all times when construction or installation work is occurring.

(14) All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed in the specified time periods, the permittee may request an extension from the City Manager. The utility company shall notify the city's contact specified on the approved permit application at least one (1) business day and no more than three (3) business days prior to beginning the work authorized by the permit, or prior to continuing the work if work has been suspended for more than three business days.

(15) Requests for permits will be approved or disapproved by the City Manager within a reasonable time of receiving all the necessary information.

(16) The City Manager or his designee or his designee may require a preconstruction meeting with the permittee and construction contractor.

(17) If the City Manager declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, or requests the relocation of a utility company's facilities in accordance the provisions herein, a utility company shall remove or abate the utility company's facilities by the deadline provided in the City Manager's request. The utility company and the city shall cooperate to the extent possible to assure continuity of service. As stated herein, a construction permit application fee is not required for city-initiated relocation projects. If the utility company, after notice, fails or refuses to act, the city may remove, relocate or abate the facility, at the sole cost and expense of the utility company, without paying compensation to the utility company and without the city incurring liability for damages. Upon receipt of an invoice from the city, the utility company shall promptly reimburse the city for all costs incurred by the city within 30 calendar days from the date of the city invoice.

(18) In determining whether any requirement under this article is unreasonable or unfeasible, the City Manager shall consider, among other things, whether the requirement would subject the utility company to an unreasonable increase in risk or service interruption, or to an unreasonable increase in liability for accidents, or to an unreasonable delay in construction or in availability of its services, or to any other unreasonable technical or economic burden, and the utility's obligations as a provider of last resort pursuant to the provisions of the Texas Utilities Code.

(19) A utility company issued a permit pursuant to this article shall, at all times, employ the standard of care attendant to the risks involved to prevent

actions, failures and accidents that may cause damage, injury or nuisance to persons, the public, the facilities of other utility companies, or to any city structures or structures owned by other utility companies located in the public rights-of-way. A utility company issued a permit pursuant to this section shall observe all federal and state statutes and regulations and all applicable city ordinances and safety codes. A utility company issued a permit pursuant to this article shall keep and maintain its facilities in a safe and suitable condition, and in good order and repair.

Sec. 34-76. - Restoration and repair.

(a) Within fourteen (14) days of completion of replacement, upgrading, excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of facilities or other work in the public rights-of-way, a utility company shall temporarily restore and repair the public rights-of-way. Within 30 calendar days after completion of work in the public rights-of-way, the utility company shall permanently restore, replace, relay and/or repair the surface, base, curbs, drainage systems, irrigation systems, landscape treatment, trees, shrubs, sidewalks, mailboxes, walls, and other city facilities and infrastructure located on, in or under any public rights-of-way that has been excavated, altered or damaged by reason of the replacement, upgrading, excavation, construction, installation, expansion, reconstruction, relocation, alteration, removal, maintenance or repair of the utility company's facilities to the condition the public rights-of-way were in before the construction or better and must receive final approval from the City Manager or his designee.

(b) Restoration to the condition the public rights-of-way were in before the construction shall be to the reasonable satisfaction of the City Manager or his designee. The restoration shall include, but shall not be limited to:

- (1) Restoration of all landscaping and sprinkler systems including replacing all ground cover damaged during work with the same type of ground cover or better by sodding, seeding, or as directed by the city;
- (2) Installation of all manholes and handholes, as required;
- (3) Backfilling and compaction of all bore pits, potholes, trenches or any other excavation sites, unless other safety requirements are approved by the city;
- (4) Smoothing of all trenches and ruts, and restoration of the surface to the lines and grades existing prior to the work being performed, unless otherwise approved by the city;
- (5) Restoration of excavation site including compaction in accordance with city specifications.

(c) All locate flags associated with the permitted utility project shall be removed during the cleanup process by the applicant or its contractor at the completion of the work.

(d) Upon a showing of good cause, the city may, at its sole discretion, extend the time for restoration and repair of the public rights-of-way under this section. Unless the utility company provides a recent photograph or a video tape of the public rights-of-way before the construction, the condition of the rights-of-way before construction should be presumed in good condition, subject only to reasonable wear and tear, as determined by the City Manager.

(e) A utility company shall restore any right-of-way markers or monuments disturbed or destroyed during construction activities within thirty (30) days after construction has ceased. The utility company shall furnish three sets of drawings detailing the restored documentation. State plane coordinates shall be shown for all documentation (existing or restored). The drawings shall be signed (original signature), sealed and certified by a registered professional land surveyor, and delivered to the director for approval, no later than thirty (30) days after construction has ceased.

(f) Should the City Manager reasonably determine that additional restoration, replacement or repair work is required to restore any public rights-of-way to a condition that is at least as good as it was in before construction, the city shall provide written notice to the utility company of the need to perform such additional restoration, replacement or repair work. The utility company must begin such additional restoration, replacement or repair within ten (10) business days of receipt of written notice and diligently pursue such work to completion. In the event repairs have not been initiated during such ten (10) business day period or the utility company ceases to diligently pursue such work to completion, or the work is not performed to the reasonable satisfaction of the director, the city may repair such portion of the public rights-of-way as may have been disturbed by the utility company. Upon receipt of an invoice from the city, the utility company shall reimburse the city for the costs so incurred within thirty (30) calendar days from the date of the invoice. The city may, for good cause, extend the ten-business-day period.

(g) Notwithstanding the foregoing in subsection (f) of this section, if the City Manager determines that the failure of the utility company to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts, after emergency notice has been provided, to the extent reasonable under the circumstances, and the utility company failed to respond within a reasonable time specified by the city. Upon receipt of an invoice from the city, the utility company shall reimburse the city for all costs incurred by the city within thirty (30) calendar days from the date of the city invoice.

Sec. 34-77. - Construction standards.

(a) Once a permit is issued, a utility company, or its representative, shall notify the City Manager or his designee, and any other designated departments of the city, at least 24 hours in advance that construction in the public rights-of-way is ready to proceed. Information

signs (at least three feet by three feet in size) stating the identity of the contractor doing the work, their telephone number, and the utility company's identity and telephone number shall be placed at the location where construction is to occur no earlier than five business days and no later than 24 hours prior to the beginning of work in the public rights-of-way and shall continue to be posted at the location during the entire time the work is occurring and/or until the work is completed. An informational sign will be posted on each end of the public rights-of-way 100 feet before the construction location commences. Information signs shall be located in such a manner that does not adversely affect vehicular or pedestrian traffic.

(b) All construction shall be in conformity with all city codes and applicable local, state and federal laws.

(c) Erosion control measures and advance warning signs, markers, cones and barricades must be in place before work begins. A utility company may be required to show proof of engineered plans relating to storm water and erosion when applicable. The utility company shall be responsible for storm water management and erosion control that complies with city, state and federal guidelines, as applicable. Requirements shall include, but shall not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open excavations, and wire backed silt fencing in high erosion areas. All such silt fencing will be removed by the utility company upon project acceptance by the city. Upon request, the utility company may be required to furnish documentation submitted or received from the federal or state governments.

(d) The utility company shall ensure that dust control measures are implemented at the site.

(e) Except in the case of an emergency, or as otherwise approved by the City Manager or his designee:

(1) Lane closures on major thoroughfares will be limited to between 9:00 a.m. and 4:00 p.m., unless the City Manager or his designee grants prior approval. All traffic control devices shall conform to the TMUTCD, provided that the city may dictate restrictions due to rush hour traffic, unique events, or other conditions that may warrant such restrictions.

(2) Working hours in the public rights-of-way are limited to the hours between 7:00 a.m. to 6:00 p.m. Monday through Friday. When work on Saturdays, Sundays or city-observed holidays is allowed as provided in subsection (e)(4) below, working hours are limited to the hours between 9:00 a.m. and 6:00 p.m. on Saturdays and city-observed holidays, and between noon and 6:00 p.m. on Sundays. Work to be performed after 6:00 p.m. must be approved in writing by the City Manager in advance. Regardless of the above, work before sunrise or after sunset is prohibited unless appropriate provisions for night work as approved by the City Manager or his designee are implemented.

(3) Directional boring is permitted only Monday through Friday 7:00 a.m. to 6:00 p.m., unless approved in advance.

(4) Work on Saturdays, Sundays and city-observed holidays is generally discouraged; however, such work may be authorized when the City Manager determines that the work is in the best interest of the public. The City Manager's determination shall be based on factors including but not limited to the following:

- i. The work will cause less disruption to pedestrian or vehicular traffic or the public than that caused on a weekday;
- ii The availability and necessity of city staff to inspect or otherwise administer the provisions of this section with respect to the work; and

iii. Any special activities planned or occurring at the site of the work. Any work in the public rights-of-way performed on Saturdays or city-observed holidays must be approved in writing by the City Manager at least 48 hours in advance. Any work in the public rights-of-way performed on Sundays must be approved in writing by the City Manager at least 72 hours in advance.

(f) Without affecting the legal relationship between the utility company and its contractors, a utility company is responsible for the workmanship and any damages by a contractor or subcontractor. A responsible representative of the utility company will be available to the City Manager or his designee at all times during construction.

(g) The utility company or contractor or subcontractor shall notify the City Manager immediately of any damage to other utilities, either city-owned or privately owned.

(h) It is city's policy to discourage the cutting of street and sidewalk pavements and the blocking of sidewalks or other pedestrian paths; however, when a street or sidewalk pavement cut is required, prior approval must be obtained in accordance with article III of this chapter and all requirements provided in article III shall be followed. When a sidewalk or other pedestrian path must be blocked or cut, temporary measures shall be provided to accommodate pedestrian traffic as approved by the City Manager or his designee. Such measures may include the construction of a temporary pedestrian pathway in accordance with state accessibility standards. Repair of all street and sidewalk pavement cuts must be made promptly to avoid safety hazards to vehicle and/or pedestrian traffic.

(i) Installation of facilities must not interfere with city utilities or the maintenance of them, in particular, gravity dependent facilities. New facilities must be installed to a depth approved by the city, in accordance with DACS.

(j) All directional boring shall have a locator place bore marks and depths while bore is in progress. A locator shall place marks at each stem with paint dots and depths at least every other stem.

(k) Utility companies working in the public rights-of-way are responsible for obtaining line locates from all affected utilities or others with facilities in the public rights-of-way prior to any excavation. Use of the Geographic Information System or the plans of record does not satisfy this requirement.

(l) The utility company will be responsible for verifying the location, both horizontal and vertical, of all facilities which might possibly interfere with the construction activities. When required by V.T.C.A., Utilities Code § 251.001 (the Underground Facility Damage Prevention and Safety Act), the utility company shall verify locations by potholing, hand digging, or other acceptable method prior to any excavation or boring.

(m) Placement of all manholes and/or handholes must be approved in advance by the city. Handholes or manholes will not be located in sidewalks unless approved by the City Manager.

(n) Locate flags or marks shall not be removed from a location while facilities are being constructed.

(o) When the pumping of water and/or mud is required during construction, the water and/or mud shall be contained in accordance with applicable city ordinances and federal and state law and the directives of the City Manager or his designee.

(p) All streets and sidewalks shall be kept clean and clear of rocks, mud, dirt, debris, etc. to the extent practicable and any street or sidewalk shall be cleaned upon notification by the director. If any streets or sidewalks are not kept clean, the city may suspend work.

(q) Except in emergency situations, work within a roadway shall not be initiated during inclement weather involving foggy, rainy or icy conditions.

Sec. 34-78. - Conditions of public rights-of-way occupancy.

(a) In the exercise of governmental functions, the city has first priority over all other users of the public rights-of-way. To the fullest extent allowed by law, the city reserves the right to:

- (1) Lay sewer, gas, water facilities, and any other pipe lines or cables and conduits;
- (2) Do underground and overhead work, including attachments;
- (3) Require restructuring or changes in the city's aerial facilities in, across, along, over or under a public street, alley or public rights-of-way that may be occupied by a utility company; and
- (4) Change the curb, route or grade of sidewalks and streets.

(b) The city shall assign the location in or over the public rights-of-way among competing users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent the city can demonstrate that there is limited space available for additional users, may limit new users as allowed under state or federal law. As a priority, each user of the public rights-of-way will be allowed one alignment on one side of the street for placement of its facilities, provided there is adequate space available. In the event an additional alignment or both sides of the street has been requested by a user, the City Manager will grant such request, provided there is adequate space available and the requestor has demonstrated the financial or technical impracticability of the use of the requestor's single alignment or use of only one side of the street.

(c) If the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-way, the grant to an abutting landowner shall be subject to the rights of the previously authorized user of the public rights-of-way.

(d) If the City Manager gives written notice, the utility company shall, at its own expense (unless provided otherwise by state law or a franchise), temporarily or permanently remove, relocate, change or alter the position of the utility company's facilities that are in the public rights-of-way within 120 days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the utility company. For projects expected to take longer than 120 days to remove, relocate, change or alter, the City Manager will confer with the utility company before determining the alterations to be required and the timing thereof. The City Manager shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city public improvement in the public rights-of-way. This article shall not be construed to prevent a utility company's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall relocation or removal be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with the utility company.

(e) If the utility company fails to relocate facilities in the time required by the City Manager in this article, the utility company shall be subject to liability to the city for such delay. In addition, the city may relocate the utility company's facilities after providing reasonable notice to the affected utility company. Upon receipt of an invoice from the city, the utility company shall reimburse the city for all costs incurred by the city for such relocation within 30 calendar days from the date of the city invoice.

(f) Notwithstanding anything in subsection (d) of this section, the City Manager and the utility company may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.

(g) A utility company may trim trees or other vegetation in or over the public rights-of-way as needed for the safe and reliable operation, use and maintenance of its facilities. All tree trimming shall be performed in accordance with applicable city code. The utility company, its contractor or agent, shall remove such trimmings within 72 hours following routine maintenance or within ten business days following emergency activities. If the utility company fails to remove all debris resulting from trimming trees or other vegetation, the city may notify the utility company of such failure. If the utility company fails to remove such debris within five business days from receipt of notice from the city, the city may remove the debris or have it removed, and upon receipt of a bill from the city, the utility company shall reimburse the city for all costs incurred within 30 working days.

(h) A utility company shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky objects. The utility company shall meet with the party or parties requesting the temporary rearrangement within 72 hours of receipt of notice from the city to discuss the scheduling and cost. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. The utility company may require prepayment or prior posting of a bond from the party requesting the temporary move.

(i) In the event a utility company's use of its facilities is discontinued or abandoned, the utility company shall notify the city and thereafter shall forthwith remove its facilities from the public rights-of-way unless specifically permitted to remain, and on the removal thereof shall restore, repair or reconstruct the public rights-of-way where such removal has occurred, to the same condition as existed prior to the removal. In the event of failure, neglect or refusal of the utility company, after 30 days' notice by the city to remove such facilities as directed or repair the public rights-of-way upon removal of its facilities, the city may do such work or cause it to be done, and the reasonable cost thereof as determined

by the city shall be paid by the utility company and collection may be made by court action or otherwise. There is a presumption of discontinued use if the facilities or related appurtenances are not used for a period of one year.

Sec. 34-79. - Insurance and bond requirements.

(a) *Insurance.*

(1) A utility company shall obtain and maintain insurance in the amounts provided in subsection (a)(2) of this section with an insurance company licensed to do business in the State of Texas, with an AM Best rating of at least A-. A utility company shall file and maintain proof of insurance with the city at the time of the request for construction permits and prior to any commencement of work.

(2) A utility company shall furnish to the City Manager, at no cost to the city, a certificate of insurance on forms provided by the city, showing proof of liability insurance in the total amount of \$1,000,000.00.

(3) The insurance certificate required under subsection (a)(2) of this section shall:

- i. Include a cancellation provision in which the insurance company is required to provide the city a 30-day written notice before a cancellation, nonrenewal, reduction of policy limits, or other material change; and
- ii. Provide that notice of claims related to public rights-of-way construction shall be provided to the director by certified mail.

(4) The coverage must be on an occurrence basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.

(5) An insurance certificate obtained in compliance with this section is subject to City Attorney approval. A utility company shall immediately advise the city of actual

or potential litigation that may develop and may affect an existing carrier's obligation to defend and indemnify.

(6) The policy clause "other insurance" shall not apply to the city if the city is an insured under the policy.

(7) A utility company shall pay all costs for the insurance required under this article. The insurance shall be primary coverage for losses covered by the policies. A company that issues an insurance policy has no recourse against the city for payment of any premiums. Insurance policies obtained by a utility company must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.

(8) The city will accept certificates of self-insurance issued by the State of Texas, or letters written by the utility company in those instances where the state does not issue such certificates, which provide the same coverage as required herein. The city has the right to require proof of financial stability prior to accepting the proof of self-insurance, provided that defense of the city shall be comparable as provided by an insurance carrier. The defense and claims processing required of holders of a state-issued certificate of franchising authority to provide cable or video services shall be in accordance with V.T.C.A., Utilities Code ch. 66.

(b) *Bonds.*

(1) Unless otherwise provided for by a utility company's valid franchise, the City Manager shall require reasonable bonding requirements of a utility company, as are required of other entities that place facilities in the public rights-of-way. Such bonding amounts will be reasonably determined by the City Manager depending on several factors as to public safety and risk of harm to persons and property.

Such factors include, but are not limited to:

- i. The nature of the construction project;
- ii. The type of facility; and
- iii. Past construction history of the utility company in the city as to any damage claims, repairs and timeliness of construction.

(2) The utility company shall file an annual surety bond which will be valid each year construction will occur through one full year after the completion of the construction from a surety company authorized to do business in the State of Texas, and must be on forms provided by the city. Such surety bond will be in the amount of the estimated cost to restore the public rights-of-way for the work anticipated to be done in that year and to relocate facilities pursuant to this article. If the City Manager determines that the annual surety bond on file is insufficient to restore the public rights-of-way and to relocate facilities related to a specific project for which a permit application has been filed, then the City Manager may require the utility company to file an additional surety bond for such project.

(3) The city may either waive or reduce the amount of the bond in the event the utility company provides written documentation as to reserves available to compensate the city for damages, and has a two year history of no claims, or damages to city property by the city, or of prompt payment on such claims. Further, notwithstanding subsection (b)(1) of this section, a bond shall not be required of a utility company that can demonstrate a record of at least four years of work in the public rights-of-way in the city and to the extent applicable, in all other municipalities it has performed such work, free of unsatisfied claims. No bonds for aerial construction will be required of holders of a state-issued certificate of franchising authority to provide cable or video services, in accordance with V.T.C.A, Utilities Code ch. 66.

(c) *Alternate compliance methods.* The above requirements may be met by utilities with a current franchise or license if their current franchise or license adequately provides for insurance or bonds or provides an indemnity in favor of city.

Sec. 34-80. - System map.

(a) All utility companies who have facilities in the public rights-of-way existing as of the adoption date of the Ordinance shall provide a system map of their facilities to the city in a digital format commercially available, nonproprietary software no later than two years after the passage of this article, unless the utility company demonstrates an economic impracticality to provide such system map in the above format. An updated system map shall also be provided to the city on an annual basis to include new facilities.

(b) Information provided to the city pursuant to this section may be designated confidential by the providing utility company and will be kept confidential by the city to the extent allowed by law.

Sec. 34-81. - Improperly installed facilities.

(a) Any entity doing work in the public rights-of-way shall properly install, repair, upgrade and maintain facilities.

(b) Facilities will be considered to be improperly installed or maintained if:

- (1) The installation, repair, upgrade or maintenance endangers people or property or constitutes a threat to public health and safety;
- (2) The facilities do not meet applicable federal, state and city codes and regulations;
- (3) The facilities are not capable of being located using reasonable methods; or
- (4) The facilities are not installed in accordance with the approved permit issued by the city.

Sec. 34-82. - Revocation of permit.

If a utility company violates the terms and conditions contained herein, a permit may be revoked by the director or designee.

Sec. 34-83. - Appeal from revocation or denial of permit.

Appeal from revocation or denial of a permit shall be to the City Manager. Appeal shall be filed with the City Secretary within 15 days from the date of the decision being appealed.

Sec. 34-84. - Indemnity.

(a) Except as to certificated telecommunications providers, as provided in V.T.C.A., Local Government Code ch. 283, and holders of a state-issued certificate of franchising authority to provide cable or video services, in accordance with V.T.C.A, Utilities Code ch. 66, each utility company placing facilities in the public rights-of-way shall agree to promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses, claims, demands, suits, causes of action, judgments or expenses arising out of, incident to, concerning or resulting from the negligent or willful acts or omissions of the utility company, its agents, employees, and subcontractors, in the performance of activities pursuant to or authorized under this article for the repair, replacement or restoration of the city's property, equipment, materials, structures and facilities that are damaged, destroyed or found to be defective; damage to or loss of the property of any utility company, including but not limited to the utility company, its agents, officers, employees and subcontractors, city's agents, officers and employees, and third parties; and death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, including, but not limited to, the agents, officers and employees of the utility company, utility company's subcontractors and city, and third parties.

(b) Upon commencement of any suit, proceeding at law or in equity against the city relating to or covering any matter covered by this indemnity, for which the utility company

is obligated to indemnify and hold the city harmless, or to pay said final judgment and costs, as the case may be, the city shall give the utility company reasonable notice of such suit or proceeding. The utility company shall promptly provide a defense to any such suit or suits, including any appellate proceedings brought in connection therewith, and pay any final judgment or judgments that may be rendered against the city by reason of such damage suit. Upon failure of the utility company to comply with the provisions of this article, after reasonable notice to the city, the city shall have the right to defend the same and in addition to being reimbursed for any such judgment that may be rendered against the city, together with all court costs incurred therein, the utility company shall promptly reimburse the city for attorney's fees, including those employed by the city in such case or cases, as well as all expenses incurred by the city by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, compromised, or fully adjudicated against the city.

(c) This indemnity provision shall not apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors or subcontractors.

(d) The provisions of this indemnity are solely for the benefit of the city and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

(e) To the fullest extent permitted by law, a utility company shall pay all expenses incurred by the city in defending itself with regard to all damages and penalties provided in this article. These expenses shall include all out-of-pocket expenses such as attorney's fees, and shall also include the reasonable value of any services rendered by any employees of the city. In the event the city is compelled to undertake the defense of any such suit by reason of a utility company's failure to provide a defense as hereinabove provided, the city shall have full right and authority to enter into any settlement or compromise of such adjudication as the

City Council shall deem in the best interest of the city, without the prior approval or consent of the utility company with respect to the terms of such compromise or settlement.

Sec. 34-85. - Governing law.

This article shall be construed in accordance with the city code(s) in effect on the date of passage of this article, to the extent that such code(s) are not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas, subject to the city's ongoing authority to adopt reasonable police power based regulations to manage its public rights-of-way or as otherwise provided by law.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

READ, APPROVED and ADOPTED on first reading this the 3rd day of January, 2017.

CHRIS CANNON, Mayor
City of Elgin, Texas

ATTEST:



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC AND THE CITY OF ELGIN FOR ENGINEERING SERVICES FOR CSJ-0914-00-393 TAP TRANSPORTATION ALTERNATIVES PROGRAM GRANT FOR SIDEWALKS ON FM 1100, SH 95 NORTH AND COUNTY LINE ROAD.

DEPARTMENT: Community Development

PROPOSED ACTION:

Approve resolution.

BACKGROUND:

The City of Elgin received a Transportation Alternatives Program Grant in fall 2015 for sidewalks on FM 1100 from Vicksburg loop to SH 95 North, along SH 95 North to Elgin Memorial Park, and on County Line Road from Bandera Woods to Austin Community College. The project budget is \$1,319,331. The City local match is \$120,236 and the City is responsible for cost overruns. The attached scope of work for TRC details the required engineering and environmental services for the sidewalk project.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☒ included ☐ not included in the current-year budget ☐ N/A

RECOMMENDATION:

Approve Resolution.

ATTACHMENTS:

Resolution TAP

Scope of Work with TRC

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☒ Staff will provide brief comments and answer questions on this item at the meeting.
- ☐ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC AND THE CITY OF ELGIN FOR ENGINEERING SERVICES FOR CSJ 0914-00-393 TAP TRANSPORTATION ALTERNATIVES PROGRAM GRANT FOR SIDEWALKS ON FM 1100, SH 95 NORTH, AND COUNTY LINE ROAD.

Whereas, the City of Elgin, Texas (the “City”) has an Advanced Funding Agreement with the Texas Department of Transportation for CSJ 0914-00-393; and

Whereas, the City of Elgin received engineering proposals in November 2016, reviewed and scored those proposals; and

Whereas, the Elgin City Council authorized the City Manager to negotiate a scope of work for the required engineering services for CSJ 0914-00-393; and

Whereas, the City of Elgin desires to contract with TRC For the required engineering services as detailed in the Scope of Work; and

Whereas, the CSJ 0914-00-393 grant requires a local match from the City of Elgin in the amount of \$120,236 for a total project of \$1,319,331; and

Whereas, the City of Elgin is responsible for cost overruns of the project; and

Whereas, the amount of the engineering services agreement shall not exceed \$216,000.

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

Section 1. That the above recitals are true and correct; and the City Manager is authorized to execute an Agreement with TRC for engineering services as detailed in the attached Scope of Work for CSJ 0914-00-393 being attached hereto and made part of this Resolution as if copied verbatim therein

Section 2. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 3rd day of January, 2017.

CHRIS CANNON, Mayor
City of Elgin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary



T.B.P.E. #F-8632

505 East Huntland Drive
Suite 250
Austin, TX 78752

512.454.8716 PHONE
512.454.2433 FAX

www.TRCsolutions.com

December 22, 2016

Ms. Amy Miller, Community Development Director
City of Elgin
P.O. Box 591
Elgin, Texas 78155

**RE: Elgin Connections – County Line Road, FM 1100 and SH 95 North Sidewalk Project
Engineering Services Contract and Scope
CSJ: 0914-00-393**

Dear Ms. Miller:

TRC Engineers, Inc. (Engineer) has prepared this contract and scope for professional engineering services for the proposed Elgin Connections – County Line Road, FM 1100 and SH 95 North Sidewalk Project.

GENERAL REQUIREMENTS

1.1. Design Criteria. The Engineer will prepare all work in accordance with the latest version of applicable State's procedures, specifications, manuals, guidelines, standard drawings, standard specifications or previously approved special provisions and special specifications to include: the *PS&E Preparation Manual*, *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges, 2014*, other State approved manuals and the two (2) American Association of State Highway and Transportation Officials (AASHTO) publications, *A Policy on Geometric Design of Highways and Street* (latest Edition) and *Guide for the Development of Bicycle Facilities*, as applicable. In addition, the Engineer will follow the guidelines shown in *Developing PS&E in the Austin District*.

1.2. Right-of-Entry and Coordination. The Engineer will notify the State and coordinate to secure permission through the City to enter private property to perform any surveying, environmental, or engineering activities needed off State right-of-way. In pursuance of the State's policy with the general public, the Engineer will not commit acts which would result in damages to private property, and the Engineer will make every effort to comply with the wishes and address the concerns of affected private property owners. The Engineer will coordinate with the City staff to contact each property owner prior to any entry onto the owner's property. The Engineer will determine properties in which right of entry approvals will be required prior to starting survey work.

SCOPE OF WORK

A. Engineering

1. Attend one (1) preliminary conference with the Owner, TxDOT and other interested parties regarding the Project.
2. Provide topographical surveying (see below).
3. Provide geotechnical services (see below).
4. The Engineer will prepare construction plans and specifications in Autocad (TxDOT format) for the proposed Elgin Connections – County Line Road, FM 1100 and SH 95 North Sidewalk Project consisting of:
 - a. Approximately 580 linear feet of six (6') foot wide sidewalk along County Line Road between Bandera Woods Boulevard and an existing sidewalk, south, extending to the ACC campus.
 - b. Approximately 1,035 linear feet of ten (10') foot wide sidewalk along FM 1100 between Elgin Middle School and SH 95.
 - c. Approximately 640 linear feet of six (6') foot wide sidewalk along SH between FM 1100 and Elgin Memorial Park (Park and Ride).
 - d. Approximately 720 linear feet of six (6') foot wide sidewalk within Elgin Memorial Park.
5. The Engineer will run a hydraulic model to verify the extensions of the culverts at FM 1100 and Main Street will not have a hydraulic impact.
6. The Engineer will develop an opinion of probable construction cost using the Average Low Bid Unit Price from TxDOT.
7. The Engineer will provide 30%, 60% and 100% plan sets and specifications to City Staff and TxDOT for review.
8. The Engineer will submit applications for ADA/TDLR (Handicap Accessibility). The Engineer will be responsible for application fees associated with submittal. TRC will also be present at the RAS inspection.
9. The Engineer will assist the City during construction consisting of pre-construction meeting and record drawing preparation (3 sets of hard copies and one (1) CD electronic copy)

B. Surveying

The following surveying services will be provided:

1. Acquire field topographical data on the City's coordinate system (Texas State Plane Coordinate System NAD 83 (93), South Central Zone. The survey will include locates of all above ground planimetric features (edge of asphalt, trees, driveways, existing sidewalks, etc.). Surveyor will locate City and TxDOT right-of-ways. Surveyor will produce an ASCII point file, digital map in AutoCAD, and field notes, based on the horizontal and vertical datum.

C. Geotechnical

Subsurface drilling will be conducted to provide subsurface soil information at two (2) locations, one (1) at each of the culverts (FM 1100 and Main Street). The services will be as follows:

1. Drilling and sampling the subsurface materials at two (2) locations to a depth of approximately 15 feet each;
2. Backfilling the borehole with soil cuttings generated from the drilling process;
3. Reviewing the soil samples and classifying them in accordance with ASTM D 2487 and providing a typed boring log for the selected locations. The boring logs will include Standard Penetration Test (SPT) "N" values, hand penetrometer strengths, general soil descriptions and depths, and groundwater information;
4. Providing recommendations for design and construction of culverts including allowable bearing pressures and equivalent fluid lateral earth pressures for wingwalls; and
5. General earthwork recommendations.

D. Environmental

To satisfy the conditions of the Advanced Funding Agreement, Section 7 (Environmental Assessment and Mitigation), the project area is considered to include:

- County Line Road, between Bandera Woods Boulevard and an existing sidewalk extending to the ACC campus; and
- FM 1100, between Elgin Middle School, crossing SH 95, and ending in Elgin Memorial Park.

1. Task 1 – Biological Resources Investigations. Blanton & Associates, Inc. (B&A) will

area and to determine the potential presence of sensitive natural resources. The biological resources investigations will consist of background data reviews and surveys for completion of a water of the U.S. delineation and T&E species habitat assessment. The potential for Texas Parks and Wildlife Department's (TPWD) Species of Greatest Conservation Need (SGCN) to occur within the project area will be determined and field-verified. The results of the biological resources investigations will be used as supporting materials to the biological evaluation (BE) form and the CE Checklist. The BE will be completed and submitted. The Biological Resources Investigations will include:

- Waters of the U.S. Delineation;
 - Wetlands location map (if applicable);
 - o EPA 303(d) listed streams that the project may discharge into directly or within five miles downstream (if applicable); and
 - Threatened and Endangered (T&E) Species Habitat Assessment.
 - Determination of presence of SGCNs within the project area.
2. Task 2 – Initial Site Assessment (ISA) for Hazardous Materials. B&A will perform a survey of the project area and complete an ISA for an evaluation of potential hazardous materials impacts. The ISA will determine the potential for encountering hazardous materials in the project area, including possible environmental liability, increased handling requirements, and potential construction worker health and safety issues. The ISA will be performed in accordance with TxDOT ISA guidance and requirements.

B&A will prepare a draft ISA technical memorandum that includes a summary of the background data review and survey results. B&A will submit the draft ISA technical memorandum to the City of Elgin for review and comment. B&A will incorporate one (1) round of comments from the City into the final ISA technical memorandum for submittal to TxDOT as supporting materials to the CE Checklist.

It is anticipated that the proposed project would not require a Phase II Environmental Site Assessment (ESA) for hazardous materials. If TxDOT determines that a Phase II ESA is warranted based on information presented in the ISA, then a supplemental work authorization will be prepared to perform the Phase II ESA.

3. Task 3 – Cultural Resources Services. Cultural Resources Services will include the following:
- Archeological Investigation and
 - Historic Properties Investigation.

The proposed project qualifies for TxDOT's "List of Projects that Do Not Require Review or Coordination for Archeological Compliance" because the proposed project calls for the construction of sidewalks with ADA ramps and the depth of impacts will not exceed one (1) foot. Additionally, there are not previously recorded archeological sites within or adjacent

Online Archeological Sites Atlas. If the proposed project changes and/or the depth of impacts exceeds one (1) foot, TxDOT may require an Archeological Background Study and/or survey of the project area. If TxDOT determines that an archeological background study or archeological survey is warranted for any reason, a supplemental work authorization will be prepared to perform the survey.

B&A will complete a Project Coordination Request (PCR) form for the proposed project, which will be sent to the City of Elgin for review and forwarding to TxDOT. This PCR form will include previously identified historic-age resources within 1,300 feet of the proposed project area and provide information regarding the potential for the presence of historic-age properties in the project's Area of Potential Effect (APE). It is anticipated that the APE for this project would be the existing ROW and proposed easement, as well as parcels located directly adjacent to the proposed sidewalk and ramps. The PCR form will also include attachments with maps of the proposed project limits, the 1,300 foot study area, and the project APE. It is anticipated that a PCR form will be the only deliverable required for this project. If TxDOT determines that a survey is necessary for the project, a supplemental scope and fee would be required.

4. Task 4 – Section 4(f) De Minimis Checklist. Should the proposed improvements require a minor acquisition of new ROW/easement or minor change that does not alter activities, features, or attributes of the City of Elgin's Memorial Park, B&A will prepare a draft letter to the City of Elgin to request their concurrence regarding the de minimis impact. B&A will also participate in the public involvement activities associated with the de minimis finding. Lastly, B&A will complete a Section 4(f) de minimis checklist associated with such acquisition or change.

If the impacts are not considered de minimis and an Individual or Programmatic Section 4(f) Evaluation is required, it would be completed under a separate scope and fee.

5. Task 5 - Categorical Exclusion (CE) Checklist. B&A will prepare the CE Checklist in accordance with 23 CFR 771.117; TAC, Title 43, Part 1, Chapter 2; FHWA and TxDOT guidelines; and current Federal and State laws, rules, and regulations. In addition, B&A will also assist the City of Elgin with completion of TxDOT's *Project Scope for Environmental Review Documents*, as needed.

In accordance with FHWA and TxDOT guidelines, the CE Checklist will be supported by the following technical reports and other supporting documentation:

- Biological resources technical memorandum and BE form;
- Section 4(f) de minimis determination for sidewalk construction within Elgin Memorial Park
- ISA technical memorandum;
- Project Coordination Request for Historic Resources;

- Agency coordination letters (including coordination letters with the City of Elgin regarding the Section 4(f) de minimis impact to the Elgin Memorial Park) and responses; and
- Maps, plans, photographs, and database results.

B&A will prepare the draft CE Checklist and supporting materials to the City of Elgin for review and comment. B&A will incorporate one (1) round of comments from the City into the draft CE Checklist for submittal to TxDOT. B&A will incorporate the comments from TxDOT into the final CE Checklist and submit to the City for review and comment. B&A will incorporate one (1) round of comments from the City into the final CE Checklist for submittal to TxDOT.

ASSUMPTIONS

As the basis for the preparation for this proposal and the associated cost of services, the following assumptions were made which, if found to be incorrect may result in additional compensation:

- The City will provide access agreements for access to all private properties.
- Construction plans and specifications to be in general conformance with a go-by project furnished by TxDOT.
- The project will be let through the State and plans/specifications will be TxDOT standard format.
- The City will be responsible for acquiring any new ROWs, easements, or properties, if applicable.
- The proposed work will have minimal or no effect on sensitive resources (e.g., T&E species, waters of the U.S., cultural resources).
- Fieldwork for the natural resources survey, ISA, and other background data gathering will be performed concurrently.
- The maximum depth of impacts will not exceed one (1) foot. As such, the project qualifies for TxDOT's "List of Projects that Do Not Require Review or Coordination for Archeological Compliance." This scope and fee does not include an Archeological Background Study or archeological survey; should these be required, they would be completed under a separate scope and budget.
- This scope and fee does not include a constraints-level, reconnaissance-level, or intensive-level historic resources survey. If TxDOT requests that such work be completed for this project, it will be completed under a separate scope and fee. The City of Elgin will be responsible for submitting all deliverable associated with historic resources for review to TxDOT. TxDOT will be responsible for all formal agency coordination associated with the CE review process.
- If TxDOT determines that a de minimis determination is not appropriate or requests another type of Section 4(f) evaluation (e.g., Individual or Programmatic Section 4(f) Evaluation), such work will be completed under a separate scope and fee.
- The proposed project qualifies as a CE. This scope assumes that the project will meet the criteria of a c(3) (Construction of bicycle and pedestrians lanes, paths and facilities), c(22) (Projects that would take place entirely within existing operational right-of-way) or c(23) (federally funded projects that receive less than \$5 million of federal funds). If after further review the proposed

project's environmental documentation requirements are elevated, then additional scoping and costs would be required.

- The City will be responsible for coordinating necessary public involvement activities, such as meetings with property owners, public meetings, newspaper postings, etc., if necessary.
- TRC and B&A will provide one (1) staff member to attend a public involvement meeting, if scheduled, in support of the City.
- TxDOT will be responsible for formal agency coordination (e.g., THC, USFWS, TPWD, USACE, etc.) associated with the categorical exclusion review process.
- Project deliverables will be reviewed by TxDOT's Austin District and/or Bastrop Area Office.
- TRC anticipates the proposed project will have no significant impacts or effects to environmental resources.
- All deliverables, including exhibits and supporting materials, will be prepared in accordance with TxDOT and FHWA guidelines and will meet the regulatory requirements of legal sufficiency.
- B&A will perform and document quality assurance/quality control (QA/QC) reviews of all environmental documentation to determine conformity with current TxDOT SOUs, TxDOT's programmatic agreements, FHWA's guidelines, and current Federal and State laws, regulations, policies, and guidance.
- Scour analysis for creek.

EXCLUSIONS

The following items are specifically excluded from the scope of work:

- Design of improvements or relocations for gas lines, electrical lines, telephone lines or other franchise utilities or City-owned utilities.
- Updating of the plans due to changes by TxDOT to *PS&E Preparation Manual*, *Roadway Design Manual*, *Hydraulic Design Manual*, the *Texas Manual on Uniform Traffic Control Devices* (TMUTCD), *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges*, 2014.
- Any lighting (street, park or bridge).
- Detailed title search or title policy.
- Attendance at or preparation for condemnation hearings.
- Easement or plat documents, landowner contact or easement negotiations.
- Mitigation planning, costs, implementation, and/or monitoring.
- T&E species-specific surveys.
- ASTM Phase II Environmental Site Assessment (ESA) services.
- Archeological Background Study or archeology survey (field work).
- Historic Resources Survey (field work).
- Biological monitoring (endangered species present).
- Permitting services to include USACE pre-construction notification.
- Regulatory agency (e.g., THC, USFWS, TPWD, USACE, etc.) coordination/consultation services other than those described in this proposal.

- Nesting migratory bird surveys to ensure project compliance if vegetation disturbance or clearing activities are performed during the migratory bird breeding season (generally March through August in Texas).
- Public Involvement planning/coordination services, excluding attendance and documentation at one public involvement meeting.
- Individual or Programmatic Section 4(f) Evaluation.
- Any services not described in this proposal.
- Preparation of drawings in Microstation.
- Post construction topographical survey.
- USACE permit application or fees.
- Installation of tree survey tags.
- Street traffic signal modifications, crossing pushbuttons at signals, etc.
- Landscape design.

COMPENSATION FOR SERVICES

TRC Engineers, Inc. will provide the professional engineering services as outlined in the Scope of Work and in accordance with Attachment A (Terms and Conditions), as follows:

Engineering Services:	\$158,025
Environmental:	\$33,500
Topographic Surveying:	\$36,680
Geotechnical Investigation:	\$7,740
TDLR Fees:	\$3,750
Total:	\$239,695

This lump sum fee includes labor and material costs associated with the Scope of Work identified above. TRC's lump sum fee above is based on a continuous flow of work. Any delays or restrictions, caused by customer or customer's sub consultants, which result in idle-time or inefficiencies, could be cause for additional compensation.

The payment schedule will be via schedule of deliverables with percent of progress billing.

Changes in scope, including additional scenarios or modification to the scenarios identified above will be evaluated for additional services and/or materials cost through a formal change order process, which results in approval of the additional cost prior to executing the additional work.

Services are rendered in Bastrop County.

Costs for services quoted herein are valid for a period of time not to exceed 60 days from the date of this letter. If you are in agreement with this contract, please sign and date in the space below and return back to TRC.

We appreciate the opportunity to assist with this project and are available to proceed immediately with your written approval. We greatly appreciate the opportunity to provide this engineering services contract.

Sincerely,



K. Beau Perry, P.E. - TRC
Vice President

Thomas Mattis
City Manager

12-22-16

ATTACHMENT A TERMS AND CONDITIONS

TRC Engineers, Inc. shall perform the services outlined in the agreement for the stated fee arrangement.

Access To Site:

Unless otherwise stated, the Firm will have access to the site for activities necessary for the performance of the services. The Firm will take precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage.

Dispute Resolution:

Any claims or disputes made during design, construction or post-construction between the Client and Firm shall be submitted to non-binding mediation. Client and Firm agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties. Should recourse be made to litigation to resolve any issue in connection with the work or any terms of this Agreement, the non-prevailing party in any such litigation shall pay all costs including reasonable attorney fees.

Billings/Payments:

Invoices for the Firm's services shall be submitted, at the Firm's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days after the invoice date, the Firm may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service and retain all deliverables. Retainers shall be credited on the final invoice.

Late Payments:

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Indemnification:

The Client shall, to the fullest extent permitted by law, indemnify and hold harmless the Firm, its parent company and their respective officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of the Firm.

Certifications:

Guarantees and Warranties: The Firm shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence the Firm cannot ascertain.

Limitation of Liability:

In recognition of the relative risks, rewards and benefits of the project to both the Client and the Firm, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, the Firm's total liability to the Client for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of the agreement from any cause or causes shall not exceed the amount of insurance coverages set forth herein. Such causes include, but are not limited to, the Firm's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

Insurance Provided by the Firm:

CGL coverage in the amount of 1 million dollars per occurrence and 2 million dollars in the aggregate. Auto coverage in the amount of 1 million dollars. Professional liability coverage in the amount of 1 million dollars. Worker's Comprehensive coverage as required by statute.

Termination of Services:

This agreement may be terminated by the Client or the Firm should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay the Firm for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

Ownership of Documents:

All documents produced by the Firm under this agreement shall remain the property of the Firm and may not be used by the Client for any other endeavor without the written consent of the Firm.

Jobsite Safety:

Neither the professional activities of the Design Professional, nor the presence of the Design Professional or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Design Professional and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, the Design Professional and the Design Professional's consultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Consideration of the filling of the City Council vacancy, pursuant to Article IV, Section 8 of the Elgin City Charter, resulting from Keith Joesel's forfeiture of office.

DEPARTMENT: Administration

PROPOSED ACTION:

Action, if any, on the agenda item as stated.

BACKGROUND:

See the attached City Attorney memorandum.

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐included ☐not included in the current-year budget ☒N/A

RECOMMENDATION:

Action, as any, as deemed appropriate by the City Council

ATTACHMENTS:

City Attorney Memorandum

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☒ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their

earliest convenience.

MEMO

12/27/2016

To: Tom Mattis
From: Charlie Crossfield, City Attorney
Re: Elgin – City Councilmember Office Forfeiture

Issues: (1) Does an Elgin City Councilmember automatically forfeit his/her office by failing to attend three consecutive council meetings without being excused by the Council?

(2) If a councilmember forfeits his/her office by missing three consecutive meetings, is council action required to dismiss the councilmember?

(3) If Council is willing to hear the councilmember's excuses for missing the meetings after-the-fact, how is such an item to be placed on the agenda?

Removal of City Councilmember

The authority to remove municipal officers is conferred by city charter and the charter must be complied with when removing councilmembers. *Fuller v. Mitchell*, 269 S.W.2d 517 (Tex. Civ. App. Dallas 1954); *City of San Antonio v. Serna*, 99 S.W. 875 (1907).

Elgin City Charter

Section 8, Article IV, of the Elgin City Charter states, in part:

- A. *Vacancies*. The office of a councilman or office of the mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
- B. *Forfeiture of Office*. A councilman or the mayor shall forfeit his office if he:
 - 1. Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
 - 2. Is convicted of a crime involving moral turpitude; or
 - 3. Fails to attend three (3) consecutive regular council meetings without being excused by the council.

Rules of Procedure – Elgin Ordinances

Who May Place Item on Agenda:

Section 2-67, Article III, of the Elgin Code of Ordinances states, in part:

- (a) *Council meeting agendas*. The following persons are authorized to request that a matter (or item) be placed on an *agenda* of an upcoming council meeting:
 - (1) The mayor.
 - (2) A council member.
 - (3) The city manager.

Additionally, should a member of the city staff, acting in that member's capacity as a city employee, determine/desire that a matter should be presented to the council (for

example for the staff's compliance with procedures of this Code, etc.) then, the staff member may request, through written communication addressed to the city manager, that the item be placed on the *agenda*.

...

A citizen of the community desiring to have an item placed on the *agenda* may ask either the mayor, a council member, or the city manager for such consideration and the mayor, council member or city manager may, at his discretion elect to have such an item placed on the *agenda*.

Conclusion

1. The City of Elgin Charter states a councilmember “**shall**” forfeit his office if he fails to attend three (3) consecutive regular council meetings without being excused by the council. The word “shall” generally means “imperative” or “mandatory.” *Simms v. Lakewood Villa POA, Inc.*, 895 S.W.2d 779 (Tex. Civ. App. Corpus Christi 1995). Accordingly, the Elgin Charter does not allow for discretion when a councilmember has three consecutive unexcused absences – he/she automatically forfeits their office.
2. Although the Charter does not require the Council to take explicit action to remove a councilmember who has forfeited their office, it is not unreasonable for the Council to formally recognize the councilmember’s forfeiture of office.
3. Failure to attend a Council meeting “without being excused” is not defined in the Elgin Charter. If the council desires to allow a councilmember to continue to serve despite three consecutive unexcused absences, it may be possible to retroactively “excuse” one or more of the absences at issue. Although no specific authority exists, a retroactive excuse does not appear to violate the Elgin Charter.

Pursuant to Section 2-67, the mayor, a councilmember, the city manager, or city staff may request the matter be placed on the agenda. Because the subject councilmember has already forfeited his office, he cannot request an agenda item as a councilmember. He can, however, request the item as a citizen of the community – it is then up to the discretion of the mayor, a councilmember, or the city manager to have the item placed on the agenda.



ELGIN CITY COUNCIL MEETING AGENDA ITEM EXECUTIVE SUMMARY

ITEM:

Adjourn into Executive Session pursuant to Section §551.072 Deliberation Regarding Real Property and Section § 551.087 Economic Development: to receive a staff briefing and deliberate regarding potential funding from USDA in support of an economic development project in Downtown Elgin

DEPARTMENT: Economic Development

PROPOSED ACTION:

Consider information presented by staff and/or the City Attorney in Executive Session

BACKGROUND:

Under Texas Open Meetings law, there are seven exceptions that generally authorize closed meetings, also known as "Executive Sessions." The exceptions include discussions involving: (1) purchase or lease of real property; (2) security measures; (3) receipt of gifts; (4) consultation with attorney; (5) personnel matters; (6) economic development; and (7) certain homeland security matters. However, any and all final actions, decisions, or votes of the Elgin City Council related to such Executive Session items will be made in an open meeting

BUDGET/FINANCIAL IMPACT:

Funding for this item was ☐included ☐not included in the current-year budget ☒N/A

RECOMMENDATION:

Direction to staff and/or City Attorney as appropriate on matters discussed in Executive Session

ATTACHMENTS:

- ☐ Staff will be making a detailed presentation on this agenda item at the meeting.
- ☐ Staff will provide brief comments and answer questions on this item at the meeting.
- ☒ This is a routine procedural item and no presentation is planned for the meeting.

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.