

AGREEMENT

STATE OF TEXAS §

§

COUNTY OF TARRANT §

This agreement is made and entered into this 14th day of June, 2023, by and between the COUNTY OF TARRANT (hereinafter referred to as "OWNER"), acting by and through its duly authorized officer, and Excel 4 Construction of the City of Fort Worth, County of Tarrant, and State of Texas (hereinafter referred to as "CONTRACTOR").

WITNESSETH: In consideration of the payments and agreements mentioned below, the CONTRACTOR agrees with the OWNER to commence and complete the construction of certain improvements described as follows:

Replacement of approximately 1,400 linear feet of 6-inch vitrified clay sewer line with 8-inch PVC sewer line by pipe bursting method, including associated manholes and service connections located in the City of Richland Hills, Texas (hereinafter referred to as the "Project").

and all extra work in connection with the improvements as noted in the terms of both the General Conditions and the Special Conditions of the Agreement. The materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and all other accessories and services necessary to complete the construction shall be at the CONTRACTOR'S own expense. The construction shall be in accordance with the NOTICE TO BIDDERS, CONTRACTOR/SUBCONTRACTOR INFORMATION, PROPOSAL, PERFORMANCE BOND, PAYMENT BOND, MAINTENANCE BOND, CERTIFICATION OF INSURANCE, GENERAL CONDITIONS OF AGREEMENT, SPECIAL CONDITIONS, FEDERAL LABOR STANDARDS, WAGE DECISIONS, LABOR STANDARD AND WAGE DECISION CERTIFICATION, EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION, HUD HANDBOOK NO. 1300.17, TRAINING, EMPLOYMENT AND CONTRACTING

OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS, COPELAND ANTI-KICKBACK ACT, SPECIAL SPECIFICATIONS, SPECIAL MATERIAL AND/OR EQUIPMENT SPECIFICATIONS, E-VERIFY, ANTI-BOYCOTT STATUTES, and the drawings and blueprints as prepared by the OWNER'S engineer; all of which are made a part hereof and collectively evidence and constitute the entire contract (hereinafter "the Contract").

The CONTRACTOR agrees to commence work within ten (10) days from the date agreed to and specified in the "Notice-to-Proceed," and to substantially complete the work within ninety (90) calendar days after the date specified in the "Notice-to-Proceed" with construction, subject to such extensions of time as are provided in the General and Special Conditions.

The OWNER agrees to pay the CONTRACTOR the amount shown in the PROPOSAL, which forms a part of this Contract, with such payments subject to the General and Special Conditions of the contract. Attachment A. Commissioners Court Communication attached hereto states the funding amount available from all sources.

The CONTRACTOR acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties in the attached Form 1295 and has acknowledged the completeness of this disclosure by filing the Form 1295, attached as Exhibit A, with the Texas Ethics Commission as required by law.

The CONTRACTOR verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is as defined by Texas Government Code Section 808.001, effective September 1, 2017.

Chapters 2271, 2252, and 2274 Texas Government Code Verification.

(a) Boycott of Israel Prohibited. In compliance with Section 2271.001 et seq. of the Texas Government Code, Vendor verifies that neither it nor any of its affiliates currently boycott Israel and

neither it nor any of its affiliates will boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section 808.001(1) of the Texas Government Code.

(b) Scrutinized Business Operations Prohibited. In compliance with Section 2252.151 et seq. of the Texas Government Code, Vendor warrants and represents that: (1) neither Vendor nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Vendor nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Vendor nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section 2270.0052 of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section 2270.0102 of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section 2270.0152 of the Texas Government Code. Vendor further represents and warrants that neither Vendor nor any of its affiliates appears on any of the Texas Comptroller’s Scrutinized Companies Lists.

(c) Boycott of Certain Energy Companies Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 13), Vendor verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. “Boycott energy company” is defined in Section 809.001(1) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

(d) Discrimination against Firearm Entities or Firearm Trade Associations Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 19),

Vendor verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section 2274.001(3) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.

Compliance with Laws. In providing the services required by this Agreement, Contractor must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Contractor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

This contract shall not be interpreted to inure to the benefit of a third party not a party to this contract. This contract may not be interpreted to waive any statutory or common law defense, immunity, including governmental immunity, or any limitation of liability, responsibility, or damage of any party to this contract, party's agent, or party's employee, otherwise provided by law.

This contract shall be interpreted under the laws of the State of Texas. The venue for any lawsuit arising out of this Agreement will be the Fort Worth Division of the Northern District of Texas if the lawsuit arises in Federal Court or Tarrant County, Texas if the matter arises in state court.

Both OWNER and CONTRACTOR agree to abide by all state and federal laws, statutes, and regulations applicable to the completion of the project described.

EXECUTED THIS _____ DAY OF _____, 20__.

TARRANT COUNTY, TEXAS
(OWNER)

Excel 4 Construction LLC
(CONTRACTOR)

BY: _____ BY: 

COUNTY JUDGE OR
PRESIDING OFFICER

ATTEST: _____ ATTEST: 

FUNDS CERTIFIED AVAILABLE BY:

TARRANT COUNTY AUDITOR

APPROVED AS TO FORM:



CRIMINAL DISTRICT ATTORNEY'S OFFICE*

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

1 of 1

Version V3.5.1.a18ea2ca

**RICHLAND HILLS CITY COUNCIL
REGULAR MEETING
MAY 8, 2023
MINUTES**

Roll Call:

Council present

Edward Lopez, Mayor
Curtis A. Berghold, Mayor Pro Tem
Douglas Knowlton, Place 1
Travis Malone, Place 2
Javier Alvarez, Place 4
G.W. Estep, Place 5

Council absent

Staff present

Candice Edmondson, City Manager
Lindsay Rawlinson, City Secretary
James Donovan, City Attorney

CITY COUNCIL WORK SESSION – 6:31 PM

1. **Executive Session:** Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sections 551.071, 551.072, 551.073, 551.074, 551.076, 551.087, 418.183(f) and 418.106(d) & (e). Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council meeting.

None.

2. **Richland Hills Police Department 2022 Crime Review**

Police Chief Kimberly Sylvester advised that the Police Department will hold a Town Hall meeting on Thursday, May 11, 2023 at 6:00 p.m. at The Link to present the 2022 Crime Review to the community and introduced the Police Department command staff to provide additional information.

Captain Scott Russell presented the 2022 Activity Performance Measures including arrests, citations issued, and citation violations.

Lieutenant Ronnie Miller presented the Community Services Areas and an update regarding Animal Services

Lieutenant Christian Guytan presented the Victim Assistance Program and Criminal Investigations Unit.

Chief Sylvester provided additional details regarding data collected and 2022 accomplishments including the Citizens Police Academy, community programs, successful hiring and recruiting efforts, and Animal Shelter improvements.

3. **Discuss items listed on tonight's City Council agenda. No action will be taken and each item will be considered during the Regular Session.**

None.

Mayor Lopez adjourned the work session at 7:00 p.m.

REGULAR SESSION – Mayor Lopez Called to Order – Time 7:01 p.m.

INVOCATION AND PLEDGES OF ALLEGIANCE – Mayor Pro Tem Bergthold

PRESENTATIONS

1A. Recognition of outgoing Mayor Pro Tem Curtis Bergthold

Mayor Lopez, City Council members, and City staff expressed their appreciation for outgoing Mayor Pro Tem Curtis Bergthold. City Manager Candice Edmondson highlighted Mayor Pro Tem Bergthold's accomplishments during his Council tenure.

1B. Recognition and proclamation for Earl Whitley

Mayor Lopez read a proclamation declaring May 8, 2023 as "Earl Whitley Day" in Richland Hills and recognized Mr. Whitley as a longtime resident and former police officer for the City of Richland Hills.

1C. Fire Department Badge Pinning

Fire Chief Russell Shelley introduced Firefighter/EMT Anthony Dryer and his girlfriend, Angela Bugarin.

City Secretary Lindsay Rawlinson administered the Oath of Office to Firefighter/EMT Anthony Dryer.

1D. National Police Week Proclamation

Mayor Lopez read a proclamation declaring May 14 – 20, 2023, as "National Police Week" in Richland Hills and presented it to Police Chief Kimberly Sylvester.

Chief Sylvester advised of several events the Police Department will be holding during National Police Week including:

- Monday, May 15, 2023, Flag Lowering Ceremony, 5:00 p.m., Police Department;
- Tuesday, May 16, 2023, Carnival with Cops, 5:00 p.m., The Link parking lot; and
- Saturday, May 20, 2023, Coffee with Cops, 9:00 to 11:00 a.m., McDonalds.

1E. Citizen Appearances/Public Comments

Athena Campbell, 2802 Elm Park Street, Richland Hills, expressed her appreciation to Mayor Pro Tem Bergthold for his service on City Council. She stated that they began their tenure on City Council together and she appreciated his municipal experience.

CONSENT AGENDA

2A. Approved minutes from the April 24, 2023 City Council Regular Meeting

2B. Reapproved award of bid to Excel 4 Construction, LLC for sewer system improvements in the 2800 to 3000 blocks of Elm Park Drive as part of the 48th Year Community Development Block Grant Program

Motion: Motion was made by Councilmember Malone and seconded by Councilmember Knowlton to approve the consent agenda.

Motion carried by a vote of 5-0.

PUBLIC HEARINGS, MEETINGS, AND OTHER RELATED ITEMS

3A. Approved Ordinance 1471-23 adopting the 2023 Standards of Care for youth programs provided by The Link Event & Recreation Center. PUBLIC HEARING

Director of Parks and Recreation Jason Brown presented the item to the City Council and advised that Ordinance No. 1471-23 is an annual requirement of the Texas Human Resources Code for all municipalities who operate youth programs in the form of day camps and after-school programs. Mr. Brown provided an overview of the Standards of Care and minor changes made to the annual ordinance including title and duty changes for staff, and language.

Mayor Lopez opened the public hearing at 7:39 p.m. and asked to hear from any proponents followed by opponents of the items.

Hearing none, Mayor Lopez closed the public hearing at 7:40 p.m.

Motion: Motion was made by Councilmember Knowlton and seconded by Councilmember Estep to approve Ordinance 1471-23, adopting the 2023 Standards of Care for youth programs provided by The Link Event and Recreation Center.

Motion carried by a vote of 5-0.

Memorandum

To: Honorable Mayor Edward Lopez and Richland Hills City Council Members

From: Candice Edmondson, City Manager

Date: May 8, 2023

Subject: Award of Bid for 48th Year Community Development Block Grant Program

Agenda Item:

Reapprove award of bid to Excel 4 Construction, LLC for sewer system improvements in the 2800 to 3000 blocks of Elm Park Drive as part of the 48th Year Community Development Block Grant Program

Background Information:

On February 27, 2023, City Council approved an award of bid to Excel 4 Construction, LLC for sewer system improvements in the 2800 to 3000 blocks of Elm Park Drive as part of the 48th Year Community Development Block Grant (CDBG) Program offered in partnership with Tarrant County. The project includes replacement of approximately 1400 linear feet of 6" sanitary sewer main pipe with 8" pipe, 4 manholes and approximately 38 service connections.

Upon receiving the City's approval, Tarrant County noticed that the funding allocation and pledge amount specified in the memo were incorrect. The 48th Year CDBG funding allocation for Richland Hills was \$180,266.50, of which \$14,999 is allocated for engineering and \$165,267.50 is allocated for construction. This left the City with a pledge amount of \$80,912.50. The previous memo incorrectly listed the funding allocation as \$175,000 and pledge amount as \$71,180.

Financial Considerations:

Excel 4 Construction submitted a bid in the amount of \$246,180. The CDBG funding allocation for construction is \$165,267.50 leaving an additional \$80,912.50 that the City will have to contribute to the project. Funding for the additional costs is available in the FY 2023 Utility Fund Budget under sewer system repairs and maintenance.

Legal Review:

N/A

Board/Citizen Input:

Application for the project was approved as Resolution No. 550-22 during a Public Hearing on February 28, 2022.

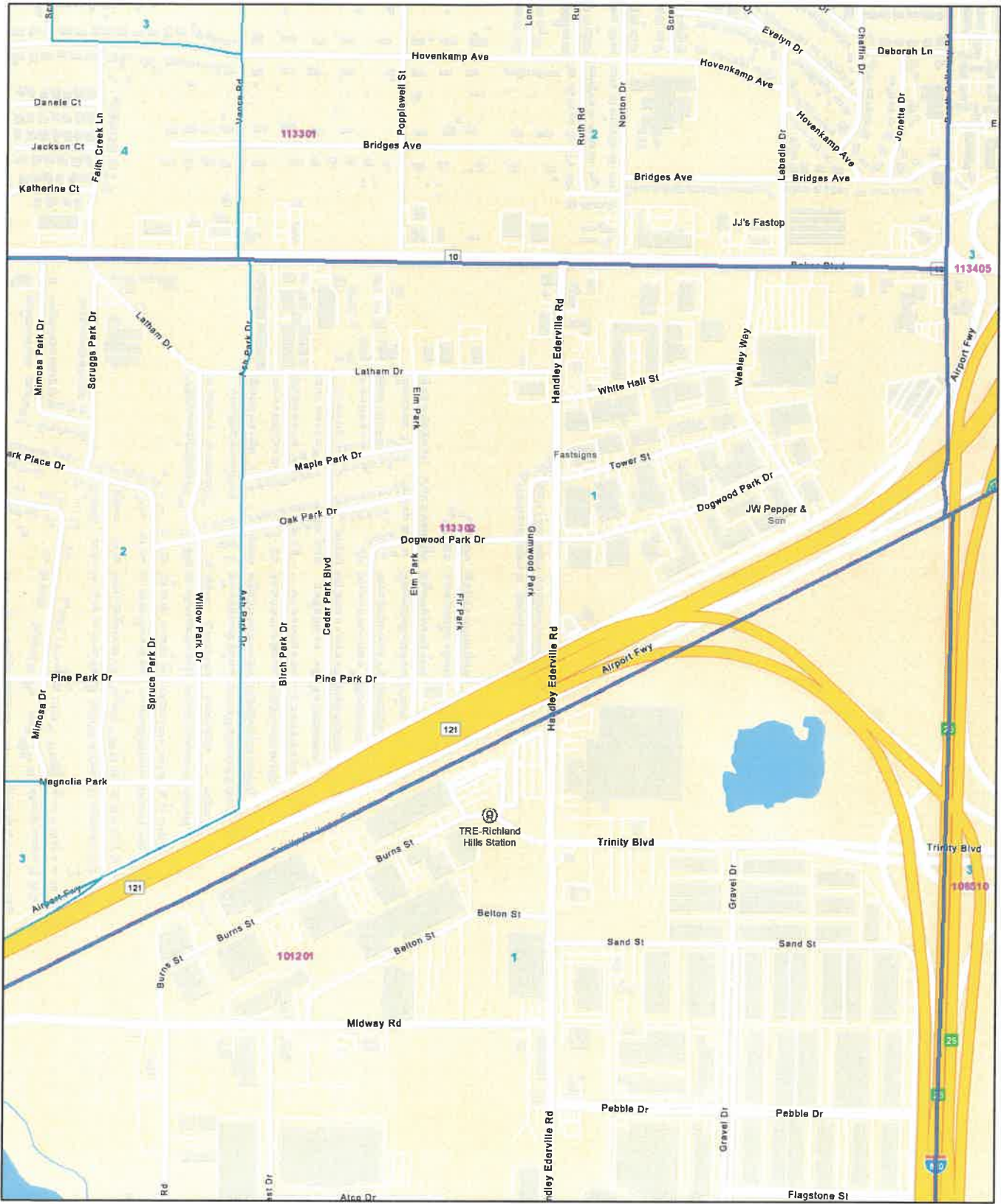
Attachments:

Bid Tabulation Form
Recommendation Letter from Halff

Council Action Requested:

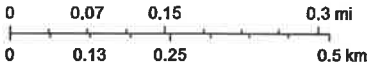
Motion to reapprove award of bid to Excel 4 Construction, LLC in the amount of \$246,180 for sewer system improvements in the 2800 to 3000 blocks of Elm Park Drive as part of the 48th Year Community Development Block Grant Program with a pledge amount from Richland Hills of \$80,912.50

Richland Hills - CDBG 2022



February 14, 2022

1:9,028



- Counties
- Block Groups (2010)
- Tracts (2010)

TAKINGS IMPACT ASSESSMENT CHECKLIST

Complete this form for any count

Project/Regulation Name: RICHLAND HILLS B-22-UC-48-0001-52-50

County Department: TARRANT COUNTY COMMUNITY DEVELOPMENT

Contact Person: BRAD HEARNE

Phone Number for Contact Person: 817/850-7961

Type of TIA Performed: **SHORT TIA** or FULL TIA. Circle one after answering the questions in Sections II and III below.

I. Stated Purpose

Attached to this checklist an explanation of the purpose of the regulation, policy, guideline, court resolution or order.

Note: The remainder of this Takings Impact Assessment Checklist should be completed in consultation with the Criminal District Attorney's Office.

II. Potential Effect on Private Real Property

1. Does the county action require a physical invasion, occupation or dedication of real property?

Yes ☐ No ☒

2. Does the county action limit or restrict a real property right, even partially or temporarily?

Yes ☐ No ☒

If you answer yes to either question, go to Section III. If you answer no to both, STOP HERE and circle SHORT TIA at the top of the form.

TAKINGS IMPACT ASSESSMENT (TIA) CHECKLIST

Attached is the TIA Checklist as preliminarily approved by the District Attorney's Office. Due to both timeliness regulations governing CDBG programs and the problems associated with undertaking public works project in the warmer summer months, a completed preliminary checklist is being submitted to Commissioners Court for approval for this contract. Once the Commissioners Court has approved a written policy, additional documentation will be submitted for the CITY OF RICHLAND HILLS, 48TH YEAR CDBG Project. This project is located entirely within city-owned property (under a dedicated public street).