# AGENDA
# REGULAR CITY COUNCIL
# CITY OF LEANDER, TEXAS

Pat Bryson Municipal Hall
201 North Brushy Street ~ Leander, Texas

Thursday ~ October 3, 2013 at 7:00 PM

**Mayor – Christopher Fielder**
**Place 1 – Andrea Navarrette** **Place 4 – Michell Cantwell**
**Place 2 – Kirsten Lynch** **Place 5 – Jason Dishongh (Mayor Pro Tem)**
**Place 3 – Simon Garcia** **Place 6 – David Siebold**
**City Manager – Kent Cagle**

1. Open meeting, Invocation, Pledges of Allegiance

2. Roll Call

3. Staff Comments:

4. Citizen Comments: Three (3) minutes allowed per speaker
   ***Please turn in speaker request form before the meeting begins.***

## CONSENT AGENDA: ACTION

5. Approval of the minutes: Special Meeting: September 12, 2013
   Regular Meeting: September 19, 2013

6. Authorization of a Special Permit for the 2013 Christmas Parade and Tree Lighting

## REGULAR AGENDA

7. Consider changes to the Library Foundation By-Laws

8. Consider Amendment No. 5 to Interlocal Agreement regarding Final Design Services for Regional Water System

## EXECUTIVE SESSION

9. **a**. Convene into executive session pursuant to Section 551.071, Texas Government Code, and Section 1.05, Texas Disciplinary Rules of Professional Conduct to Consult with legal counsel regarding the negotiations, options and possible necessity for and to authorize the commencement of eminent domain proceedings concerning two (2) tracts of real property for rights-of-way, being 0.503 acres and 0.219 acres, more or less, and one (1) tract for a drainage easement being 0.046 acres, more or less, located at or near the intersections of U.S. Highway 183, 183A Toll Road and County Road 276, all within Williamson County, for the public use of expansion of a roadway intersection improvement project.

   **b**. Pursuant to Section 551.074, Tex. Gov't Code, to discuss and evaluate performance of City Manager pursuant to employment contract

10. Reconvene from executive session and take action as deemed appropriate regarding:

**a**. Authorize, by record vote, the commencement of and use of eminent domain proceedings and the actual filing of the Petition for Condemnation concerning two (2) tracts of real property for rights-of-way, being 0.503 acres and 0.219 acres, more or less, and one (1) tract for a drainage easement being 0.046 acres, more or less, located at or near the intersections of U.S. Highway 183, 183A Toll Road and County Road 276, all within Williamson County, for the public use of expansion of a roadway intersection improvement project.

**b**. Discussion and possible action concerning performance of City Manager

11. Council Members Closing Statements

12. Adjournment

**CERTIFICATION**

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Council reserves the right to adjourn into executive session on any of the above posted agenda items in accordance with the sections 551.071 [litigation and certain consultation with attorney], 551.072 [acquisition of interest in real property], 551.073 [contract for gift to city], 551.074 [certain personnel deliberations] or 551.076 [deployment/ implementation of security personnel or devices]. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. **Please call the City Secretary at 512/ 528-2743 for information**. Hearing impaired or speech disabled persons equipped with telecommunications devices for the deaf may call 512/ 528-2800. I certify that the above agenda for this Meeting of the City Council of the City of Leander, Texas, was posted on the bulletin board at City Hall, in Leander, Texas, on the 27th day of September, 2013 by 5:00 pm pursuant to Chapter 551 of the Texas Government Code.

Debbie Haile

Debbie Haile TRMC, City Secretary

**MINUTES**
**SPECIAL CITY COUNCIL**
**CITY OF LEANDER, TEXAS**

Pat Bryson Municipal Hall
201 North Brushy Street ~ Leander, Texas

Thursday ~ September 12, 2013 at 6:00 PM

**Mayor – Christopher Fielder**
**Place 1 – Andrea Navarrette** **Place 4 – Michell Cantwell**
**Place 2 – Kirsten Lynch** **Place 5 – Jason Dishongh (Mayor Pro Tem)**
**Place 3 – Simon Garcia** **Place 6 – David Siebold**
**City Manager – Kent Cagle**

1. Open meeting
   **Mayor Fielder opened the meeting at 6:00 p.m.**

2. Roll Call
   **Council Members Navarrette, Cantwell and Siebold were absent. All others present**

3. Consider approval of Election Agreement between Travis County and the City of Leander
   **Kent Cagle, City Manager explained**

   **Motion made by Council Member Lynch to approve. Second by Council Member Garcia. Motion passes, all voting, "aye"**

4. Adjournment
   **With there being no further business, the meeting adjourned at 6:01 p.m.**

Attest:

Christopher Fielder, Mayor

Debbie Haile, TRMC, City Secretary

# MINUTES
# REGULAR CITY COUNCIL
# CITY OF LEANDER, TEXAS

Pat Bryson Municipal Hall
201 North Brushy Street ~ Leander, Texas

Thursday ~ September 19, 2013 at 7:00 PM

**Mayor – Christopher Fielder**
**Place 1 – Andrea Navarrette** **Place 4 – Michell Cantwell**
**Place 2 – Kirsten Lynch** **Place 5 – Jason Dishongh (Mayor Pro Tem)**
**Place 3 – Simon Garcia** **Place 6 – David Siebold**
**City Manager – Kent Cagle**

1. Open meeting, Invocation, Pledges of Allegiance
   **Mayor Fielder opened the meeting at 7:00 p.m. and welcomed those in attendance. Council Member Lynch delivered the invocation**

2. Roll Call
   **All present**

3. Staff Comments: Presentation of Certificate of Achievement in Planning to Tom Yantis, Director of Development Services
   **Kent Cagle, City Manager recognized Tom Yantis and the Planning Dept. for the Certificate of Achievement in Planning received for the American Planning Association**

4. Citizen Comments: Three (3) minutes allowed per speaker
   ***Please turn in speaker request form before the meeting begins.***
   **No speakers**

## CONSENT AGENDA: ACTION

5. Approval of the minutes: Regular Meeting: September 5, 2013

6. Second Reading of an Ordinance on Zoning Case # 13-Z-019: amending Ordinance #05-018, the Composite Zoning Ordinance for a parcel located at 806 South West Drive, Leander, Williamson County, Texas

7. Acceptance of Parkland Dedication Property

8. Dedication and acceptance of Subdivision Infrastructure Improvements for Hazlewood Subdivision, Phase 2A and Phase 2 B
   **Motion made by Council Member Navarrette to approve. Second by Council Member Siebold Motion passes, all voting "aye"**

## REGULAR AGENDA

9. Second reading of an ordinance levying ad valorem taxes for the use and support of the municipal government of the City of Leander, Texas for FY 2013-14
   **Robert Powers, Finance Director explained**

   **Motion made by Mayor Fielder to move that the property tax rate be increased by the adoption of a tax rate of $0.66792 which is effectively a 0.65% increase in the tax rate. Second by Council Member Siebold. Motion passes, all voting "aye"**

10. Consider the City of Leander becoming a member of the Williamson County and Cities Health District
**Bill Gardner, Fire Chief explained**

**Motion made by Council Member Cantwell to approve. Second by Council Member Navarrette. Motion passes, all voting "aye"**

11. Consider an Ordinance amending Ordinance #02-024-00, Section 2, reducing the "Annuity Increase", or COLA, for retirees through the Texas Municipal Retirement System.
**Kent Cagle, City Manager explained**

**Motion made by Council Member Cantwell to approve. Second by Council Member Lynch. Motion passes, all voting "aye"**

12. Consider a Resolution authorizing the purchase of TXDOT right-of-way located on the west line of US 183 just south of CR 276 in the City of Leander, Williamson County, Texas
**Tom Yantis, Director of Development Services explained**

**Motion made by Council Member Navarrette to approve. Second by Council Member Siebold. Motion passes, all voting "aye"**

13. Consider Street Vacate Case # 13-SV-001: an ordinance on the vacation of the Sepia Lane ROW, generally located to the west of the intersection of Bagdad Road and Blueline Drive, Leander, Williamson County, Texas
**Tom Yantis, Director of Development Services explained**

**Dan Michie - 1800 Muledeer Run – spoke against**

**Motion made by Council Member Cantwell to approve as per staff recommendation. Second by Council Member Navarrette. Motion passes, all voting "aye"**

14. Consider an Ordinance of The City Of Leander, Texas, Amending Article 13.01 To Establish Parameters For Contracts for Participation In Construction Of Public Improvements Entered Pursuant To Subchapter C, Chapter 212, Texas Local Government Code; Providing An Open Meetings Clause And Effective Date; And Providing For Other Related Matters
**Tom Yantis, Director of Development Services explained**

**Motion made by Council Member Cantwell to approve. Second by Council Member Garcia. Motion passes, all voting "aye"**

15. Consider a development agreement between the City and RMD Holdings, LP for a 150.2 acre, more or less, tract, known as the Ewing Development, LLC tract, located partially within the city limits and partially within the ETJ of the City of Leander, Williamson County, Texas.
**Tom Yantis, Director of Development Services explained**

**Motion made by Council Member Siebold to keep the $500.00 per lot for roadway improvements, amend the parkland dedication for the sidewalk for the sost of the extra two feet and split the $140,000 cost and have $70,000 in escrow to cover at least half of the cost of the sidewalk along Lakeline. Second by Council Member Lynch.**

**Rhet Dawson, 508 Baylor Street, Austin – Property Owner, discussed compromises on the development agreement**

**A discussion was held by Council**

**Substitute motion made by Council Member Cantwell to accept agreement as presented by staff. Second by Mayor Pro Tem Dishongh.**

**Council Member Siebold moved to question. Unanimously approved**

**Mayor Fielder called for a vote on the substitute motion made by Council Member Cantwell and Seconded by Mayor Pro Tem Dishongh. Motion passes, 5 to 2 with Council Members Siebold and Council Member Lynch voting against.**

16. Consider Award of Construction Contract for East Crystal Falls Parkway, Phase IIB
**Wayne Watts, City Engineer explained**

**Motion made by Council Member Siebold to approve. Second by Council Member Garcia. Motion passes, all voting "aye"**

17. Consider an Interlocal Agreement with the City of Cedar Park for Bagdad Road Improvements
**Wayne Watts, City Engineer explained**

**Motion made by Council Member Navarrette to approve. Second by Council Member Cantwell. Motion passes, all voting "aye"**

18. Discussion and action regarding the renaming of CR 273, and CR 179
**Tom Yantis, Director of Development Services explained**

**Motion made by Council Member Siebold to approve CR 273 be renamed Horizon Park Blvd. from E. Crystall Falls Parkway to RR 2243. Second by Council Member Lynch. Motion passes, all voting "aye"**

**Motion made by Council Member Cantwell to leave the name Republic Trails Blvd. on the west side of Ronald Reagan and to rename CR 179 to Journey Parkway on the east side of Ronald Reagan. Second by Council Member Navarrette. Motion passes, all voting "aye"**

19. Consider amendments to Ordinance # 13-061-00, to allow Travis County to conduct the election for Travis County voters
**Kent Cagle, City Manager explained**

**Motion made by Mayor Pro Tem Dishongh to approve. Second by Council Member Garcia. Motion passes, all voting "aye"**

20. Consider establishment of a Veterans Park Committee
***This item sponsored by Mayor Fielder***
**Mayor Fielder explained**
**Steve Bosak. Parks and Recreation Director presented the plans**

**Motion made by Mayor Fielder to approve the establishment of a Veterans Park Committee and have the committee open to anyone who would like to participate with 25% being citizens of Leander. Second by Council Member Cantwell. Motion passes, all voting "aye"**

## EXECUTIVE SESSION

21. Convene into executive session pursuant to Section 551.072, Texas Government Code, to deliberate the acquisition of real property for the BCRUA deep water intake project

**Council convened into executive session at 8:38 p.m.**
**Council reconvened into open session at 8:45 p.m.**

22. Reconvene into open session to take action as deemed appropriate in the City Council's discretion regarding the acquisition of real property for the BCRUA deep water intake project

**No action taken**

23. Council Members Closing Statements
**Council Members gave their closing statements**

24. Adjournment
**With there being no further business, the meeting adjourned at 8:46 p.m.**

Attest:

Christopher Fielder, Mayor

Debbie Haile, TRMC, City Secretary

**Executive Summary**

**October 3, 2013**

**Subject:** Authorization of a Special Permit for the 2013 *Christmas Parade & Tree Lighting*

**Background:** This year's *Christmas Parade & Tree Lighting* is scheduled for Saturday, December 7th in Old Town Leander. The parade will begin at 5 pm followed by the Tree Lighting at approximately 6:15 pm. Local service groups will provide food and beverage for purchase. There will be pictures with Santa at Bryson Hall, hayrides, Yule fire and caroling by local choral groups.

Parade Staging & Route: Staging will take place on Municipal Dr. between S. West Dr. and the Public Works Yard. The Parade begins at the intersection of Municipal and S. West Dr., travels north on S. West Dr. to W. South St., east on W. South St. to Bagdad St., north on Bagdad St. to W. Willis, east on W. Willis to N. Brushy and south on N. Brushy to the Rising Star Chapel.

Street Closures

- 2:30 to 9 pm
  - Intersection of Atkin Street & U.S. 183
  - North Brushy from West South to West Willis Streets
  - Bagdad Street from South & West Willis Streets
- 4:45 to 6 pm
  - West South Street from U.S. 183 to West Drive
  - West Drive from West Broade to Lion Street

**Financial Consideration**: City staffing

**Recommendation:** Staff respectfully requests City Council approval of the Special Permit and proposed street closures for the *2013 Christmas Parade & Tree Lighting* Event on December 7th.

**Attachments:** Special Permit Application

**Prepared by:** Stephen Bosak, Parks & Recreation Director

# Special Event Permit Application

**Applicant/Organization Name:** City of Leander

**Type of Event:** Christmas Parade & Tree Lighting

**Name & Contact Information of Responsible Individual:**
Stephen Bosak, Director
Leander Parks & Recreation
P.O. Box 319 – Leander, TX 78646
Phone: 512.528.9909 Cell: 512.563.1840 Email: bosak@leandertx.gov

**Description of Event:** (Provide dates, times, location, activity description, target audience, expected attendance, admission fees, recipient of proceeds and type of entertainment.)

This year's *Christmas Parade & Tree Lighting* is scheduled for Saturday, December 7th in Old Town Leander. The parade will begin at 5 pm followed by the Tree Lighting at approximately 6:15 pm. Local service groups will provide food and beverage for purchase. There will be pictures with Santa at Bryson Hall, free hayrides, Yule fire and caroling by local choral groups.

Parade Staging & Route: Staging will take place on Municipal Dr. between S. West Dr. and the Public Works Yard. The Parade begins at the intersection of Municipal and S. West Dr., travels north on S. West Dr. to W. South St., east on W. South St. to Bagdad St., north on Bagdad St. to W. Willis, east on W. Willis to N. Brushy and south on N. Brushy to the Rising Star Chapel.

The event is open to the general public and there will be no admission charge.

Proposed Street Closures

- 2:30 to 9 pm
  - Intersection of Atkin Street & U.S. 183
  - North Brushy from West South to West Willis Streets
  - Bagdad Street from South & West Willis Streets
- 4:45 to 6 pm
  - West South Street from U.S. 183 to West Drive
  - West Drive from West Broade to Lion Street

**City Services Needed:**

| | |
|---|---|
| Utilities & Services Needed: | Electricity, Restrooms & Water |
| Sanitation/Litter Pick Up: | By City Parks & Recreation Dept. staff |
| Security: | By City Police Department |
| Traffic Control: | By City Public Works and Police staff |

**Will alcohol be served or sold?** No

**Will the proposed activity interfere or detract from the general public use of the area?** Yes Street closures will be required from 2:30 to 9 pm.

**Will the proposed activity adversely impact or affect City, adjacent/nearby property owners?** Yes. Notices will be sent to property owners in neighborhoods that will be affected by the street closure.

**Will the activity cause/create health or safety risks to the public or damage to other property?** No.

**Will the event require local or state permits, or violate any federal, state or municipal laws?** No.

**What measures will be taken to prevent/minimize adverse impacts or affects?** Staff from PARD, Public Works, Police and Fire will be on duty to manage the event to prevent/minimize potential adverse impacts or affects.

**Proof of Insurance:** The City of Leander is insured through the Texas Municipal League.

*Stephen Bosak*

Parks & Recreation Director

October 3, 2013

Date

**AGENDA ITEM # 7**

**Executive Summary**

**October 3, 2013**

**Subject:** Consideration of Changes to the Library Foundation By-Laws

**Background:** On September 17, 2013 the Library Foundation Board unanimously voted to recommend forwarding the following By-Law revisions to the City Council for consideration of approval.

- Section 2.01 – Current By-Laws require all Foundation board members to be residents of the City. Proposed changes allow one member to be living within the City ETJ or employed by a business located within the City, in lieu of residency.
- Section 2.07 – Proposed changes declare that the president and vice-president, not the chair and vice-chair, preside over meetings.
- Section 3.01 – Proposed changes eliminate the chair and vice-chair officer positions; establish the president and vice-president as the corporation officers (while retaining the secretary and treasurer officer positions).
- Sections 3.02 and 3.03 – Eliminates the "Powers and Duties of the Chair and Vice-Chair".
- Section 3.04 – Removes chair and vice-chair wording from the "Powers and Duties of the President"; states who may preside over meetings; and states who may call special or emergency meetings.
- Section 3.06 – Adds the responsibility for filing federal and state report forms required to maintain the corporate not-for-profit standing to the Treasurer's duties.
- Section 4.01 – Changes the Foundation fiscal year to January 1st through December 31st to coincide with federal and state report filing periods.

Gary Anderson, the Foundation Board President, will be attend the meeting to address Council questions or concerns.

**Financial Consideration**: None

**Recommendation:** The Library Foundation Board respectfully requests Council approval of the proposed changes to the Leander Library Foundation By-Laws.

**Attachments:** Red-lined changes to the By-Laws

**Prepared by:** Stephen Bosak, Parks & Recreation Director

## LEANDER LIBRARY FOUNDATION BY-LAWS

Proposed Changes Proposed ~~Deletions~~

## ARTICLE I - GENERAL STATEMENT OF PURPOSES

The Leander Library Foundation (the "Corporation"), is organized for the specific and primary purpose to support and strengthen Leander's public library. To accomplish this goal, the Corporation works to increase awareness about the Library and its importance to the community and to raise funds through individual gifts, corporate sponsorships, and foundation grants. These funds are used to provide programs, equipment, educational materials, books, funds for facility improvement projects and for such other purposes which may be authorized for a nonprofit corporation under the laws of the State of Texas and pursuant to its powers under the Tex. Non-Profit Corp. Act, *Article 1396-1.01 et seq., Tex. Rev. Civ. Stat.* (the "Act"), as amended.

## ARTICLE II - BOARD OF DIRECTORS

**Section 2.01. Powers, Number, Vacancies & Term of Office.** The property and affairs of the Corporation shall be under the direction of and controlled by the Board of Directors, and subject to the restrictions imposed by law, the Articles or these Bylaws (the "Bylaws"). The Directors shall be appointed by the City Council and shall exercise all of the powers of the Corporation.

The Board of Directors shall consist initially of three (3) Directors, and may, with the prior consent of the City Council, be increased at any time to up to seven (7) Directors, and the number of Directors may be increased or decreased (providing such decrease does not have the effect of shortening the term of any incumbent Director) from time to time by the City Council; provided, that the number of Directors shall never be less than three (3).

All Directors shall hold office until their term of office expires, or their respective death, resignation or removal prior thereto. The term of office for the initial Directors named in the Articles shall be that period of time commencing with such organizational meeting through the date of the Corporation's first annual meeting. With the exception of the terms of office for the initial Directors, the term of office for a Director shall be three (3) years. A Director may be reappointed by the Council to serve one or more additional terms of office. A Director shall continue to serve as such until his successor shall have been appointed and qualified.

Any Director may be removed from office, with or without cause, by the City Council. Any vacancy occurring in the Board of Directors, whether by increase in the number of Directors or otherwise, shall be filled by City Council appointment~~, and the successor shall also be a resident of the City of Leander, Texas~~. Board members shall be residents of the City, or in lieu of residency, one member may be employed by a business located within the City or live within the City ETJ. A member, who, except in the case of illness, fails to attend three (3) consecutive Board meetings without being excused by the Board, shall by ordinance be removed from the Board.

**Section 2.02. Meetings of Directors.** The Directors may hold their meetings and may have an office and keep the books of the Corporation at such place or places within the City as the Board may from time to time determine; provided, however, in the absence of any such determination, such place shall be the registered office of the Corporation in the City.

The Board shall meet in accordance with and give notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a City under *Chapt. 551, Tex. Gov't.* Code (the "Open Meetings Act").
The Corporation, the Board, and any committee of the Board exercising the powers of the Board are subject to *Chapt. 552, Tex. Gov't. Code* (the "Open Records Act").

**Section 2.03. Annual Meetings.** The annual meeting of the Board shall be held at the time and at the location in the City designated by the resolution of the Board for the purposes of transacting such business as may be lawfully brought before the meeting.

**Section 2.04. Regular Meetings.** Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board.

**Section 2.05. Special and Emergency Meetings.** Special and emergency meetings of the Board shall be held whenever called by the ~~Chairperson~~ President or Secretary of the Board, or by two Directors who are serving terms of office at the time the meeting is called.

The Secretary shall give notice of each special meeting in person, by telephone, fax, mail or telegraph at least three (3) days before the meeting to each Director and to the public in compliance with the Open Meetings Act. Notice of each emergency meeting shall also be given in the manner required of the City under *Sec. 551.045, Tex. Loc. Gov't. Code.* Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special or emergency meeting. At any meeting at which every Director shall be present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon to the extent allowed by the Open Meetings Act. The City Secretary is authorized to post and give notices of meetings that are called in a manner authorized in these Bylaws.

**Section 2.06. Quorum.** A majority of the then authorized number of Directors shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of Directors present may adjourn the meeting from time to time. The act of a majority of the Directors then present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action unless his dissent is entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to Directors voting in favor of the action.

**Section 2.07. Conduct of Business.** At the meetings of the Board, agenda items shall be considered in such order as from time to time the Board may determine.

At all meetings of the Board, the ~~Chairperson~~ President shall preside, and in the absence of the ~~Chairperson~~ *President*, the Vice ~~Chairperson~~ President shall preside. In the absence of the ~~Chairperson and the Vice Chairperson~~ President and the Vice President, a ~~chairperson~~ Director shall be chosen from among the Directors present to preside over the meeting.

The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting; provided that a member of the city staff may be designated to take, record and prepare the minutes of the meeting.

**Section 2.08. Compensation of Directors.** Directors, as such, shall not receive any salary or compensation for their services as Directors; provided that nothing contained herein shall be construed to preclude any Director from receiving reimbursement for expenses reasonably incurred in performing the duties of Director.

**Section 2.09. Director's Reliance on Consultant Information.** A Director shall not be liable if, while acting in good faith and with ordinary care, he or she relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by: (a) one or more other officers or employees of the Corporation, or any ex-officio member of the Board; (b) legal counsel, public accountants, or other persons employed or otherwise retained by the Board, as to matters the officer reasonably believes are within the person's professional or expert competence; or (c) a Board committee.

## ARTICLE III - OFFICERS

**Section 3.01. Titles and Term of Office.** The officers of the Corporation shall be a ~~chairperson~~ President of the Board, a ~~vice-chairperson~~ Vice President of the Board, a corporate Secretary, and a Treasurer. The officers of the Corporation may include such other officers as the Board may from time to time elect or appoint. ~~One person may hold more than one office, except that neither the Chairperson of the Board nor the President shall hold the office of Secretary~~. The term of office for each officer shall be one year commencing with the date of the annual meeting of the Board at which each such officer is elected or appointed by the Board. ~~The authorization for president and vice president does not require the creation of such offices.~~

Officers elected or appointed by the Board shall be subject to removal as an officer by the Board at any time, with or without cause, by a majority vote of the Board.

A vacancy in the office of any officer elected or appointed by the Board shall be filled by the Board.

**Section 3.02.** ~~**Powers and Duties of the Chairperson.** The Chairperson shall be a member of the Board and shall preside at all meetings of the Board. He or she shall have such duties as are assigned by the City Council of the City, or the Board, and not inconsistent with state law or the City Charter. The Chairperson may call special or emergency meetings of the Board.~~ **Reserved.**

**Section 3.03.** ~~**Powers and Duties of the Vice Chairperson.** The Vice Chairperson shall be a member of the Board. The Vice Chairperson shall perform the duties and exercise the powers of the Chairperson upon the Chairperson's death, absence, disability, or resignation, or upon the Chairperson's inability to perform the duties of his or her office. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be conclusive evidence of the absence or inability to act of the Chairperson at the time such action was taken.~~ **Reserved.**

**Section 3.04. Powers and Duties of the President.** The President shall be the principal executive officer of the Corporation and, subject to the Board, he or she shall be in general charge of the properties and affairs of the Corporation. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, the President~~, Chairperson, or Vice Chairperson~~ or Vice President may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other obligations in the name of the Corporation. The President shall preside at all meetings of the Board at which the President is present, and may call special or emergency meetings of the Board. ~~The Chairperson shall perform the duties of the President until such time, if any, that such office is budgeted, created and filled by Board appointment.~~

**Section 3.05. Vice President.** A Vice President shall have such powers and duties as may be assigned to him or her by the Board or the President, including the performance of the duties of the President upon the death, absence, disability, or resignation of the President, or upon the President's inability to perform the duties of his or her office. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken.

**Section 3.06. Treasurer.** The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her case account; he or she shall enter or cause to be entered regularly in the books of the Corporation to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board including the filing of all federal and state report forms required to maintain the not-for-profit corporate standing; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require. With Board approval the Treasurer may contract with the City to maintain such books, accounts and records, subject to the Treasurer's on-going review and approval.

**Section 3.07. Secretary.** The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, he or she may sign with the President in the name of the Corporation and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours; and, he or she shall in general perform all duties incident to the office of Secretary subject to the control of the Board. With Board approval the Secretary may contract with the City to maintain the minutes, books and records of the Corporation, subject to the Secretary's on-going review and approval. The Board may contract with the City and, as authorized by such contract, appoint one or more employees of the City as an Assistant Secretary.

**Section 3.08. Compensation.** Officers may be entitled to receive compensation for personal services which are necessary and reasonable in carrying out the Corporation's purposes as the Board may from time to time determine, provided, that in no event shall the salary or compensation be excessive. Board members, even in their capacity as officers, are not entitled to compensation except as otherwise provided in Article II, Section 2.09.

**Section 3.09. Officer's Reliance on Consultant Information.** In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by: (a) one or more other officers or employees of the Corporation, or any ex-officio member of the Board; (b) legal counsel, public accountants, or other persons employed or otherwise retained by the Board, as to matters the officer reasonably believes are within the person's professional or expert competence; or (c) a Board committee.

## ARTICLE IV - MISCELLANEOUS PROVISIONS

**Section 4.01. Fiscal Year.** The fiscal year of the Corporation shall begin ~~October~~ January 1st and end December 31st of each year.

**Section 4.02. Seal.** The seal of the Corporation shall be such as from time to time may be approved by the Board.

**Section 4.03. Notice and Waiver of Notice.** Whenever any notice other than public notice of a meeting given to comply with the Open Meetings Act, is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. A waiver of notice, signed by the person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

**Section 4.04. Resignations.** Any Director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

**Section 4.05. Gender.** References herein to the masculine gender shall also refer to the feminine in all appropriate cases and vice versa.

**Section 4.06. Appropriations and Grants.** The Corporation shall have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from any federal or state agency, political subdivision, municipality, or any other source.

## ARTICLE V - INDEMNIFICATION OF DIRECTORS AND OFFICERS

**Section 5.01. Right to Indemnification.** Each Director and each officer and former Director and officer of the Corporation shall be indemnified by the Corporation against liabilities imposed upon him and expenses reasonably incurred by him in connection with any claim against him, or any action, suit or proceeding to which he may be a party by reason of his being, or having been, such Director or officer, and against such sum as independent counsel selected by the Directors shall deem reasonable payment made in settlement of any such claim, action, suit or proceeding primarily with the view of avoiding expenses of litigation; provided, however, no Director or officer shall be indemnified (a) with respect to any matter as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in performance of duty, (b) with respect to any matters which shall be settled by the payment of sums which independent counsel selected by the Director shall not deem reasonable payment made primarily with a view to avoiding expenses of litigation, or (c) with respect to matters for which such indemnification would be against public policy.

## ARTICLE VI - CODE OF ETHICS

**Section 6.01. Policy and Purposes.**
(a) It is the policy of the Corporation that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Corporation; and that the Board establish policies to control and manage the affairs of the Corporation fairly, impartially, and without discrimination.

(b) This Code of Ethics has been adopted as part of the Corporation's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

(c) The Directors, officers and employees of the Corporation shall further be subject to the ethics and conflicts provisions set forth in the City Charter of the City, *Chapts. 171 and 176, Tex. Loc. Gov't. Code*, and the City Ethics Ordinance, as amended from time to time.

**Section 6.02. Conflicts of Interest.**
(a) Except as provided in subsection (c), a Director or officer is prohibited from participating in a vote, decision, or award of a contract involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefited by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of $15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more. An interest of a person related in the second degree by affinity or the third degree by consanguinity to a Director or officer is considered a substantial interest.

(b) If a Director or a person related to a Director in the first or second degree by affinity or the first, second, or third degree by consanguinity has a substantial interest in a business entity or real property that would be pecuniarily affected by any official action taken by the Board, such Director, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board.

(c) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a similar interest in the same action or if all other similar business entities in the Corporation will receive a similar pecuniary benefit.

(d) An employee of a public entity may serve on the Board.

**Section 6.03. Acceptance of Gifts.** No Director or officer shall accept any benefit as consideration for any decision, opinion, recommendation, vote or other exercise of discretion in carrying out official acts for the Corporation. No Director or officer shall solicit, accept, or agree to accept any benefit from a person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the Director's or officer's discretion. As used here, "benefit" does not include:
(a) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a Director or officer;
(b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director or officer;

(c) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities:

(1) if not more than one honorarium is received from the same person in a calendar year.

(2) if not more than one honorarium is received for the same service; and

(3) if the value of the honorarium does not exceed $250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;

(d) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest is reported.

**Section 6.04. Bribery.** A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:

(a) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;

(b) any benefit as consideration for the Director's or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of a duty imposed by law on the Director or officer.

**Section 6.05. Nepotism.** No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity (marriage relationship) or within the third degree of consanguinity (blood relationship) to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty (30) days prior to the appointment of the Director or officer so appointing or voting.

## ARTICLE VII - AMENDMENTS

**Section 7.01. Amendments.** A proposal to alter, amend, or repeal these By Laws shall be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or amendment to the Bylaws must be approved by the City Council of the City to be effective.

**Approved by the Leander City Council April 2, 2009; Amended _____**

**AGENDA ITEM # 8**

**Executive Summary**

**October 3, 2013**

**Council Agenda Subject**: Consideration of Amendment No. 5 to Interlocal Agreement Regarding Final Design Services for Regional Water System

**Background:** This Amendment No. 5 to Interlocal Agreement Regarding Final Design Services for Regional Water System between the Cities of Leander, Cedar Park, and Round Rock provides for revised final engineering design tasks as detailed CDM's letter dated December 18, 2012, in Attachment One. The Cities of Round Rock and Cedar park have approved this proposed Amendment No. 5 as shown in Attachment Two.

**Origination:** Wayne S. Watts, P.E., Public Works Director/City Engineer

**Financial Consideration:** $159, 855.00 from BCRUA Bonds, Leander Series

**Recommendation:** Staff requests approval of the Amendment No. 5 to Interlocal Agreement Regarding Final Design Services for Regional Water System.

**Attachments:** Attachment One, CDM Letter of December 18, 2012, and Attachment Two, Amendment No. 5 to Interlocal Agreement Regarding Final Design Services for Regional Water System and associated documents from City of Round Rock

**Prepared by:** Wayne S. Watts, P.E., CFM

CDM Smith

12357-A Riata Trace Parkway, Suite 210
Austin, Texas 78727
tel: 512-346-1100
fax: 512-345-1483

December 18, 2012

Mr. Chris Lippe, P.E.
General Manager
Brushy Creek Regional Utility Authority (BCRUA)
221 East Main Street
Round Rock, Texas 78664

Subject: Brushy Creek Regional Utility Authority
Brushy Creek Regional Water Treatment Plant – Phase 1A Project
Design Phase Services – Supplemental Amendment No. 4

Dear Mr. Lippe:

As a follow-up to previous discussions, this letter describes additional services that CDM Smith provided in the design phase of the above-referenced project. This letter identifies and describes six items for which we provided additional engineering services, which were not included in previous Supplemental Amendments or in CDM Smith invoices to BCRUA. These additional design scope items include:

- ***Task 1***. Provide additional General Contractor Pre-Qualification Packages.
- ***Task 2***. Update the Preliminary Design Report (PDR) to incorporate CDM Smith's VE/Deferral Recommendations.
- ***Task 3.*** Provide Responses to Texas Water Development Board (TWDB) Information Requests.
- ***Task 4.*** Revise Specification Section 00700, General Conditions of Division 0, Bid Documents.
- ***Task 5.*** Revise Contract Documents (Plans and Specifications) to Reduce the Size of the Sludge Dewatering Facility (SDF).
- ***Task 6.*** Incorporate the Elevated Storage Tank (EST) into the Phase 1A project.

Also included in each item described below are our costs for performing the completed work.

Due to BCRUA specifically requesting that amendments for some of these items be deferred until the Construction Phase, CDM Smith chose to defer the paperwork (i.e., amendment, invoice, etc.) for all of them. This deferment allowed us to focus/concentrate our efforts/resources on making sure that Construction Phase 1A started smoothly without the problems that sometimes derail a project of this magnitude if it does not get the proper early attention. Now that the Construction Phase is nearing completion, we feel comfortable in presenting the paperwork for additional services. We were also comfortable with the paperwork deferment knowing that the services had been formally requested by BCRUA, that they had been openly discussed in BCRUA, Design

Oversight Committee (DOC) meetings and adequately covered in Committee Meeting Status Reports, and that each item resulted in a specific identifiable project enhancement work product being produced by CDM Smith. In two cases, those of reducing the size of the Sludge Dewatering Facility (SDF) and updating the PDR, BCRUA directed CDM Smith to include the paperwork and fee with a Supplemental Amendment (SA) during the Construction Phase, which we are doing in this SA No. 4.

The background, documentation, discussion and our incurred costs for each of the six items are as follows:

## Task 1: Provide Additional General Contractor Pre-Qualification Packages

***Background***. With input from CDM Smith, the DOC chose to pre-qualify General Contractors for the Phase 1A Project. Accordingly, CDM Smith was authorized by SA No. 2, dated July 6, 2006 for a fee of $12,538, to prepare a Pre-Qualification Package and provide related services. This activity was intended to streamline the contractor bid evaluation and award period and therefore significantly shorted the overall project schedule. CDM Smith was subsequently compensated for this work. This initial effort resulted in five general contractors being pre-qualified.

However, due to unforeseen project delays, unrelated to this particular item, it was necessary for CDM Smith to update and re-issue the package on two occasions. The first Pre-Qualification Re-Issue was addressed in SA No. 3, Revision 2, dated September 17, 2008, resulted in one additional contractor being prequalified, for which CDM Smith was compensated $8,795. The second Re-Issue is being addressed for the first time in this SA No. 4. The updates /Re-Issues were necessary to ensure that the packages included the firms' latest financials, personnel assignments, project experience, references, etc.

***CDM Smith Action.*** For this second Pre-Qualification re-issuance, we:

- Updated the Pre-Qualification package document, reviewed the package with DOC, et al, and revised accordingly;
- Coordinated and paid for Pre-Qualification legal advertisements with Round Rock Leader and Hill Country News for publication April 20, 2009 and May 7, 2009;
- During the course of this second re-issue task, CDM Smith with DOC's concurrence, gave pre-qualification approval to one additional contractor, making a total of eight who were pre-qualified.
- Received follow-up information from general contractors and shared this with DOC;
- Reviewed packages, including verification of contractor provided information by contacting references, etc., compared to base standard, prepared a color coded matrix table summary of general contractor submittals;

- Conducted a Pre-Qualification Workshop with the DOC on June 2, 2009 and issued a revised questionnaire and clarifications on June 3, 2009;
- Based upon CDM Smith's evaluations and with DOC concurrence, eight general contractors were ultimately given Pre-Qualification approval status in CDM Smith letters dated June 9, 2009.
- Responded to follow-up questions and communications as necessary.

***Incurred Costs.*** Our costs incurred for Task 1 services include the following:

| | |
|---|---|
| Hours | 56.00 |
| Raw Labor | $2,001.21 |
| Burdened Labor (x ELM) | $6,203.75 |
| Other Direct Costs | $2,157.14 |
| Outside Professionals | $0.00 |
| **Subtotal** | **$8,360.89** |

## Task 2: Update Preliminary Design Report (PDR) to Incorporate VE/Deferral Items

***Background.*** In conjunction with CDM Smith's Scope-of-Work for BCRUA WTP Project, we prepared the following formal documents and offer the following background details:

- Draft Facility Plan (DFP), dated March 29, 2007, that described the entire Project in detail, including Site Permitting and Development.
- Preliminary Design Report (PDR), dated July 2008 that described the entire Project in detail, including a Phasing Plan (1A, 1B, 1C, 1D, 2A, 2B and 3).
- During the final stages of the Design Phase, the three City Managers and the DOC became concerned about the original Phase 1 planned treatment capacity (i.e., 30 MGD) versus the participating Cities demand projections, and construction costs due to the volatile construction economy and other items. As a result of those concerns, CDM Smith was authorized to conduct a Value Engineering (VE) Study to identify ways to reduce cost without negatively impacting the overall treatment process. CDM Smith's study, dated May 30, 2008, initially presented 14 VE and deferral recommendations that would reduce construction costs by $13,759,000, with an associated additional engineering cost of $206,772 for performing the VE and Phasing Study via SA No. 3 (Tasks 3 and 4). Thirteen of the 14 items were ultimately approved for implementation by the DOC, with Phase 1A being the outcome/end result. CDM Smith's proposed fee was $435,716 that was included in SA No. 3 (Tasks 9 and 10) to revise the Contract Documents (plans and specifications) for eleven items per our September 17, 2008 letter to BCRUA to implement a $13,111,808 construction cost savings.
- On August 11, 2008, CDM Smith submitted Draft SA No. 3 to BCRUA. Among other things/items Draft SA No. 3 included in Exhibit B, Task 11, CDM Smith's $65,679 proposal for preparing the

PDR Addendum discussed above. Subsequently, as discussed in CDM Smith's September 17, 2008 letter to BCRUA, BCRUA requested that this item, among others, be deleted from SA No. 3 and deferred until the Construction Phase.

- Following that decision, TWDB determined that the PDR required revisions to describe the VE changes to the project so funding could be secured for the Project; however, SA No. 3 excluded monies to revise the Preliminary Design Report to incorporate the VE changes.

***CDM Smith Action.*** Now that Phase 1A construction is nearing completion, CDM Smith is requesting that this item be approved for inclusion in SA No. 4 because we performed the following additional work:

- In response to a meeting at TWDB offices on October 22, 2008, where TWDB requested an Addendum to the PDR that describes Phase 1A (i.e., 17 MGD capacity) and how it differs from the original PDR phasing (i.e., Phase 1 - 30 MGD capacity), CDM Smith prepared TWDB Supplemental Information Submittal, dated February 2009. This document was delivered to the DOC and TWDB/TCEQ on February 26, 2009. TWDB/TCEQ approved the PDR Addendum in a letter dated March 31, 2009.

As explained above, CDM Smith has performed the related work and all of the products are being utilized to complete Phase 1A. This additional work was required to obtain TWDB monies to fund the Project.

***Incurred Costs.*** Our costs incurred for Task 2 services include the following:

| | |
|---|---|
| Hours | 207.75 |
| Raw Labor | $10,305.72 |
| Burdened Labor (x ELM) | $31,947.73 |
| Other Direct Costs | $0.00 |
| Outside Professionals | $0.00 |
| **Subtotal** | **$31,947.73** |

### Task 3: Provide Responses to Various TWDB Information Requests

***Background.*** With respect to this item, CDM Smith provided additional out-of-scope services for three separate activities, all of which pertained to obtaining TWDB approval and funding for the project:

- Relating to the Environmental Assessment (EA), CDM Smith included $25,100 in SA No. 3, Task 12, letter to BCRUA, dated September 17, 2008, for submitting the EA to TWDB. That budget assumed that a typical single submittal document would be required, with only minor comments to be addressed and/or revisions/edits to be make by CDM Smith.
- Unfortunately, the EA, particularly as it related to the raw water intake structure and pipeline, was highly scrutinized due to organized opposition from residents in that part of the project's area. Consequently, it became necessary for CDM Smith to make five (5) resubmittals/revisions

to the EA, dated October 15, 2008, December 4, 2008, March 9, 2009, April 27, 2009 and June 19, 2009. During this time period, CDM Smith met with TWDB staff as necessary in order to expedite the process.

- According to CDM Smith's records, five (5) draft EAs were submitted, including electronic copies/versions, on March 9, 2009 and April 29, 2009. Each of these submittals addressed Action Items from previous TWDB project meetings.
- CDM Smith received a call from TWDB's Senior Environmental reviewer who indicated that the staff was satisfied with the revisions submitted on April 29, 2009. However, on June 19, 2009 TWDB requested additional clarification concerning Distribution Lines 2A and 2B.
- Relating to the TWDB Funding Application
  - BCRUA requested CDM Smith's assistance for preparation of TWDB Loan Closing Documents and related matters.
  - CDM Smith prepared briefing materials and attended a meeting with TWDB staff on June 17, 2009 to discuss finalization of the BCRUA loan and the requirements for acquiring Distribution Lines 2A and 2B.
  - CDM Smith prepared and provided the final BCRUA Phase 1A Loan Closing Funding Allocation spreadsheet to TWDB on June 24, 2009.
  - CDM Smith prepared briefing materials and attended a meeting with the City of Round Rock Finance Department personnel regarding the BCRUA Phase 1A Loan Closing Funding Allocation.
- Relating to the TWDB Water Rights Determination:
  - BCRUA received TWDB's Water Rights Determination Information Request on March 25, 2009.
  - BCRUA requested CDM Smith's assistance in responding to TWDB's March 25, 2009 Request for Information.
  - CDM Smith prepared detailed written memorandums, dated May 4, 2009, May 5, 2009 and May 8, 2009 to TWDB that addressed the questions posed in their March 25th request.
  - CDM Smith communicated with BCRUA, DOC, TWDB, et al, as necessary to prepare the responses and provide all information requested by TWDB.
- All in all, our efforts were needed to secure funding with the TWDB for Phase 1A totaling about $182M and plan for the remaining Phase 1 and Phase 2 totaling approximately $128M, which included the following: Raw Water Intake (Jacobs Engineering), Raw Water Pipeline (Jacobs Engineering), Regional Water Treatment Plant (CDM Smith), Segment 1 Transmission Line (Lockwood, Andrews & Newnam), Segment 2A, Segment 2B, Segment 2C (KFA), Deep Raw Water Intake and Raw Water Pipeline Improvements (Jacobs Engineering Group).

- ***Incurred Costs.*** Our costs incurred for Task 3 services include the following:

| | |
|---|---|
| Hours | 232.50 |
| Raw Labor | $9,586.84 |
| Burdened Labor (x ELM) | $29,719.20 |
| Other Direct Costs | $4,447.59 |
| Outside Professionals - Compugraphics | $227.50 |
| **Subtotal** | **$34,394.29** |

## Task 4: Revise General Conditions (Division 0) – Bid Documents

***Background.*** During the early stages of the Phase 1A Design Phase, CDM Smith received permission from the DOC to prepare Division 0 – Bid Documents based on Specification Section 00700, General Conditions (2002 Version), titled "Standard General Conditions of the Construction Contract" prepared by the Engineers Joint Contract Documents Committee (EJCDC). This base document is recognized as an industry standard, issued and published jointly by the major professional engineering organizations and is approved and endorsed by The Associated General Contractors of America and the Construction Specifications Institute. Section 00800, Supplementary Conditions, is a companion document to Section 00700 that allows the Engineer to make edits as necessary in order to make the General Conditions project specific. In addition, these documents are referenced/cross-referenced throughout Division 0 for clarification/ coordination of general requirements particularly with respect to bonds, insurance and many other major Contract requirements.

CDM Smith, in accordance with the previous agreement, based the BCRUA Phase 1A specifications on the EJCDC Sections 00700 and 00800. This "package" was continued and included in all submittals through the 99 percent submittal, dated January 2008, as well as the 99.5 percent submittal, dated September 2008.

In early 2009, CDM Smith was instructed by BCRUA's Attorney to use the City of Round Rock's Standard General Conditions, Section 00700. Although Round Rock's Section 00700 is similar in some aspects to the EJCDC Section 00700, there are some major differences that preclude them from being easily interchanged. In addition, the Round Rock Section 00700 did not include an updated project specific companion Section 00800, Supplemental Conditions, which necessitated considerable detailed paragraph-by-paragraph editing to make the document project specific.

***CDM Smith Action.*** In response to these issues, CDM Smith performed the following additional work:

- Prepared a draft version of Division 0 based on Round Rock's Section 00700.
- Prepared meeting materials and conducted meetings with Jacobs, LAN, KFA and the City of Round Rock staff on April 24, 2009 and May 5, 2009 to review and coordinate the revised document.

- Revised Round Rock's Section 00800 based on the City's input and submitted the document to other subconsultants on May 12, 2009.
- Conducted follow-up meetings with the City of Round Rock and other BCRUA design firms to review the revised documents and to establish final BCRUA Phase 1A Supplemental General Conditions and other Division 0 specifications.
- The final Division 0 specifications that were prepared by CDM Smith were utilized by all design firms on all BCRUA projects.

***Incurred Costs.*** Our costs incurred for Task 4 services include the following:

| | |
|---|---|
| Hours | 63.50 |
| Raw Labor | $940.65 |
| Burdened Labor (x ELM) | $2,916.02 |
| Other Direct Costs | $0.00 |
| Outside Professionals - Compugraphics | $6,657.25 |
| **Subtotal** | **$9,573.27** |

## Task 5: Revise Size of the Sludge Dewatering Facility (SDF) to Decrease Cost

***Background.*** CDM Smith's original VE Study, as described in VE Memorandum, dated May 30, 2008, included an item to reduce the SDF structure size in both area and height. Because BCRUA did not believe at the time that the estimated construction cost savings versus the engineering services fee necessary to make the document revisions were cost-effective they deleted this particular VE recommendation.

CDM Smith's original VE recommendation was also described in Task 9.3 of Exhibit B attached to CDM Smith's Draft SA No. 3 submittal, dated August 11, 2008. The BCRUA decision to delete this VE recommendation is also discussed in CDM Smith's Final SA No. 3 submittal, September 17, 2008 letter to BCRUA.

Subsequent to September 2008, there were more discussions between BCRUA, DOC and CDM Smith about the size of the SDF. At the April 9, 2009 DOC Meeting, CDM Smith reported that the original structure could be reduced in floor area by about 25 percent and in height by about six-feet, resulting in an estimated construction cost savings of $240,000 versus an associated engineering services fee of $21,000. As noted in the May 14, 2009 DOC Meeting Minutes, CDM Smith was directed to make the SDF modifications, with the engineering fees to be included in a Construction Phase SA.

***CDM Smith Action.*** Now that Phase 1A construction is nearing completion, CDM Smith is requesting that this item be approved for inclusion in SA No. 4 because we performed the following additional work:

- Revise the Contract Documents (plans and specifications) by reducing the floor area of the SDF by 25 percent and the height by about six-feet, resulting in an estimated construction cost savings of $240,000 versus an associated engineering services fee of approximately $21,000.
- This work included changes to the civil, structural, architectural, process mechanical and electrical drawings.

As explained above, CDM Smith has performed the related work and all of the products are being utilized to complete Phase 1A.

***Incurred Costs.*** Our costs incurred for Task 5 services include the following:

| | |
|---|---|
| Hours | 160.70 |
| Raw Labor | $5,662.40 |
| Burdened Labor (x ELM) | $17,553.44 |
| Other Direct Costs | $156.78 |
| Outside Professionals - Alderman Paccone Bishop Architects | $1,600.00 |
| Outside Professionals - Compugraphics | $1,962.50 |
| **Subtotal** | **$21,272.72** |

## Task 6: Incorporate the Elevated Storage Tank (EST) into the Phase 1A Project:

***Background.*** The original BCRUA WTP Phase 1 Construction Documents included a 2 MG EST in the Finished Water system for purposes of: providing emergency storage, minimizing the number of start-stop cycles for the Booster Pumps and maintaining pressure on the distribution system when the pumps were not operating.

CDM Smith's previously referenced VE Study estimated that BCRUA could save $2.8 million in Phase 1A construction costs by deferring the EST until Phase 1C. This was a "net" savings because the deferment of the EST would necessitate the inclusion of a Surge Relief Station connecting the Finished Water piping to the Clearwell. This EST deferment was one of BCRUA's approved VE items (see CDM Smith's May 30, 2008 memorandum to BCRUA; CDM Smith's Draft SA No. 3 August 11, 2008 letter to BCRUA, et al).

At the July 9, 2009 DOC Meeting and a follow-up e-mail from BCRUA to CDM Smith dated July 13, 2009, CDM Smith was directed to modify the bidding documents as follows:

- Include the Elevated Storage Tank (EST) in the base bid, and show it being removed as a deductive alternate.
- Include the (3) 500HP Booster Pumps with 24" control valves and discharge piping in the base bid, and show the (1) 500HP Booster Pump with 24" control valve and discharge piping and (2) 250HP Booster Pumps with 18" control valves and discharge piping as a deductive alternate.

- Locate the telemetry antenna atop the EST in the base bid, and show it being relocated to the TSC in a deductive alternate.
- Locate a site access roadway to the EST in the base bid, and show it being removed in a deductive alternate.

***CDM Smith Action.*** CDM Smith and its subconsultants revised the Phase 1A Contract Documents as directed, with the resulting work product being presented in Addendum No. 4, dated July 29, 2009. This was a major production and coordination effort that involved:

- Rescheduling the Bid date.
- Restructuring Division 0's Bid Form and Section 01026, Measurement and Payment and all related specification sections to include the EST in the Base Bid and as a Deductive Alternate Bid Item.
- Adding four new specification sections.
- Modifying approximately 15 specification sections.
- Adding approximately 18 new drawings.
- Modifying approximately 32 drawings.
- Major project elements affected included:
  - Clearwell Outlet Piping
  - Booster Pump Station
  - Finished Water Piping
  - Surge Relief Station
  - Elevated Storage Tank
  - Electrical
  - Instrumentation and Controls
  - Site Grading, Drainage and Paving
- This work included changes to the civil, HVAC, process mechanical, electrical and instrumentation and control drawings. This was more complicated than just including the original designed case that included an EST because the Design Documents needed to show a base bid case with the EST and a deductive alternate case without the EST, which required additional drawings and specifications to be created as described above.

***Incurred Costs.*** Our costs incurred for Task 6 services include the following:

| | |
|---|---|
| Hours | 323.50 |
| Raw Labor | $12,770.90 |
| Burdened Labor (x ELM) | $39,589.79 |
| Other Direct Costs | $782.76 |
| Outside Professionals - Compugraphics | $7,983.50 |
| Outside Professionals - LAN | $5,950.00 |
| **Subtotal** | **$54,306.05** |

Our total combined costs for Tasks 1 thru 6 described above is $159,855. In reviewing our additional fee request, we respectfully request that BCRUA keep in mind that CDM Smith has worked diligently in good faith to meet BCRUA's goals and that most of the amounts required are for work that was completed previously in the Design Phase.

Also attached herewith are the exhibits (i.e., Exhibits B, C and D) that are needed to process this supplemental amendment. If you have any questions, please do not hesitate to contact me at (512) 346-1100.

Sincerely,

Steven V. Lynk, TX P.E. 82706, BCEE
Vice President
Project Manager
CDM Smith Inc.
TBPE Firm Registration No. F-3043

ATTACHMENTS

xc: Allen Woelke, CDM Smith
Jennifer Harrison, CDM Smith

**Task 1: Provide Additional General Contractor Pre-Qualification Packages**

1. Updated and reviewed Pre-Qualification package with OWNER.
2. Coordinated Pre-Qualification legal advertisements with Round Rock Leader and Hill Country News for publication.
3. Pre-qualified an additional contractor making it eight pre-qualified general contractors.
4. Reviewed contractor follow-up information and distributed to OWNER.
5. Reviewed, verified, and summarized pre-qualification packages in matrix form.
6. Conducted Pre-Qualification Workshop with OWNER and revised questionnaire and clarifications.
7. Assigned Pre-Qualification approval to eight general contractors.
8. Responded to follow-up questions and communications as necessary.

**Task 2: Update Preliminary Design Report to Incorporate VE Items**

1. Revise Preliminary Design Report (PDR), as required, to incorporate PDR Addendum prepared for Texas Water Development Board (TWDB) that describes Phase 1A (i.e., 17 MGD capacity) and how it differs from the original PDR phasing (i.e., Phase 1 - 30 MGD capacity).
2. Prepared TWDB Supplemental Information Submittal, dated February 2009. This document was delivered to the OWNER and TWDB/TCEQ on February 26, 2009.
3. Submit six (6) copies to the OWNER for review and comment.
4. Address comments and submit ten (10) final copies to the OWNER.

**Task 3: Provide Responses to Texas Water Development Board (TWDB) Information Requests**

1. Prepared and submitted five (5) resubmittals/revisions to the Environmental Assessment (EA) to TWDB and OWNER dated October 15, 2008, December 4, 2008, March 9, 2009, April 27, 2009 and June 19, 2009. Each of these submittals addressed Action Items from previous TWDB project meetings.
2. Received comments, revised EA and transmitted copies of revised EA to TWDB and OWNER.
3. Provide TWDB Funding Application Assistance
   a. Prepared and provided TWDB Loan Closing Documents and related matters.
   b. Prepared briefing materials and attended a meeting with TWDB staff on June 17, 2009 to discuss finalization of OWNER's loan and the requirements for acquiring Distribution Lines 2A and 2B.
   c. Prepared and provided the final Phase 1A Loan Closing Funding Allocation spreadsheet to TWDB on June 24, 2009.
   d. Prepared briefing materials and attended a meeting with OWNER's Finance Department personnel regarding the Phase 1A Loan Closing Funding Allocation.
4. Provide TWDB Water Rights Determination Assistance
   a. In response to TWDB's Water Rights Determination Information Request on March 25, 2009, ENGINEER provided assistance and prepared detailed written memorandums to TWDB, dated May 4, 2009, May 5, 2009 and May 8, 2009.
   b. CDM Smith communicated with OWNER and TWDB, as necessary to prepare the responses and provide all information requested by TWDB.

**Task 4: Revise General Conditions (Division 0) - Bid Documents**

1. Prepared a draft version of Division 0 based on City of Round Rock's General Conditions, Section 00700.
2. Prepared meeting materials and conducted meetings with Jacobs Engineering, Lockwood, Andrews & Newnam (LAN), Karen Friese & Associates (KFA) and OWNER on April 24, 2009 and May 5, 2009 to review and coordinate the revised Division 0 documents.
3. Revised Round Rock's Section 00800 based on the City's input and submitted the document to other subconsultants on May 12, 2009.
4. Conducted follow-up meetings with the OWNER and other design firms to review the revised documents and to establish final Phase 1A Supplemental General Conditions and other Division 0 specifications.

**Task 5: Revise Size of the Sludge Dewatering Facility (SDF) to Decrease Cost**

1. Revise the Contract Documents (plans and specifications) by reducing the floor area of the Sludge Dewatering Facility by 25 percent and the height by about six-feet that resulted in an estimated construction cost savings of $240,000.
2. This work included changes to the civil, structural, architectural, process mechanical and electrical drawings.

**Task 6: Incorporate the Elevated Storage Tank (EST) into the Phase 1A Project**

1. Revise the Contract Documents (plans and specifications) by adding four new specification sections, modifying approximately 15 specification sections, adding approximately 18 new Drawings, and modifying approximately 32 Drawings to incorporate the following changes:
   a. Include the Elevated Storage Tank (EST) in the base bid, and show it being removed as a deductive alternate.
   b. Include the (3) 500HP Booster Pumps with 24" control valves and discharge piping in the base bid, and show the (1) 500HP Booster Pump with 24" control valve and discharge piping and (2) 250HP Booster Pumps with 18" control valves and discharge piping as a deductive alternate.
   c. Locate the telemetry antenna atop the EST in the base bid, and show it being relocated to the TSC in a deductive alternate.
   d. Locate a site access roadway to the EST in the base bid, and show it being removed in a deductive alternate.
   e. Revise Division 0's Bid Form and Section 01026, Measurement and Payment and all related specification sections to include the EST in the Base Bid and as a Deductive Alternate Bid Item.

**EXHIBIT C**
**BCRUA WATER TREATMENT PLANT – PHASE 1A**
**SUPPLEMENTAL AMENDMENT No. 4**
**WORK SCHEDULE**

| TASK No. | TASK DESCRIPTION | END DATE |
|---|---|---|
| 1.0 | PROVIDE ADDITIONAL GENERAL CONTRACTOR PRE-QUALIFICATION PACKAGES | COMPLETE |
| 2.0 | UPDATE PRELIMINARY DESIGN REPORT (PDR) TO INCORPORATE VE/DEFERRAL RECOMMENDATIONS | COMPLETE |
| 3.0 | PROVIDE RESPONSES TO TEXAS WATER DEVELOPMENT BOARD (TWDB) INFORMATION REQUESTS | COMPLETE |
| 4.0 | REVISE GENERAL CONDITIONS (DIVISION 0) – BID DOCUMENTS | COMPLETE |
| 5.0 | REVISE SIZE OF THE SLUDGE DEWATERING FACILITY (SDF) TO DECREASE COST | COMPLETE |
| 6.0 | INCORPORATE THE ELEVATED STORAGE TANK (EST) INTO THE PHASE 1A PROJECT | COMPLETE |

**EXHIBIT D**
**BCRUA WATER TREATMENT PLANT - PHASE 1A**
**SUPPLEMENTAL AMENDMENT No. 4**
**FEE SCHEDULE**

| TASK No. | TASK DESCRIPTION | TASK COST |
|---|---|---|
| 1.0 | PROVIDE ADDITIONAL GENERAL CONTRACTOR PRE-QUALIFICATION PACKAGES | $8,361 |
| 2.0 | UPDATE PRELIMINARY DESIGN REPORT (PDR) TO INCORPORATE VE/DEFERRAL RECOMMENDATIONS | $31,948 |
| 3.0 | PROVIDE RESPONSES TO TEXAS WATER DEVELOPMENT BOARD (TWDB) INFORMATION REQUESTS | $34,394 |
| 4.0 | REVISE GENERAL CONDITIONS (DIVISION 0) - BID DOCUMENTS | $9,573 |
| 5.0 | REVISE SIZE OF THE SLUDGE DEWATERING FACILITY (SDF) TO DECREASE COST | $21,273 |
| 6.0 | INCORPORATE THE ELEVATED STORAGE TANK (EST) INTO THE PHASE 1A PROJECT | $54,306 |
| | **TOTAL** | **$159,855** |

**RESOLUTION NO. R-13-07-11-F6**

**WHEREAS**, the City of Round Rock has previously entered into an Interlocal Agreement with the City of Cedar Park and the City of Leander Regarding Final Design Services for the Regional Water System Project, and

**WHEREAS**, the City now desires to enter into Amendment No. 5 to the Interlocal Agreement to revise the allocation of costs due to additional services, Now Therefore

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,**

That the Mayor is hereby authorized and directed to execute on behalf of the City Amendment No. 5 to the Interlocal Agreement with the City of Cedar Park and the City of Leander Regarding Final Design Services for the Regional Water System Project, a copy of same being attached hereto as Exhibit "A" and incorporated herein for all purposes.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution 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.

**RESOLVED** this 11th day of July, 2013.

ALAN MCGRAW, Mayor
City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

O:\wdox\SCC\nts\0112\1304\MUNICIPAL\00277914.DOC/rmc

EXHIBIT
"A"

# AMENDMENT NO. 5 TO
# INTERLOCAL AGREEMENT REGARDING
# FINAL DESIGN SERVICES FOR REGIONAL WATER SYSTEM

**THIS AMENDMENT NO. 5 TO INTERLOCAL AGREEMENT REGARDING FINAL DESIGN SERVICES FOR REGIONAL WATER SYSTEM ("Amendment No. 5")** is entered into between the City of Round Rock, Texas ("Round Rock"); the City of Cedar Park, Texas, ("Cedar Park"); and the City of Leander, Texas ("Leander"). This Amendment No. 5 amends that one certain Interlocal Agreement Regarding Final Design Services for Regional Water System ("Agreement") entered into by the aforesaid cities on or about April 12, 2007, and Amendment No. 1 entered into by the aforesaid cities on or about September 13, 2007, and Amendment No. 2 entered into by the aforesaid cities on or about December 4, 2008, and Amendment No. 3 entered into by the aforesaid cities on or about May 28, 2009, and Amendment No. 4 entered into by the aforesaid cities on or about January 28, 2010.

I.

Section 1.03, definition of "Cost Allocation Percentage" is amended to read as follows:

**1.03** "Cost Allocation Percentage" means the percentage of Final Design Costs to be paid by each Party. The Cost Allocation Percentages for each category of Final Design Services are set forth on **Exhibit "A", Revision 5** attached hereto

II.

Section 4.02 (a) is amended to read as follows:

**4.02 Payment of Final Design Costs.**

(a) All Final Design Costs shall be shared by the Parties according to the Cost Allocation Percentages applicable to each Project Category designation, as set forth in **Exhibit "A", Revision 5**, attached hereto.

III.

Section 4.03 (a)(i) is hereby amended to read as follows:

**4.03 Design Fund.**

(a) The Parties shall contribute monies to the Design Fund in accordance with the following provisions:

(i) In accordance with the terms of the original Agreement, the Parties have previously deposited into the Design Fund certain sums of money ("the Design Payments") representing the initial deposit of twenty-five percent (25%) of each Party's

share of the estimated Final Design Costs, plus additional sums as requested by Round Rock to pay invoices for the Final Design Contracts. Each Party's total estimated Design Payments, based on the estimated Final Design Costs set forth in **Exhibit "A", Revision 5** attached hereto, including Design Payments previously made, is set forth below:

| | | |
|---|---|---|
| 1) | Round Rock | $4,734,281.81 |
| 2) | Leander | $5,664,220.96 |
| 3) | Cedar Park | $1,568,308.23 |

IV.

Section 5.10 is amended to read as follows:

**5.10 Exhibits.** The following exhibits are attached to this Agreement and incorporated herein by reference:

| | |
|---|---|
| Exhibit "A", Revision 5 | Allocation of Costs |

V.

**Exhibit "A", Revision 5** is attached to this Amendment 5.

***[SIGNATURES ON FOLLOWING PAGES]***

**CITY OF ROUND ROCK:**

ATTEST:

_____

Sara L. White, City Clerk

By:_____

Alan McGraw, Mayor

Date: _____

**CITY OF CEDAR PARK:**

ATTEST:

_____
LeAnn Quinn, City Secretary

By:_____
Bob Lemon, Mayor

Date: _____

**CITY OF LEANDER:**

ATTEST:

_____
Debbie Haile, City Secretary

By:_____
Chris Fielder, Mayor

Date: _____

| EXHIBIT "A", REVISION 5 | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| ALLOCATION OF COSTS | | | | | | | | |
| Phase/Segment | Capacity (MGD) | Cost Allocation | Initial Final Design Costs | Supplemental Contract No. 1 Costs | Supplemental Contract No.2 Costs | Supplemental Contract No.3 Costs | Supplemental Contract No.4 Costs | Amended Final Design Costs |
| | | | | | | | | |
| Raw Water System and Barge | | | | | | | | |
| Cedar Park | 15 | 14.18% | $172,444.88 | $310,835.00 | $62,925.73 | $47,285.05 | $23,628.42 | $617,118.88 |
| Leander | 50 | 47.26% | $574,734.53 | $1,035,971.00 | $209,722.67 | $157,594.62 | $78,750.28 | $2,056,773.30 |
| Round Rock | 40.8 | 38.56% | $468,932.79 | $845,261.00 | $171,115.40 | $128,583.33 | $64,253.30 | $1,678,145.82 |
| Total | 105.8 | 100.00% | $1,216,112.00 | $2,192,067.00 | $443,764.00 | $333,463.00 | $166,632.00 | $4,352,038.00 |
| | | | | | | | | |
| Water Treatment Plant | | | | | | | | |
| Cedar Park | 15 | 14.18% | $99,701.28 | $369,644.00 | $120,628.27 | $135,249.40 | $22,667.44 | $747,890.39 |
| Leander | 50 | 47.26% | $332,290.73 | $1,231,974.00 | $402,037.51 | $450,767.78 | $75,547.47 | $2,492,617.49 |
| Round Rock | 40.8 | 38.56% | $271,119.99 | $1,005,182.00 | $328,027.22 | $367,786.82 | $61,640.09 | $2,033,756.12 |
| Total | 105.8 | 100.00% | $703,112.00 | $2,606,800.00 | $850,693.00 | $953,804.00 | $159,855.00 | $5,274,264.00 |
| | | | | | | | | |
| Transmission Line Segments | | | | | | | | |
| Segment 1 | | | | | | | | |
| Cedar Park | 15 | 14.18% | $29,950.29 | $166,463.00 | $6,885.67 | NA | NA | $203,298.96 |
| Leander | 50 | 47.26% | $99,820.21 | $554,800.00 | $22,948.98 | NA | NA | $677,569.19 |
| Round Rock | 40.8 | 38.56% | $81,444.50 | $452,668.00 | $18,724.35 | NA | NA | $552,836.85 |
| Total | 105.8 | 100.00% | $211,215.00 | $1,173,931.00 | $48,559.00 | NA | NA | $1,433,705.00 |
| | | | | | | | | |
| Segment 2C | | | | | | | | |
| Cedar Park | 0 | 0% | $0 | $0 | $0 | $0 | $0 | $0 |
| Leander | 38 | 48.22% | $92,543.34 | $302,610.00 | $602.75 | $31,875.35 | $9,629.53 | $437,260.98 |
| Round Rock | 40.8 | 51.78% | $99,375.66 | $324,951.00 | $647.25 | $34,228.65 | $10,340.47 | $469,543.02 |
| Total | 78.8 | 100.00% | $191,919.00 | $627,561.00 | $1,250.00 | $66,104.00 | $19,970.00 | $906,804.00 |
| | | | | | | | | |
| Allocation of Costs | | | | | | | | |
| Cedar Park | | | $302,096.25 | $846,942.00 | $190,439.67 | $182,534.45 | $46,295.86 | $1,568,308.23 |
| Leander | | | $1,099,388.81 | $3,125,355.00 | $635,312.11 | $640,237.75 | $163,927.29 | $5,664,220.96 |
| Round Rock | | | $920,872.94 | $2,628,062.00 | $518,514.22 | $530,598.80 | $136,233.88 | $4,734,281.81 |
| Total | | | $2,322,358.00 | $6,600,359.00 | $1,344,266.00 | $1,353,371.00 | $346,457.00 | $11,966,811.00 |

# City of Round Rock

## Agenda Item Summary

**Agenda Number: F.6**

**Title:** Consider a resolution authorizing the Mayor to execute Amendment No. 5 to the Interlocal Agreement with the Cities of Cedar Park and Leander regarding Final Design Services for the Regional Water System Project.

**Type:** Resolution

**Governing Body:** City Council

**Agenda Date:** 7/11/2013

**Dept Director:** Michael Thane, Director of Utilities and Environmental Services

**Cost:** $159,855.00

**Indexes:** Regional Water Fund

**Attachments:** Resolution, Exhibit A

**Text of Legislative File 13-497**

This Amendment No. 5 revises the allocation of costs due to additional design services for the Brushy Creek Regional Utility Authority (BCRUA) - Water Treatment Plant. CDM Smith's fee for these additional services is $159,855, as identified in their Supplemental Agreement No. 4 which was approved by the City Council on May 23, 2013. This Interlocal Agreement outlines the Water Treatment Plant cost that Cedar Park, Leander, and Round Rock are responsible for, which is allocated based on each City's ultimate capacity in the Water Treatment Plant:

| | Capacity Percentage | Cost |
|---|---|---|
| Round Rock | 38.56% | $61,640.09 |
| Cedar Park | 14.18% | $22,667.44 |
| Leander | 47.26% | $74,547.47 |

Although the BCRUA has not issued a final acceptance of the treatment plant, the plant is in operation and treating between 4 to 5 million gallons per day. Cedar Park and Leander are taking treated water at this time. It is anticipated that Round Rock will not take water from the regional system until around 2016. This project meets the City's objectives of "Invest in City infrastructure to support future community growth and economic development." as identified in the 2013 Strategic Plan.

***Cost:$159,855.00***
***Source of Funds:Regional Water Fund***

Staff recommends approval.

EXECUTED

ORIGINAL

DOCUMENTS

FOLLOW

**AMENDMENT NO. 5 TO**
**INTERLOCAL AGREEMENT REGARDING**
**FINAL DESIGN SERVICES FOR REGIONAL WATER SYSTEM**

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Section 4.03 (a)(i) is hereby amended to read as follows:

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(i) In accordance with the terms of the original Agreement, the Parties have previously deposited into the Design Fund certain sums of money ("the Design Payments") representing the initial deposit of twenty-five percent (25%) of each Party's

share of the estimated Final Design Costs, plus additional sums as requested by Round Rock to pay invoices for the Final Design Contracts. Each Party's total estimated Design Payments, based on the estimated Final Design Costs set forth in **Exhibit "A", Revision 5** attached hereto, including Design Payments previously made, is set forth below:

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| 1) | Round Rock | $4,734,281.81 |
| 2) | Leander | $5,664,220.96 |
| 3) | Cedar Park | $1,568,308.23 |

IV.

Section 5.10 is amended to read as follows:

**5.10 Exhibits.** The following exhibits are attached to this Agreement and incorporated herein by reference:

| | |
|---|---|
| Exhibit "A", Revision 5 | Allocation of Costs |

V.

**Exhibit "A", Revision 5** is attached to this Amendment 5.

***[SIGNATURES ON FOLLOWING PAGES]***

**CITY OF ROUND ROCK:**

ATTEST:

Sara L. White, City Clerk

By: _____
Alan McGraw, Mayor

Date: 7.11.13

**CITY OF CEDAR PARK:**

ATTEST:

LeAnn Quinn, City Secretary

By: _____
Matthew Powell, Mayor

Date: 8/8/2013

R136.13.08.08.D2

**CITY OF LEANDER:**

ATTEST:

_____
Debbie Haile, City Secretary

By:_____
Chris Fielder, Mayor

Date: _____

| EXHIBIT "A", REVISION 5 | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| ALLOCATION OF COSTS | | | | | | | | |
| Phase/Segment | Capacity (MGD) | Cost Allocation | Initial Final Design Costs | Supplemental Contract No. 1 Costs | Supplemental Contract No.2 Costs | Supplemental Contract No.3 Costs | Supplemental Contract No.4 Costs | Amended Final Design Costs |
| | | | | | | | | |
| Raw Water System and Barge | | | | | | | | |
| Cedar Park | 15 | 14.18% | $172,444.68 | $310,835.00 | $62,925.73 | $47,285.05 | $23,628.42 | $617,118.88 |
| Leander | 50 | 47.26% | $574,734.53 | $1,035,971.00 | $209,722.67 | $157,594.62 | $78,750.28 | $2,056,773.30 |
| Round Rock | 40.8 | 38.56% | $468,932.79 | $845,261.00 | $171,115.40 | $128,583.33 | $64,253.30 | $1,678,145.82 |
| Total | 105.8 | 100.00% | $1,216,112.00 | $2,192,067.00 | $443,764.00 | $333,463.00 | $166,632.00 | $4,352,038.00 |
| | | | | | | | | |
| Water Treatment Plant | | | | | | | | |
| Cedar Park | 15 | 14.18% | $99,701.26 | $369,644.00 | $120,626.27 | $135,249.40 | $22,667.44 | $747,890.39 |
| Leander | 50 | 47.26% | $332,290.73 | $1,231,974.00 | $402,037.51 | $450,767.78 | $75,547.47 | $2,492,617.49 |
| Round Rock | 40.8 | 38.56% | $271,110.09 | $1,005,182.00 | $328,027.22 | $367,786.82 | $61,640.09 | $2,033,756.12 |
| Total | 105.8 | 100.00% | $703,112.00 | $2,606,800.00 | $850,693.00 | $953,804.00 | $159,855.00 | $5,274,264.00 |
| | | | | | | | | |
| Transmission Line Segments | | | | | | | | |
| Segment 1 | | | | | | | | |
| Cedar Park | 15 | 14.18% | $29,950.29 | $166,463.00 | $6,885.67 | NA | NA | $203,298.96 |
| Leander | 50 | 47.26% | $99,820.21 | $554,800.00 | $22,948.98 | NA | NA | $677,569.19 |
| Round Rock | 40.8 | 38.56% | $81,444.50 | $452,668.00 | $18,724.35 | NA | NA | $552,836.85 |
| Total | 105.8 | 100.00% | $211,215.00 | $1,173,931.00 | $48,559.00 | NA | NA | $1,433,705.00 |
| | | | | | | | | |
| Segment 2C | | | | | | | | |
| Cedar Park | 0 | 0% | $0 | $0 | $0 | $0 | $0 | $0 |
| Leander | 38 | 48.22% | $92,543.34 | $302,610.00 | $602.75 | $31,875.35 | $9,629.53 | $437,260.98 |
| Round Rock | 40.8 | 51.78% | $99,375.66 | $324,951.00 | $647.25 | $34,228.65 | $10,340.47 | $469,543.02 |
| Total | 78.8 | 100.00% | $191,919.00 | $627,561.00 | $1,250.00 | $66,104.00 | $19,970.00 | $906,804.00 |
| | | | | | | | | |
| Allocation of Costs | | | | | | | | |
| Cedar Park | | | $302,098.25 | $846,942.00 | $190,439.67 | $182,534.45 | $46,295.86 | $1,568,308.23 |
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