

Memorandum



CITY OF DALLAS

DATE August 12, 2016

TO Honorable Mayor and Members of the City Council

SUBJECT Responses to Budget Questions

Attached is the first set of responses to budget questions asked by City Council members during the August 9th budget workshop. Additional responses are being prepared and will be forwarded as they are available.

If you need any additional information, please contact me.



A.C. Gonzalez
City Manager

Attachment

c: Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager
Eric D. Campbell, Assistant City Manager

Jill A. Jordan, P. E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager

FY 2016-17 Proposed Budget – Response to Council Questions

1. Provide information regarding the recent report that the City does not have enough ambulances?

In FY12 Dallas Fire-Rescue (DFR) had eleven peak demand rescues. Peak demand units are EMS resources that are placed in-service during identified periods of high activity to improve response times and service delivery. In October of 2012 eight of these peak demand rescues were converted to five full-time rescues in an effort to combat climbing EMS calls for service. Three peak demands were left in service with two being in-service seven days a week (total of 60 hours per week) and one was left in service on Fridays and Saturdays only (total of 20 hours per week). No new rescues have been placed in service since that time, either front-line or peak demand.

Between FY12 and FY15, EMS annual call volumes climbed by over 20,000 calls, a 10.98% increase. While average daily calls climbed from 500 to 556 during this time frame, the average response time remained fairly steady, 5:59 minutes in FY12 and 5:57 minutes in FY15.

In FY16, the year-to-date numbers indicate an 8% increase in call volumes over this time in FY15. At the end of June in FY15, there had been a total of 169,154 EMS calls. As of the end of June in FY16, there have been 183,881 calls this year. This is an increase of almost 15,000 calls year to date over last year.

Over the past few months rescues have been in the Overload Plan almost daily starting at approximately 9:00 a.m. and are staying in Overload until around 10:00 p.m. The Overload Plan is activated by Dispatch when the number of rescues available to answer calls drops below a certain number. Paramedics are notified of the activation of the Overload Plan and are expected to transport to the closest appropriate hospital and to clear from the hospital as quickly as possible.

As was reported on the news last week, there have been a few times that no rescues were available to answer calls and private ambulance companies have been asked to place units on stand-by to answer calls if needed.

The EMS Bureau is compiling additional data to determine the root causes of why EMS activity has increased. It is believed that there are certain factors that are exacerbating the situation. These factors are:

- The population of Dallas is increasing every year, per published reports. An increase in population will lead to increased demands on existing City services, including EMS.
- The number of visitors to the City is also increasing, recent estimates indicate that in excess of 10 million visitors come to Dallas every year.
- The increase in medical needs of the citizens of, and visitors to, Dallas does not just impact DFR. Area hospital emergency departments are reporting very high utilization numbers. At times they are having to keep ambulances at the emergency department for an hour or longer until they can free up bed space for the newly arrived patient. DFR leadership works with hospital administrators in these situations in an effort to have the hospital release the rescue as timely as possible.

2. What is both the one-time cost and on-going cost to add an ambulance into service?

One-Time Costs	
Ambulance Purchase	212,339
Equipment (Life-Pak, radios, computers, docking stations, licenses, & installation)	61,425
Initial pharmaceuticals	7,500
Paramedic training (15)	689,194
Clothing/EMT basic*	40,044
Total One-Time Costs	\$1,010,502
On-going Costs (annual)	
EMS Supplies	43,490
3 Fire Rescue Officers (FROs)	269,825
3 Driver Engineer (DRs)	299,383
Overtime (leave coverage)	230,448
Total On-going Costs	\$843,146
Total	\$1,853,648
* For new recruits who would replace the 3 FROs and 3 DRs.	

3. What would the revenue impact be for a tax rate decrease of 2¢ rather than the 1.58¢ included in the proposed budget?

The FY17 proposed budget includes a tax rate decrease of 1.58¢ which equates to \$17.0m revenue foregone. If the Council amended the proposed budget and reduced the tax rate by an additional 0.42¢ for a total of 2.0¢ reduction, this would equate to an additional \$4.5m revenue reduction. If revenue is reduced by an additional \$4.5m then an offsetting expense reduction would be necessary to maintain a balanced budget.

Potential Tax Rate Decrease	Foregone Revenue
Proposed tax rate reduction of 1.58¢	17,013,935
Additional tax rate reduction of 0.42¢	4,522,691
Potential tax rate reduction 2.00¢	\$21,536,626

4. What is the cost increase for FY17 in Reserves and Transfers?

The budget for Reserves and Transfers will increase from \$6.5m in FY16 to \$7.9m for FY17. Included in Reserves and Transfers are (1) contingency reserve, (2) liability/claims fund transfer, and (3) salary/benefit reserve. The increase is primarily due to an increase in the transfer to fund the City’s Liability and Claims Fund. The Liability and Claims Fund is used to pay claims, settlements, and judgements for damages to property and/or personal injury suffered by a member of the public that results from action taken by employees of the City while performing a governmental function.

5. How much is included in the General Fund for salary and benefits?

The FY17 proposed General Fund budget totals \$1.23 billion. Of this amount, \$898.8m or 73% is allocated for salary and benefits. This includes both uniform and civilian salaries, overtime, special pay, pension, Medicare, health insurance, life insurance, workers compensation, and other personnel related expenses.

Salary and Benefit Categories	FY17 Proposed Budget
Uniform salary and overtime	438,317,223
Uniform pension	126,612,305
Civilian salary and overtime	218,494,685
Civilian pension	30,549,756
Health insurance and life insurance	60,331,461
Workers compensation	8,397,020
Medicare	9,234,649
Other salary/benefit expenses	6,849,417
Total Salary and Benefits	\$898,786,516

6. Explain the proposed increase in contribution to the police and fire pension by the City and is the additional funding contingent on members voting to increase their contribution?

The City currently contributes 27.5% on all uniform employee pay elements to the Police and Fire Pension Fund. The employees currently contribute 8.5% on base and certification pay. In anticipation that the police and fire members will vote to increase their percentage from 8.5% to 9%, the FY17 proposed budget provides funding necessary to increase the City's contribution from 27.5% to 28.5%. The City contribution increase would only occur if the member increase occurs. The FY17 proposed budget includes an additional \$4.3m in anticipation that it will be required for this change if the members increase their contribution rate.

7. Provide a list of positions being added in the budget by department including the salary, benefits, and pension costs.

Below is slide 68 from the August 11th briefing that included a summary of the 344 new positions proposed to be included in the FY17 budget. Attached is additional information for the new positions.

Authorized Position Count

FY17 budget includes 344 additional positions

- 200 – DPD, police officers
- 50 – DPD, public safety officers
- 13 – EBS security officers (11 reimbursed)
- 4 – Code, animal services
- 8 – Code, multi-tenant (offset by fees)
- 15 – Code, single family rental (offset by fees)
- 1 – NeighborhoodPlus
- 8 – Homeless initiative
- 1 – ADA compliance
- 1 – OCA Majestic Theater (offset by revenue)
- 2 – Park & Recreation, boxing program
- 4 – Park & Recreation, DISD pilot aquatics program
- 2 – Park & Recreation, O&M for capital projects
- 6 – Forestry division
- 5 – Hire Dallas (HR and Civil Service) – for police and civilian positions
- 1 – Chief Planner (reimbursed)
- 1 – City Auditor, executive assistant
- 1 – Convention Center
- 12 – Building Inspection
- 3 – Storm Water
- 6 – CIS

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FY 2016-17 Position Adds

		Salary	Pension (civilian 14.33%, uniform 27.5%)	FICA (1.45%)	Health Benefits	Total Salary	Partial Year Funding Only (*)
Building Services - Security for West Dallas							
Multipurpose Center							
1	Security Officer	35,360	5,067	513	6,216	47,156	
2	Security Officer	35,360	5,067	513	6,216	47,156	
		70,720	10,134	1,025	12,432	94,312	
Building Services - Security Convention Center (General fund is fully reimbursed)							
3	Security Officer	35,360	5,067	513	6,216	47,156	
4	Security Officer	35,360	5,067	513	6,216	47,156	
5	Security Officer	35,360	5,067	513	6,216	47,156	
6	Security Officer	35,360	5,067	513	6,216	47,156	
7	Security Officer	35,360	5,067	513	6,216	47,156	
8	Security Officer	35,360	5,067	513	6,216	47,156	
9	Security Officer	35,360	5,067	513	6,216	47,156	
10	Security Officer	35,360	5,067	513	6,216	47,156	
11	Security Officer	35,360	5,067	513	6,216	47,156	
12	Security Officer	35,360	5,067	513	6,216	47,156	
13	Supervisor - Security	45,760	6,557	664	6,216	59,197	
		399,360	57,228	5,791	68,376	530,755	
Department Total		470,080	67,362	6,816	80,808	625,067	
City Auditor's Office - Office and management support							
14	Executive Assistant	38,462	5,512	558	4,848	49,380	*
Department Total		38,462	5,512	558	4,848	49,380	
Civil Service - Hire Dallas initiative							
15	Test Validation Specialist	44,000	6,305	638	4,165	55,108	*
16	Coordinator IV	44,000	6,305	638	4,165	55,108	*
17	Human Resources Analyst II	35,897	5,144	521	4,165	45,726	*
18	Recruiter	35,897	5,144	521	4,165	45,726	*
Department Total		159,794	22,898	2,317	16,659	201,668	
Code Compliance - Enhance Dallas Animal Services							
19	Animal Service Officer	36,054	5,167	523	6,216	47,959	
20	Animal Service Officer	36,054	5,167	523	6,216	47,959	
21	Animal Service Officer	36,054	5,167	523	6,216	47,959	
22	Animal Service Officer	36,054	5,167	523	6,216	47,959	
		144,216	20,666	2,091	24,864	191,837	
Code Compliance - Multi-tenant home inspection program (offset by fees)							
23	Inspector III	49,420	7,082	717	6,216	63,434	
24	Inspector III	49,420	7,082	717	6,216	63,434	
25	Inspector III	49,420	7,082	717	6,216	63,434	
26	Inspector III	49,420	7,082	717	6,216	63,434	
27	Inspector III	49,420	7,082	717	6,216	63,434	
28	Inspector III	49,420	7,082	717	6,216	63,434	
29	Inspector III	49,420	7,082	717	6,216	63,434	
30	Inspector III	49,420	7,082	717	6,216	63,434	
		395,360	56,655	5,733	49,728	507,476	
Code Compliance - Single family home inspection program (offset by fees)							
31	Inspector II	44,928	6,438	651	6,216	58,234	
32	Inspector II	44,928	6,438	651	6,216	58,234	
33	Inspector II	44,928	6,438	651	6,216	58,234	
34	Inspector II	44,928	6,438	651	6,216	58,234	
35	Inspector II	44,928	6,438	651	6,216	58,234	

FY 2016-17 Position Adds

		Salary	Pension (civilian 14.33%, uniform 27.5%)	FICA (1.45%)	Health Benefits	Total Salary	Partial Year Funding Only (*)
36	Inspector II	44,928	6,438	651	6,216	58,234	
37	Inspector II	44,928	6,438	651	6,216	58,234	
38	Inspector II	44,928	6,438	651	6,216	58,234	
39	Inspector II	44,928	6,438	651	6,216	58,234	
40	Inspector II	44,928	6,438	651	6,216	58,234	
41	Supervisor	49,420	7,082	717	6,216	63,434	
42	Office Assistant II	26,721	3,829	387	6,216	37,154	
43	Manager II	53,614	7,683	777	6,216	68,290	
44	Sr. Office Assistant	33,290	4,770	483	6,216	44,759	
45	Sr. Office Assistant	33,290	4,770	483	6,216	44,759	
Department Total		645,615	92,517	9,361	93,240	840,733	
Department Total		1,185,191	169,838	17,185	167,832	1,540,046	
Housing - Neighborhood Plus							
46	Coordinator III	59,984	8,596	870	6,216	75,665	
Department Total		59,984	8,596	870	6,216	75,665	
Housing - Homeless Initiative							
47	Caseworker II	54,350	7,788	788	6,216	69,142	
48	Caseworker II	54,350	7,788	788	6,216	69,142	
49	Caseworker II	54,350	7,788	788	6,216	69,142	
50	Caseworker II	54,350	7,788	788	6,216	69,142	
51	Caseworker II	54,350	7,788	788	6,216	69,142	
52	Caseworker II	54,350	7,788	788	6,216	69,142	
53	Sr. Caseworker	60,000	8,598	870	6,216	75,684	
54	Administrative Specialist	49,897	7,150	724	6,216	63,987	
Department Total		435,997	62,478	6,322	49,728	554,525	
Department Total		495,981	71,074	7,192	55,944	630,191	
Human Resources - Hire Dallas initiative							
55	Recruiter	35,897	5,144	521	6,216	47,778	*
Department Total		35,897	5,144	521	6,216	47,778	
Management Services - ADA compliance coordinator							
56	Coordinator II	59,120	8,472	857	6,216	74,665	
Department Total		59,120	8,472	857	6,216	74,665	
Office of Cultural Affairs - Event coordination at Majestic Theatre (offset by revenue)							
57	Coordinator II	59,120	8,472	857	6,216	74,665	
Department Total		59,120	8,472	857	6,216	74,665	

FY 2016-17 Position Adds

		Salary	Pension <small>(civilian 14.33%, uniform 27.5%)</small>	FICA <small>(1.45%)</small>	Health Benefits	Total Salary	Partial Year Funding Only (*)
Park and Recreation - Boxing and fitness gym partnership							
58	Coordinator	52,539	7,529	762	6,216	67,046	
59	Custodian	22,084	3,165	320	6,216	31,785	
		74,623	10,693	1,082	12,432	98,831	
Park and Recreation - O&M Enhancement							
60	Laborer II	24,292	3,481	352	6,216	34,341	
61	Laborer II	24,292	3,481	352	6,216	34,341	
		48,584	6,962	704	12,432	68,683	
Park and Recreation - DISD pilot aquatics program							
62	Coordinator	37,908	5,432	550	6,216	50,106	
63	Pool Associate	8,834		128		8,962	
64	Pool Associate	8,834		128		8,962	
65	Pool Associate	8,834		128		8,962	
		64,410	5,432	934	6,216	76,992	
Department Total		187,617	23,088	2,720	31,080	244,505	
Police - Public safety enhancement							
66-265	200 Police Officers	6,927,998	1,905,199	100,456	892,622	9,826,275	*
266-315	50 Public Service Officers	355,705	50,973	5,158	22,916	434,751	*
Department Total		7,283,703	1,956,172	105,614	915,538	10,261,027	
Mobility and Streets Services - new Urban Forestry division							
316	Manager II	53,614	7,683	777	6,216	68,290	
317	Coordinator IV - Forestry	48,739	6,984	707	6,216	62,646	
318	Crew Leader	29,393	4,212	426	6,216	40,247	
319	Forestry Worker	26,721	3,829	387	6,216	37,154	
320	Forestry Worker	26,721	3,829	387	6,216	37,154	
321	Laborer	22,084	3,165	320	6,216	31,785	
Department Total		207,272	29,702	3,005	37,296	277,276	
Sustainable Development - Conservation District support (General fund is fully reimbursed)							
322	Chief Planner	79,598	11,406	1,154	6,216	98,375	
Department Total		79,598	11,406	1,154	6,216	98,375	
Total General Fund		10,261,835	2,379,141	148,797	1,334,869	14,124,642	

FY 2016-17 Position Adds

		Salary	Pension (civilian 14.33%, uniform 27.5%)	FICA (1.45%)	Health Benefits	Total Salary	Partial Year Funding Only (*)
Convention Center - Financial reporting and contract monitoring							
323	Manager I - Business	44,309	6,349	642	6,216	57,517	
Department Total		44,309	6,349	642	6,216	57,517	
Sustainable Development - Increased demand for service							
324	Sr. Plans Examiner - Building	40,281	5,772	584	6,216	52,853	
325	Coordinator III - Building Inspection	59,984	8,596	870	6,216	75,665	
326	Sanitarian	36,619	5,248	531	6,216	48,613	
327	Sr. Plans Examiner - General/Residential	40,281	5,772	584	6,216	52,853	
328	Sr. Plans Examiner - General/Residential	40,281	5,772	584	6,216	52,853	
329	Sr. Plans Examiner - General/Residential	40,281	5,772	584	6,216	52,853	
330	Sr. Plans Examiner - General/Zoning	40,281	5,772	584	6,216	52,853	
331	Sr. Plans Examiner - General/Zoning	40,281	5,772	584	6,216	52,853	
332	Inspector III - Development (Signs)	49,420	7,082	717	6,216	63,434	
333	Senior Engineer	65,496	9,386	950	6,216	82,047	
334	Senior Program Manager	72,046	10,324	1,045	6,216	89,631	
335	Project Coordinator	40,281	5,772	584	6,216	52,853	
Department Total		565,532	81,041	8,200	74,592	729,365	
Storm Drainage Management- Construction inspection activities							
336	Inspector II-Public Projects	44,928	6,438	651	6,216	58,234	
337	Inspector II-Public Projects	44,928	6,438	651	6,216	58,234	
338	GIS Analyst III	48,739	6,984	707	6,216	62,646	
Department Total		138,595	19,861	2,010	18,648	179,113	
Communication and Information Services - Support for new systems and initiatives							
339	Chief Innovation Officer	82,076	11,761	1,190	4,973	100,000	*
340	Business Analyst V	87,078	12,478	1,263	4,973	105,792	*
341	Business Analyst V	87,078	12,478	1,263	4,973	105,792	*
342	Systems Programmer	72,157	10,340	1,046	4,973	88,516	*
343	Senior Security Analyst	72,157	10,340	1,046	4,973	88,516	*
344	Data Analyst	58,362	8,363	846	3,108	70,680	*
Department Total		458,908	65,762	6,654	27,972	559,296	
Total Enterprise/Other Fund		1,207,344	173,012	17,506	127,428	1,525,291	
Grand Total		11,469,179	2,552,153	166,303	1,462,297	15,649,932	

Memorandum



CITY OF DALLAS

DATE August 12, 2016

TO Honorable Mayor and Members of the City Council

SUBJECT Dallas To Houston High Speed Rail Project

On August 24, 2016 City Council will consider a Cooperation Agreement between the City of Dallas and Texas Central Holdings, LLC (Texas Central). Texas Central plans to design, construct and operate a private high-speed passenger rail line between the Dallas-Fort Worth Metropolitan Area and the Houston Metropolitan Area with a proposed station at Downtown Dallas. The purpose of this agreement is to facilitate expedited review of this major private infrastructure project through the necessary federal, state and local review processes, without any presumption of support by the City of Dallas at this early stage of the project. A draft of the Cooperation Agreement is attached.

If you need to discuss this in more detail please contact me at (214) 670-1611, or Peer Chacko at (214) 670-3972.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Alan E. Sims'.

Alan E. Sims

Chief of Neighborhood Plus

Attachment

A.C. Gonzalez, City Manager
Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager

Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

COOPERATION AGREEMENT REGARDING THE PRELIMINARY EVALUATION AND REVIEW OF PLANS FOR HIGH SPEED RAIL IN DALLAS

THIS COOPERATION AGREEMENT REGARDING THE PRELIMINARY EVALUATION AND REVIEW OF PLANS FOR HIGH SPEED RAIL IN DALLAS (“Agreement”) is entered into as of the 24th day of August, 2016 by and among CITY OF DALLAS, a Texas home rule municipal corporation located at 1500 Marilla Street, Room 4CN, Dallas, Texas 75201 (“City”) and TEXAS CENTRAL RAIL HOLDINGS, LLC a Texas limited liability company (“Texas Central”) with and principal offices being located at 1409 South Lamar Street, Suite 1022, , Texas 75215.

Recitals:

WHEREAS, Texas Central and its affiliates desire to design, construct and operate a private high-speed passenger rail line (“HSR”) to provide the citizens of Dallas with another transportation service option between the Dallas-Fort Worth Metropolitan Area and the Houston Metropolitan Area; and

WHEREAS, Texas Central has announced its proposal that the HSR will be designed and constructed to be operated on a totally dedicated, grade separated, secure corridor where trains will operate at speeds up to 205 mph, enabling Texas Central to move passengers between Dallas and Houston (a 240-mile route) in less than 90 minutes; and

WHEREAS, with total project costs currently estimated at over \$10 billion, Texas Central desires to begin construction in late 2017 and to achieve passenger service by 2022; and

WHEREAS, the City recognizes that the transportation of the City’s population and visiting population, reduction of traffic congestion and related air emissions, transit oriented economic development, and the provision of transportation alternatives are in fact public purposes of the City and for the benefit of its citizens; and

WHEREAS, the City recognizes that HSR may provide public benefits through the transportation of the City’s population, economic development in Dallas, reduction of traffic congestion and related air emissions, flood protection and the provision of transportation alternatives for the citizens of Dallas; and

WHEREAS, Texas Central and the City agree that the City pursuant to the City Charter, City Ordinances, and City Council adopted policies, as one of the municipalities of the intended Texas Central service HSR area, has a defined review and comment role and a review and approval role in various aspects of (1) the development of HSR transportation system in Dallas, (2) the use and development of private and public property in Dallas, and (3) the effect of HSR transportation development on public and private land uses; and

WHEREAS, within the Dallas city limits, Texas Central’s projected HSR system and HSR related improvements are proposed to traverse the Dallas Floodway and Dallas Floodway Extension projects with oversight of the United States Army Corps of Engineers (“USACE”) and other sensitive environmental areas including the Trinity River, Great Trinity Forest, floodways and certain wetland areas which represent valuable and sensitive ecological and recreational resources that the City wishes to protect for the benefit of Dallas citizens; and

WHEREAS, City, in preliminary review of Texas Central’s HSR alignment plans, has also identified a real estate zone that is located in proximity to the planned HSR station, (said real estate zone being preliminarily illustrated in Exhibit C attached hereto, and hereinafter referred to as the “Station Zone”) for which HSR operation raises significant urban development design and economic development concerns for which additional planning is warranted; and

WHEREAS, the City desires to ensure that HSR infrastructure is designed, constructed, and operated in such a manner that it will provide a public benefit while not unduly diminishing the City’s ecological and recreational resources; and

WHEREAS, Texas Central and the City desire that any HSR transportation system (i) be developed efficiently to operate in complementary partnership with existing and proposed modes of transportation in Dallas; and (ii) be developed utilizing the highest and best urban

design in such a manner as to maximize the economic development opportunities within the Station Zone (the “Design Goals”); and

WHEREAS, both parties have regulations, rules, policies and procedures that govern their individual activities in directing their resources toward any work to assess the feasibility and eventual development of an HSR transportation system that operates within Dallas; and

WHEREAS, in order to advance the Design Goals, Texas Central is seeking to (1) obtain proper federal governmental review of its plans, including, but not limited to: (a) an environmental impact statement (“EIS”) pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §4321 *et seq.* (“NEPA”); (b) initiate an application for a permit pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 408, and commonly referred to as “Section 408,” regarding its proposal to construct the HSR in the Trinity River floodway, south of downtown Dallas; and, (c) initiate an application for a permit pursuant to Section 404 of the federal Clean Water Act, 33 U.S.C. § 1344 and commonly referred to as “Section 404,” to construct HSR infrastructure within wetland areas within the Dallas city limits; and, (2) initiate and complete a study(ies) regarding the Design Goals including but not limited to the analysis and review of adopted plans or current planning efforts within or adjacent to the Station Zone; and

WHEREAS, while the City has yet to declare its full support for HSR in Dallas prior to (i) Texas Central finalizing its plan proposing HSR in Dallas; and (ii) full and comprehensive federal and local governmental evaluations of the desirability and impact of the development and operation of a HSR in Dallas, the City believes that, as part of the preliminary evaluation process, (x) the City can assist Texas Central in obtaining timely federal review of Texas Central’s HSR plans; (y) the City can begin the City’s own independent review and evaluation of Texas Central’s HSR plans; and (z) the City can assist and collaborate with Texas Central to facilitate a comprehensive and/or feasibility study regarding the highest and best urban design plan for the HSR station location within the Station Zone (“Station Zone Assessments”); and

WHEREAS, Texas Central desires to provide City with qualified support, as shall be described in this Agreement, to enable the City to devote significant in-house and outside

consultant resources to assist such review and evaluation, and to facilitate the Station Zone Assessments; and

WHEREAS, City is willing to accept such qualified support and agrees to devote significant in-house and outside consultant resources to assist such review and evaluation, and to facilitate the Station Zone Assessments; and

WHEREAS, Texas Central, recognizing that the demands on the City will outstrip City's current resources, and at Texas Central's sole cost and without any expectation of the City's approval of Texas Central's HSR plans, has agreed to provide qualified support in the form of a funding source for the City to utilize in marshaling the resources sufficient to assist the City and the federal government in the evaluation and review of Texas Central's applications, and to facilitate and complete the Station Zone Assessments; and

WHEREAS, Texas Central recognizes that ancillary to (i) the evaluation and review to be conducted by the federal government of the City's work product generated under this Agreement, and (ii) the Station Zone Assessments to be completed under this Agreement, community concerns and understanding of the HSR proposal are important to the City; and

WHEREAS, Texas Central, as a way to solicit significant community input, has agreed to participate in a series of City-hosted community awareness meetings and a public hearing in areas to be impacted by the proposed HSR development; and

WHEREAS, the City and Texas Central agree that the City's participation in the review and evaluation activities, and the Station Zone Assessments, described in this Agreement are not deemed by either the City or Texas Central to be indicative of the City's support for the proposed HSR project; said support, if any, shall be evidenced by a subsequent City Council resolution approved by majority vote; and

WHEREAS, the City and Texas Central agree that, during and pending the outcome of the federal or City review and evaluation process, and concurrent with the performance of the commitments under this Agreement, the parties shall begin to negotiate a more comprehensive master agreement or agreements that will govern the design, construction, operation and

maintenance of the Texas Central HSR in the City of Dallas, and related HSR economic development, including but not limited to urban design and economic development planning within the Station Zone.

NOW THEREFORE, for good and valuable consideration, the receipt of which is acknowledged by both parties to this Agreement, the parties agree as follows:

ARTICLE I.
COOPERATION REGARDING THE FEDERAL REGULATORY PROCESS AND
STATION ZONE ASSESSMENT

Texas Central is currently underway with several different federal regulatory processes that will involve the City in different capacities. As a result thereof, City is in a necessary position to not only assess the viability of the HSR system operation alongside existing transportation systems but to assess the HSR systems impact and interplay with current and projected urban design and economic development plans and opportunities within the Station Zone.

- A. Environmental Impact Statement (“EIS”). In May 2016, Texas Central submitted a draft EIS to the Federal Railroad Administration (“FRA”) which heads up the EIS evaluation and review process for railroad-related projects. The draft EIS covers the entire 240-mile route, a portion of which is located within the Dallas city limits. The City will be asked by the FRA for the City’s input regarding the draft EIS. It may be necessary for the City to perform certain independent review and evaluation tasks with regards to such input, some said tasks will involve the use of in-house City staff and some will involve outside consultants employed by the City. It is also anticipated that the FRA will release the draft EIS to the public in the latter part of 2016. Upon its release of the draft EIS to the public, the FRA will seek input and comment from the City during the draft EIS evaluation and review process, which process includes the holding of public hearings in order to inform the public of the draft EIS, the HSR project plans and to solicit public comment and input. Subject to all the terms and conditions of this Agreement, the City agrees to cooperate with the FRA and its

agents and representatives in the FRA's evaluation and review of the draft EIS. Additionally, the City agrees to participate in the community outreach and input public hearings regarding the draft EIS in accordance with Article IV of this Agreement.

B. United States Army Corps of Engineer ("USACE") Permits. In a separate, but parallel process, the parties agree that USACE will be asked to review Section 408 and Section 404 permit applications regarding, in pertinent part, HSR proposed construction and operation in Dallas portion of the Trinity River floodway and the Trinity River wetland areas, respectively. In order to prepare such permit applications, it may be necessary for the City to perform certain technical evaluation and review tasks and activities more fully described in this Agreement.

1. Section 408 Permit:

- i. Through the Section 408 permit process, USACE will be asked to grant permission for Texas Central's proposed HSR project's alteration, occupation, impact on, or use of the Dallas Floodway and the extent to which it is not injurious to the public interest and will not impair the usefulness of completed federal navigation and flood control projects.
- ii. City sponsorship is required for the Section 408 permit submittal. Subject to the terms and conditions of this Agreement, the City agrees to perform, or cause to be performed, reasonable and necessary evaluation and review tasks requested by Texas Central related to the preparation of the Section 408 permit application; provided, however, the City and Texas Central agree that, prior to the City's actual submission of the draft Section 408 application to the USACE for the USACE's review and approval, Texas Central, along with City staff, shall brief the City Council as to the alignment for the proposed HSR within the Dallas city limits and other information relevant to the

Section 408 permit. Texas Central anticipates that the Section 408 permit approval will take place by the end of 2017 or the early portion of 2018.

- iii. In order to obtain the USACE’s timely review of the draft Section 408 permit, it will be necessary for the City, to enter into an expedited review agreement with the USACE pursuant to Section 214 of the Water Resources Development Act (WRDA) of 2000, as amended (33 U.S.C. 2352) (the “214 Agreement”), wherein the City shall seek expedited review of the draft Section 408 permit from the USACE, subject to the USACE processes, and shall agree to pay all of the USACE’s costs and expenses arising out of and related to USACE’s expedited review, including the USACE’s costs and expenses for use of outside consultants. Subject to all of the terms and conditions of this Agreement, expressly including Article II.C. of this Agreement regarding Texas Central’s binding obligation to pay any and all of the City’s costs and expenses incurred by the City by participation in a Section 214 review, the City agrees to enter into such 214 Agreement with the USACE in order to assist Texas Central in meeting its proposed HSR project schedule. Both parties specifically agree that any cost or expense incurred by the City through the 214 Agreement shall be the sole liability of Texas Central pursuant to Article II.C of this Agreement and any additional terms imposed by USACE. Both parties acknowledge and agree that the expedited review is subject to the full discretion of USACE and neither party shall be liable to the other for any delays resulting therefrom.

As an alternative to the 214 Agreement, the USACE and the City may enter into an amendment of the City’s current Dallas Floodway Extension Project Cooperation Agreement with USACE (“Floodway Amendment”) to facilitate the expedited review intended under the

214 Agreement described in this Agreement. If said amendment is executed, then Texas Central agrees to be responsible for all costs related to the expedited review thereunder as it would be under the 214 Agreement. Thereafter anywhere “214 Agreement” or “214 Costs” is mentioned in this Agreement the term “Floodway Amendment”, and “Floodway Amendment Costs”, respectively shall be substituted therein, except in the preceding paragraph.

2. Section 404 Permit:

- i. The Section 404 permit governs the impacts to jurisdictional wetlands within the permitted area. This permit may cover jurisdictional wetlands along the entire 240-mile HSR route, but as to the provisions of this Agreement, is meant to include only the jurisdictional wetlands within the Dallas city limits. Texas Central anticipates filing its draft Section 404 permit application with the USACE in the latter portion of 2016.
- ii. Texas Central has prepared a preliminary Section 404 permit application. Subject to the terms and conditions of this Agreement, the City agrees to perform, or cause to be performed, reasonable and necessary evaluation and review tasks requested by Texas Central related to the finalization of the Section 404 permit application; provided, however, the City and Texas Central agree that, prior to Texas Central’s actual finalization of the Section 404 application, Texas Central, along with City staff, shall brief the City Council as to the HSR’s impact on the jurisdictional wetlands within the Dallas city limits and other information relevant to the Section 404 permit.

The City agrees to act with reasonable diligence to perform all of its review and evaluation responsibilities related to the Federal regulatory processes in a timely manner. Texas Central, acknowledges and agrees however that City’s timely performance of all City’s responsibilities is contingent upon Texas Central’s diligent performance of the obligations and

responsibilities outlined in this Agreement, including but not limited to, Texas Central's timely submittal of any information and/or materials deemed pertinent, relevant, and necessary by City for its performance.

3. Station Zone Assessments:

- (i) The Downtown Dallas 360 Plan represents the City's vision of preferred urban design and economic development within the Central Business District and is currently being updated to include and reference more detailed plans for strategic areas within an expanded geography beyond the Central Business District including the entire Station Zone (the "Station Zone Assessments"). Texas Central's introduction of HSR within the Station Zone has been identified by City staff as a significant impact that warrants additional urban design and economic development planning for the Station Zone. The Station Zone Assessments will involve an assessment of supplemental goals to accommodate the HSR systems activities within the Station Zone and to address urban design and economic development considerations related to convenient multi-modal access from the station to key city and regional destinations, as well as transit-oriented, mixed use private development and associated public amenities within the Station Zone.
- (ii) Subject to the terms and conditions of this Agreement, Texas Central agrees to perform, or cause to be performed, under the direction of the City, The Station Zone Assessments. The scope, quality and cost of the Station Zone Assessments will be defined and agreed upon by both parties prior to the submittal date of the 408 application. The City and Texas Central agree that, prior to Texas Central's actual procurement of the Station Zone Assessments, Texas Central, along with City staff, shall brief the

City Council as to the level of congruity with the Downtown Dallas 360 Plan and other adopted plans or current planning efforts, and the proposed scope for the Station Zone Assessments.

ARTICLE II

WORK PROGRAM DEVELOPMENT AND COMPENSATION FOR ASSISTANCE

- A. Purpose. In order to facilitate an exchange of information and coordinate individual work activities between Texas Central and the City on a timely basis, relative to the development of the proposed HSR project, the following process for technical assistance is hereby established. The process described in this Article II shall initially be limited to the assistance rendered to or on behalf of Texas Central by the City with regards to the federal regulatory process listed in Article I of this Agreement. The assistance rendered for the purposes of this Agreement shall constitute any work requested by Texas Central to be performed by the City, its agents, contractors, subcontractors, and/or consultants hired or engaged by the City to perform tasks necessary for providing City's technical assistance and completing the City's requisite evaluation and review associated with the federal regulatory process described in Article I of this Agreement (collectively the work rendered by City of any kind hereinafter referred to as "Assistance"), or as otherwise provided for in this Agreement.
- B. Technical Assistance Program ("TAP"). The City and Texas Central agree to establish a Technical Assistance Program which program shall be the primary mechanism to be used by Texas Central for obtaining Assistance. The City shall develop work/task application forms to be used by Texas Central in requesting City's services. Texas Central shall be responsible to submit said forms with sufficient detail and description of the desired Assistance to the City's Director of Planning and Urban Design or his designee (hereinafter called "the Director") in order to enable City to proceed to assess City resources and provide Texas Central with a timely response as to the cost and anticipated performance completion date; provided however the City

in its assessment of each form received retains the discretion to determine the scope of work needed to complete each task, and feasibility of any Texas Central request.

C. Manner of Performing City Assistance; City Option

For the purposes of this Agreement, the parties agree that all of City's expenses and costs related to the Assistance provided in response to Texas Central's work/task applications shall be paid directly by Texas Central or shall be subject to reimbursement from the TAP fund described in the next succeeding paragraph below. It is anticipated that the City, in providing the Assistance required by the work/task applications will either utilize the City's own employee manpower resources (hereinafter "the City's forces"), existing third party contracts, or contract with an outside consultant(s); all of which shall be at the absolute discretion of the City. Texas Central acknowledges that the City's arrangement with its third party contractor(s) or outside consultant(s), at the City's sole option, may involve Texas Central's payment directly to the third party contractor(s) or consultant(s) or may involve the City's use of the TAP fund to pay the City's costs in engaging the consultant(s) or third party contractor(s) to perform the work, or Texas Central's reimbursement of City's expenditures through the TAP fund. Within a reasonable time after the approval of a work/task applications as described in Article II.D(ii). below, the City shall inform Texas Central as to whether: (i.) Texas Central shall proceed to pay the City's consultant(s), third party contractor(s), or City for work performed by the City's forces, directly; (ii.) the City will request to be paid for its costs in engaging the consultant(s), third party contractor(s), or, (iii.) the City has determined that the work will be performed by City's forces with the reimbursement from the TAP fund. Whenever the City uses the City's forces to perform the requested work, Texas Central agrees that the City shall be reimbursed promptly out of the TAP Fund described below or from Texas Central directly, upon the City's submittal of appropriate documentation to Texas Central showing the cost to the City of using the City's forces.

D. Payment for Assistance Expenses by Texas Central; Establishment of TAP Fund.

1. City agrees to establish a Technical Assistance Program Fund (“TAP Fund”) to be held by the City. Texas Central shall initially fund the TAP Fund with a deposit of **FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) DOLLARS**; said initial deposit to be made **on or before August 31, 2016**. The purpose of the TAP Fund is to cover City’s expenses and costs incurred in providing Assistance pursuant to this Agreement under the TAP Fund and also to temporarily maintain on deposit the 214 Costs as defined in D (3). In the event such funds are insufficient to pay the City for Texas Central authorized expenses, City shall promptly notify Texas Central of any expected shortfall in the TAP Fund and Texas Central shall, with reasonable diligence, deposit sufficient funds into the TAP Fund to cover City’s estimated expenses. Texas Central agrees the TAP Fund balance shall never be less than \$75,000.00 if ongoing work is anticipated. City agrees to provide monthly accounting of the TAP Fund funds and of expenditures. Texas Central acknowledges and agrees that City shall have the ongoing right to suspend Assistance due to a failure of Texas Central to pay for City’s expenses in providing Assistance pursuant to this Agreement, and City shall not be liable to Texas Central for any delays to Texas Central’s HSR project schedule resulting therefrom. Texas Central shall be entitled to all interest earned by the monies in the TAP Fund.

2. When Texas Central desires the City to provide Assistance, Texas Central will submit to the Director a written work task application approved as to form by the City that includes a detailed description of the Assistance requested, accompanied by a proposed budget and requested completion date. The City shall timely respond to such work task application and proposed budget with: (a.) the City’s good faith estimate of the City’s cost to complete the work under the task order; (b.) a statement as to whether the City will perform the work through the City’s forces, by use of third party contractor(s), or by use of outside consultant(s); (c.) a statement of the estimated time for the completion of the work; and (d.) any other factor that the City believes will affect the performance of the work requested. Texas Central, upon its receipt of the City’s response, shall timely inform the City

of Texas Central's approval to proceed with the work and means of providing the Assistance. No City work or Assistance will be paid for or reimbursed that has not been requested and authorized by written work task application signed by the person designated by Texas Central as having the authority to submit such work task application. In the event that the City has commenced work under a work task application submitted by Texas Central, the City, upon prior written notice to Texas Central that the City has insufficient resources to fulfill the work task application, shall be entitled to suspend work under the work task application until it has recovered from Texas Central all costs for all work performed to date. Further in the event that the City and Texas Central cannot reach an accommodation regarding costs reimbursement as to any outstanding remaining work under the work task application, the City shall have no obligation to resume work or be liable to Texas Central for any delays to the HSR Project.

3. (a) Without limiting any of the foregoing set above in (a), Texas Central agrees that all costs and expenses arising out of USACE work under the 214 Agreement shall be Texas Central's sole liability, notwithstanding Texas Central is not in privity of contract with USACE. Texas Central acknowledges that, under the 214 Agreement, the City will be bound and liable to the USACE for all costs related to USACE directing dedicated resources and personnel to evaluate HSR viability as described in Article I of this Agreement; and only because Texas Central has agreed to fund the entire 214 Agreement cost has the City agreed to enter into such 214 Agreement; said cost being separate and apart and independent of costs reimbursed or paid from the TAP Fund. Moreover, the City has informed Texas Central that, prior to execution of the 214 Agreement by USACE or the City, USACE shall provide City with an estimated not-to-exceed cost of the Agreement, and City shall thereafter forward said estimated cost to Texas Central with the qualifier that such estimated cost is subject to change at the USACE's discretion. Texas Central further agrees that within ten (10) days of notice by the City of the estimated not to exceed cost to be assessed by the USACE against the City for the expedited review under the 214 Agreement,

Texas Central shall immediately forward to the City's Controller immediate negotiable cash funds in the not to exceed amount (initial estimate of \$1,050,000) to be due and owing by City under the 214 Agreement (the "214 Costs"). Should USACE agree that City's payment obligations under the 214 Agreement may be delivered to the USACE in phases, without the City incurring liability for the entire not to exceed amount set forth in the 214 Agreement in the event City elects to suspend the USACE work and terminate the 214 Agreement, Texas Central may, at the City's direction, forward the 214 Costs as to each phase to which the City becomes bound. Notwithstanding the 214 Costs are separate and apart and independent of costs reimbursed or paid from the TAP Fund, Texas Central agrees that City upon receipt of the 214 Costs, may maintain 214 Costs in the TAP Fund until disbursement pursuant to the 214 Agreement is required. City agrees the 214 Costs shall be utilized by the City solely for the purposes of the 214 Agreement and shall be delivered to the USACE accordingly. Texas Central acknowledges that City shall not execute the 214 Agreement until the 214 Costs have been received and are fully negotiable by the City for payment to the USACE. The parties further agree that if, at any time during the performance of the 214 Agreement the USACE shall inform the City that additional funds are needed for continued USACE performance under the 214 Agreement, City shall immediately notify Texas Central of the USACE request for additional funds and Texas Central shall either (i) deliver said additional funds to the City and City shall thereafter immediately deliver same to the USACE, or (ii) Texas Central shall direct City of its election to suspend work, and City shall thereafter immediately notify USACE to suspend work as allowed by USACE under the 214 Agreement. Without limiting the foregoing, the parties agree that Texas Central's failure to forward immediate payment of additional funds due to USACE and requested by City to the City's Controller upon City's notice request to enable City to remain in compliance of the 214 Agreement shall constitute an event of default and be grounds for termination pursuant to Article IX of this Agreement. Notwithstanding that the USACE may deliver by reimbursement to

the City's Controller any excess proceeds to the City upon completion of its work under the 214 Agreement, Texas Central and City agree that any proceeds not expended upon the completion and or earlier termination of the 214 Agreement shall be credited toward the City's oversight charges described in the next succeeding sub-paragraph of this Agreement. The 214 Agreement and related contracts costs will not be subject to City oversight charges described in paragraph 4 immediately below.

(b) Without limiting any of the foregoing in 3(a) above, the parties agree that if Texas Central shall desire to terminate City Assistance for USACE work related to the HSR, City shall, upon at least 60 days prior written notice of the cease work date from Texas Central, promptly deliver written notice to the USACE to cease all such work.

4. For matters in which either the City's forces are utilized to perform work under a work/task application, or the City's arrangement with City's third-party contractor(s) or outside consultant(s) involves monthly payments for work performed under a work task application, on or before the 10th day of the calendar month following the month the Assistance was performed, the City shall submit to Texas Central's designated manager an invoice for payment for the previous month's Assistance performed. Texas Central acknowledges and agrees that the City may impose an oversight charge to cover the time and expense of any City employee spent reviewing, managing, supervising, or overseeing work performed by City's third-party contractors or consultants under a work task application. The invoice amount will be the sum of actual direct costs for labor (hours x rate) for professional/technical effort, plus indirect costs calculated as a percentage of direct costs not to exceed fifteen percent (15%), plus other direct costs which shall be itemized separately. A brief progress report will accompany each invoice. Texas Central shall remit payment within thirty (30) days of receipt of each invoice, provided Texas Central shall have the right to audit the City's books and records related to said costs to verify the amounts invoiced. Any adjustments to the invoiced costs will be made within thirty (30) days of final resolution.

E. Other City-Fee Based Processes or Work Essential to the HSR Project.

The City and Texas Central acknowledge and agree that there are other City fee-based processes or work, such as temporary licenses to enter City-owned property to perform surveying work or soil or environmental testing, or City permit review or City inspections, for example, that are offered by the City and shall be utilized by Texas Central to further preparation of the permit applications described above or to further the HSR project. Such City processes or work have a published fee that Texas Central agrees to pay on a “pay as you go” basis or through the TAP Fund. Texas Central agrees to abide by any and all ordinances, rules, regulations or agreements that govern the use of such offered City processes or work. Moreover, Texas Central acknowledges that nothing in this Agreement shall be construed as a waiver by the City of any fees, charges, or City processes or work applicable to such fee-based processes or work.

F. Station Zone Assessment.

The City and Texas Central acknowledge and agree that Texas Central shall, at its sole cost and expense, be responsible for performing or causing the performance of the Station Zone Assessment; provided however the City upon agreement of the parties may undertake said performance in which case such work shall be subject to the TAP Fund payment and reimbursement obligations under this agreement. Pursuant to the terms set forth in Article I(3)(ii), the parties shall agree on the scope of the Station Zone Assessment and which party will undertake the performance thereof under this Agreement.

ARTICLE III.

DISPUTE RESOLUTION

The Director or his designee and Brady Redwine or his designee for Texas Central will make a good faith effort to resolve technical, financial and policy issues that may arise from time

to time during the term of this Agreement. If issues cannot be resolved at that level, the issues will be forwarded to the Texas Central President and the City Manager as the final arbiters of issues in accordance with the powers and authorities vested in them, unless either City Council or Texas Central governing board determination is required to resolve the dispute. The parties agree to notify each other of their designated project manager within ten (10) days of executing this Agreement.

ARTICLE IV.

COMMUNITY OUTREACH AND INPUT

Between the date that this Agreement is effective until the commencement of HRS construction, in addition to the public hearings required to be held with regards to the EIS review process, Texas Central agrees to participate in and fund, at its sole cost and expense:

1. at least two (2) City–hosted community awareness meetings in each council district directly impacted by the proposed location of HSR infrastructure therein; and
2. a City-hosted public hearing at City Hall in downtown Dallas.

Sufficient and timely notice of each community awareness and public hearing described above shall be given by Texas Central at its own expense, such notice to include prominent public newspaper advertisement, City of Dallas web-site notice, and/or the use of other significant media exposure. Any costs incurred or expenditures made by the City and related to the community outreach and input activities described above shall be fully reimbursable to the City through the TAP Fund. The City shall make diligent effort to present Texas Central with estimated costs related to the community outreach and input activities described above, and upon completion of the event, Texas Central shall promptly process the costs for payment or reimbursement through the TAP Fund.

In addition, Texas Central will make best efforts to participate in any additional City-hosted community awareness meetings provided Texas Central is given at least ten days advance notice.

ARTICLE V.

NO PRESUMPTION OF CITY SUPPORT FOR THE HSR PROJECT

This is an agreement to explore the viability of high speed rail in the City of Dallas. Texas Central acknowledges and agrees that the work and services and cooperation described in this Agreement and to be provided by the City does not in any way constitute City support for Texas Central’s HSR project or for high speed rail in general. The parties agree that the purpose of this Agreement is to establish a procedural framework that enables the parties to cooperate to develop information for the City to evaluate the viability of the Texas Central HSR project, the desirability of high speed rail as a transportation system and the impact that such system may have on the Dallas community. Similarly, the agreement of the City to host community awareness meetings and the public hearing, and the agreement of the City to enter into a Section 214 Agreement with the USACE does not signify the City’s support for the Texas Central HSR project or any particular alignment, and Texas Central acknowledges and agrees that the City retains the right to freely consider HSR and make any and all statements in the context of a public policy discussion or otherwise regarding the propriety of HSR. The City’s preference for the HSR alignment shown in a draft or final EIS or in any other document prepared by Texas Central or City-controlled personnel cannot be presumed to be the City’s support for such alignment. City support for the Texas Central HSR project or any other high speed rail proposal may only be made by the approval of a Dallas City Council resolution expressly evidencing such support.

ARTICLE VI.

AGREEMENT TO COMMENCE NEGOTIATIONS ON PROPOSED FUTURE

AGREEMENTS REGARDING THE HSR PROJECT

Notwithstanding the statements contained in Article V. above and not inconsistent with the City’s current position described therein of not taking a stance of support for a HSR system

in Dallas, the City and Texas Central agree to commence the negotiation and drafting the terms of a proposed agreement (Master Agreement) or several agreements that would govern certain aspects of the design, construction, operation and maintenance of a HSR system in Dallas by Texas Central, including, but not limited to, the acquisition of real estate interests necessary for the HSR project, the granting of City licenses and permits, and proposed economic development projects associated with HSR in Dallas. The agreement herein to discuss, negotiate and to draft a proposed agreement or agreements regarding the afore-mentioned subjects or any other subject related to HSR in Dallas does not constitute a binding agreement on the part of either party to this Agreement and no such proposed agreement or agreements shall be enforceable against either party unless approved by the governing body of each party.

ARTICLE VII.

ENVIRONMENTAL COMPLIANCE, MONITORING AND ENVIRONMENTAL INDEMNIFICATION; AND GENERAL INDEMNIFICATION

A. ENVIRONMENTAL COMPLIANCE, MONITORING AND ENVIRONMENTAL INDEMNIFICATION REQUIREMENTS

1. **TEXAS CENTRAL HEREBY RELEASES, DISCHARGES AND HOLDS CITY HARMLESS FROM, AND AGREES TO INDEMNIFY CITY AGAINST ALL CLAIMS, LIABILITIES, SUITS, DAMAGES, EXPENSES AND FINES ARISING OUT OF OR RESULTING FROM ANY RELEASE, DISCHARGE, SPILL, CONTAMINATION OR POLLUTION BY OR FROM HAZARDOUS WASTES OR HAZARDOUS SUBSTANCES (I) CAUSED OR CONTRIBUTED TO BY TEXAS CENTRAL, ITS SUBLESSEES, CONTRACTORS, SUBCONTRACTORS, AGENTS, OFFICERS, INVITEES AND REPRESENTATIVES, OR (II) OCCURRING ON OR UNDER LAND OWNED OR CONTROLLED BY THE CITY DURING THE TERM OF THIS AGREEMENT AND DIRECTLY RESULTING FROM TEXAS CENTRAL'S OPERATIONS, WORK OR ACTIVITIES. TEXAS CENTRAL FURTHER AGREES TO INDEMNIFY CITY**

AGAINST ALL CLAIMS, LIABILITIES, SUITS, DAMAGES, EXPENSES AND FINES ARISING OUT OF OR RESULTING FROM ANY ALLEGATION OF NONCOMPLIANCE WITH STATE OR FEDERAL LAW IN RELATION TO THE EIS, 404 PERMIT PROCESS, OR 408 PERMIT PROCESS IN RELATION TO TEXAS CENTRAL'S HSR PROJECT.

2. Texas Central acknowledges that its uses of the City's Property (under this Agreement and/or other related licenses or other agreements) and the operations and activities conducted thereon may be subject to federal, state and local environmental laws, rules and regulations (collectively referred to as "Governmental Regulations"), including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, the Resource Conservation and Recovery Act ("RCRA"), as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, 30 Texas Administrative Code, Chapter 334, and other regulations promulgated thereunder by any federal, state or local governmental agencies. As a material covenant of this Agreement, Texas Central, at its sole expense, shall comply in all material respects with all such present and future Governmental Regulations applicable to Texas Central's construction, operations, maintenance, use and activities on the City's Property under this Agreement and/or other related licenses or other agreements.

3. Texas Central shall, at its sole expense, make all submissions and provide all information to the appropriate governmental authorities of the state, including without limitation the Texas Commission on Environmental Quality ("TCEQ") or any other successor agency, the U.S. Environmental Protection Agency ("USEPA") and any other local, state or federal authority or agency which requires submission of information regarding any spill, discharge or other reportable release of hazardous wastes or hazardous substances on the City's Property caused or contributed to by Texas Central's operations during the term of this Agreement and/or other related licenses or other agreements. Texas Central shall provide copies of all such submissions and information to the Director or his designated agent.

4. Should a governmental authority having jurisdiction over environmental matters, including the TCEQ, USEPA or City, determine that a response or plan of action be undertaken due to any spill, discharge, contamination, release or pollution of hazardous substances or hazardous wastes on the City's Property directly caused or contributed to by Texas Central's operations during the term of this Agreement and/or other related licenses or other agreements, whether sudden or gradual, accidental or intentional, Texas Central shall, at its sole expense, prepare and submit the required plans and undertake, implement and diligently perform the required action, response or plan to completion in accordance with the applicable rules and direction of such governmental authority(ies) and to the reasonable satisfaction of the Director.

5. Texas Central shall, at its own expense, demonstrate and maintain any required records, reports and financial responsibility in accordance with pertinent laws, rules and regulations, including the TCEQ or successor agency regulations, regarding Texas Central activities, work or tasks performed on City –owned or controlled real property during the term of this Agreement.

6. Texas Central's compliance-related obligations under this Section shall survive the expiration or earlier termination of this Agreement and/or other related licenses or other agreements as to any activity or omissions which occurred during the term of this Agreement and/or other related licenses or other agreements.

7. The term "hazardous wastes" is used herein as it is defined in RCRA. The term "hazardous substances" is used herein as it is defined in CERCLA. These terms shall also include, for the purposes of the Agreement, any substance requiring special treatment, handling, manifesting and records according to TCEQ or USEPA.

8. The obligations of Texas Central under this Article VII. (A) will survive any termination of this Agreement and any transfer or assignment by Texas Central of this Agreement or any interest hereunder.

B. GENERAL INDEMNIFICATION

EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, TEXAS CENTRAL WILL BE SOLELY RESPONSIBLE FOR, AND SHALL INDEMNIFY AND DEFEND THE CITY AGAINST, ALL CLAIMS, DAMAGES, LAWSUITS, JUDGMENTS, COSTS, ATTORNEYS' FEES AND EXPENSES, INCLUDING LOSSES OR DAMAGES TO TEXAS CENTRAL OR THE CITY, AND INCLUDING ANY NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, AGENTS, REPRESENTATIVES, OR EMPLOYEES, DIRECTLY ARISING OUT OF OR AS A DIRECT RESULT OF ANY WORK, TASKS, ACTIVITIES OR PROCESSES PERFORMED BY THE CITY, OR THE CITY'S OFFICERS, AGENTS, REPRESENTATIVES OR EMPLOYEES PURSUANT TO THE TERMS OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, TEXAS CENTRAL'S OBLIGATIONS SHALL NOT INCLUDE INDEMNIFYING OR DEFENDING THE CITY WHERE DAMAGES OR LOSS RESULT FROM THE SOLELY NEGLIGENT ACTS OF THE CITY, ITS OFFICERS OR EMPLOYEES, OR WHERE THE CITY, ITS OFFICERS OR EMPLOYEES ARE GROSSLY NEGLIGENT AND TEXAS CENTRAL, ITS OFFICERS, EMPLOYEES OR CONTRACTORS ARE NOT GROSSLY NEGLIGENT. IN THE EVENT THAT IN A MATTER INCLUDED ABOVE, THE CITY, OR ANY OF ITS OFFICERS OR EMPLOYEES ARE NAMED AS A SOLELY OR GROSSLY NEGLIGENT DEFENDANT, OR TEXAS CENTRAL IMPLEADS THE CITY, OR ANY OF ITS OFFICERS OR EMPLOYEES AS A SOLELY OR GROSSLY NEGLIGENT DEFENDANT, AND THE COURT (OR JURY) WITH JURISDICTION OVER THE MATTER DETERMINES THE CITY, ITS OFFICERS OR EMPLOYEES WERE NOT SOLELY OR GROSSLY NEGLIGENT, OR THAT BOTH TEXAS CENTRAL (OR ITS OFFICERS, EMPLOYEES OR CONTRACTORS) AND THE CITY (OR ITS OFFICERS OR EMPLOYEES) WERE GROSSLY NEGLIGENT, TEXAS CENTRAL, IN ADDITION TO THE INDEMNIFICATION PROVIDED FOR ABOVE, WILL BE RESPONSIBLE FOR THE PAYMENT OF THE CITY'S ATTORNEYS' FEES AND REASONABLE EXPENSES IN THE DEFENSE OF THE CITY, ITS OFFICERS AND EMPLOYEES IN THE MATTER. IN A LAWSUIT FOUNDED ON AN

OCCURRENCE FALLING WITHIN THE SCOPE OF THIS PARAGRAPH, TEXAS CENTRAL SHALL NOT NAME OR IMPEAD THE CITY OR ITS OFFICERS OR EMPLOYEES. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE CITY AND TEXAS CENTRAL, AND THEIR INDEMNIFIED OFFICERS AND EMPLOYEES, AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER ENTITY OR PERSON. THE OBLIGATIONS OF TEXAS CENTRAL UNDER THIS ARTICLE VII. (B) WILL SURVIVE ANY TERMINATION OF THIS AGREEMENT AND ANY TRANSFER OR ASSIGNMENT BY TEXAS CENTRAL OF THIS AGREEMENT OR ANY INTEREST HEREUNDER.

The parties acknowledge and agree that the purpose of this Article VII is limited to those activities not covered under Article II (E), to the extent said Article II (E) activities are subject to separate agreements between the parties inclusive of environmental compliance, monitoring and environmental indemnification; and general indemnification provisions.

ARTICLE VIII.

NO RESTRICTION ON CITY'S GOVERNMENTAL POWERS

Texas Central shall conduct performance hereunder in compliance with all federal, state and local laws, ordinances, regulations, plans, or policies as they may be amended from time to time. As a governmental entity, the City may not legally contract away its constitutional or statutory police powers, including without limitation the power to establish and subsequently amend city codes, development guidelines, and other rules and regulations, and nothing in this Agreement is to be interpreted as waiving the City's power to establish and amend them, even if the same subject matters are addressed in this Agreement. No provision of this Agreement shall be construed to limit or restrict the vested right of either party to rely on a governmental approval or validly issued permit.

ARTICLE IX.

DEFAULT AND TERMINATION OF AGREEMENT

The term of this Agreement shall commence on the date of its execution, and will terminate on the earlier of an exercise of a party's right of termination due to the other party's default under the terms of this Agreement, or by mutual consent of both parties; provided, however, that any unpaid expense or reimbursement obligations and the indemnification provisions hereof shall survive termination of this Agreement; and further provided that Texas Central's agreement to accept and comply with all of the terms and conditions of Article VII. shall survive termination of this Agreement, except as may be modified by written and properly executed mutual agreement.

1. Texas Central Default. The occurrence of any of the following acts, events or conditions will constitute an "Event of Default" by Texas Central under this Agreement:

- (a) Texas Central fails or refuses at any time during the term of this Agreement to fulfill or perform any covenant, agreement or obligation of Texas Central hereunder and such failure or refusal continues without correction for a period of thirty (30) consecutive days following written notice by City pursuant to Article XI, which notice shall set forth with specificity the nature of such failure; provided, however, that if the failure cannot reasonably be cured within such thirty (30) day period but Texas Central commences to cure the failure within such thirty (30) day period and thereafter diligently, continuously and in good faith prosecutes such cure, then Texas Central shall have such additional amount of time as is reasonably necessary to cure such failure;
- (b) Texas Central (i) commences a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law; (ii) consents to the appointment of, or taking possession by, a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of Texas Central or of any substantial part

of its property; (iii) makes any assignment for the benefit of creditors; (iv) fails generally to pay its debts as such debts become due; or (v) takes any corporate action in furtherance of any of the foregoing; or

- (c) There is any entry of a decree or order for relief by a court having jurisdiction over Texas Central (i) in respect of Texas Central in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law; (ii) appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Texas Central or of any substantial part of its property; or (iii) ordering the winding-up or liquidation of Texas Central's affairs, and such decree or order (whether applicable to item [i], [ii] or [iii]) remains un-stayed and in effect for a period of sixty (60) consecutive days.

2. City's Termination. Upon the occurrence of any Event of Default hereunder, City will have the right, at its election and regardless of the availability to City of any other remedy contained elsewhere under this Agreement, at law, in equity or otherwise, without any demand or notice whatsoever (except as expressly required in this Article IX) to terminate this Agreement by giving Texas Central notice of termination. In such event, and in all events subject to the terms and conditions of Article VII of this Agreement (which shall survive any termination of this Agreement), (a) this Agreement will expire and terminate on the date specified in such notice of termination with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the Term of this Agreement, (b) all rights of Texas Central under this Agreement and in and to any Assistance work product of any kind that may be thereafter delivered to the City will expire and terminate, (c) Texas Central will remain liable for all obligations under this Agreement arising up to the date of such termination, and (d) Texas Central will surrender all work product, or a copy thereof unless original and proprietary to the City, of any kind that may have then been delivered to Texas Central by City or its third party contractor(s), consultant(s), to City as required herein on the date specified in such notice, and if Texas Central fails to so surrender, City will have the right, without notice, to expel or remove Texas Central and its effects without being liable (save and except for any gross

negligence or willful misconduct by City) for prosecution or any claim for damages therefor from any City property that Texas Central may then be entered upon for the purposes of this Agreement, and to pursue all remedies available to it for breach of contract and otherwise, including but not limited to reimbursement for any costs expended for Assistance and not yet submitted to Texas Central for reimbursement or payment.

3. General Remedies. Each right, power and remedy of City provided in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise will be cumulative and concurrent and will be in addition to each and every other right, power or remedy provided in this Agreement now or hereafter existing at law or in equity or by statute or otherwise. In addition to any other remedy provided in this Agreement, City will be entitled, to the extent permitted by applicable law, to injunctive relief in the event of the violation or attempted or threatened violation of any term, condition or covenant of this Agreement or to a decree compelling performance thereof. The exercise by City of any one or more of the rights, powers or remedies provided in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by City of any such right, power or remedy.

4. City Default. If City fails to perform or observe any of the obligations on City's part to be performed or observed pursuant to this Agreement, and such failure continues in excess of thirty (30) days after receipt of notice by Texas Central pursuant to Article XI informing City of such failure, then City shall be deemed to be in default under this Agreement; provided, however, if the failure set forth in Texas Central's notice is such that it requires more than thirty (30) days to correct, City shall not be deemed to be in default hereunder if City, in good faith, (i) promptly and diligently commences curing the failure within thirty (30) days after receipt of notice pursuant to Article XI informing City of such failure; and (ii) diligently prosecutes the cure to completion following the expiration of the original thirty (30) day period set forth herein. Upon such default by City, Texas Central may, pursue any remedies available to it at law or in equity, but it shall under no circumstances be entitled to perform the same for and on behalf of City, notwithstanding that Texas Central is obligated under this Agreement for all costs of securing the City's Assistance.

ARTICLE X.

CONFLICT OF INTEREST

A. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement or in the purchase, sale or lease of any land, materials, services, supplies, or equipment used in the performance of this agreement.

B. No officer or employee of Texas Central shall have any financial interest, direct or indirect, in any materials, services, supplies, or equipment utilized by City in providing the Assistance. To the extent the parties enter into negotiations, supplemental or additional agreements regarding the future purchase, sale or lease of any land while this Agreement is still in effect, no officer or employee of Texas Central shall have any financial interest, direct or indirect, in a non-Texas Central party procuring of the purchase, sale or lease of any such land.

C. The City and Texas Central acknowledge and agree that the City has a need to retain third-party contractors and consultants who can exercise independent judgment in performing work for the City, especially in relation to the City's projects in the Trinity River floodway. With respect to the review and evaluation work covered by this Agreement, Texas Central shall not contract with any of City's employees, agents, actual or prospective third-party contractor(s), or consultant(s) without the written agreement of the City. Prior to entering into a contract with a prospective third-party contractor or consultant, Texas Central agrees to submit the name of that third-party contractor or consultant to the City for the City to review its records and inform Texas Central as to whether the City has an actual contract with that contractor or consultant or whether the City intends us the contractor or consultant on pending or contemplated projects of a similar nature as the work that Texas Central intends for the contractor or consultant to perform.

C. Texas Central shall not, and shall use commercially reasonable efforts to cause its contractors and agents to not, offer or agree to confer any benefit upon a City employee or official that said City employee or official is prohibited by law from accepting. For purposes of this section, "benefit" means anything reasonably regarded as pecuniary gain

or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law. Notwithstanding any other legal remedies, City may require Texas Central to remove any employee of Texas Central from the project who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made by City as a result of the improper offer, agreement to confer, or conferring of a benefit to an employee or official of the City of Dallas.

D. The City and Texas Central acknowledge and agree that third-party contractors may be utilized by either the City or Texas Central to perform all or a portion of the tasks and obligations described in this Agreement. The City has an interest in ensuring that the work performed by any such third-party contractor is performed in a manner that is free from undue influence, financial or otherwise. During the term of this Agreement, Texas Central and its employees, agents or associates shall be required to make regular, timely, continual and full disclosures to the City of all significant outside interests and responsibilities that may give rise to a direct or indirect conflict of interest, including, but not limited to, any and all significant outside interests and responsibilities that could reasonably be expected to impair independence of judgment as to a third-party contractor engaged by either the City or Texas Central in that contractor's performance of tasks and obligations under this Agreement. Such disclosures must be made no later than ten (10) days following the event giving rise to the potential or actual conflict of interest for the duration of this Agreement. A potential or actual conflict of interest exists when commitments and obligations to the City or widely recognized professional norms are likely to be compromised by the third-party contractor in the performance of the work contemplated by this Agreement due to the existence of Texas Central's professional relationships, contracts, obligations, or commitments with that third-party contractor. Failure to disclose such a conflict of interest may result in the City's immediate termination of this Agreement by the City Manager.

E. The following section of the Charter of the City of Dallas shall be one of the conditions of and a part of the consideration of this Agreement, to wit:

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER
PROHIBITED --

- (a) No city official or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the city as a city official or employee. Any violation of this section shall constitute malfeasance in office, and any city official or employee guilty thereof shall thereby forfeit the city official's or employee's office or position with the city. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City, shall render the contract involved voidable by the city manager or the City Council.
- (b) The alleged violations of this section shall be matters to be determined either by the Trial Board in the case of employees who have the right to appeal to the Trial Board, and by the City Council in the case of other employees.
- (c) The prohibitions of this section shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.
- (d) This section does not apply to an ownership interest in a mutual or common investment fund that holds securities or other assets unless the person owns more than 10 percent of the value of the fund.
- (e) This section does not apply to non-negotiated, form contracts for general city services or benefits if the city services or benefits are made available to the city official or employee on the same terms that they are made available to the general public.

(f) This section does not apply to a nominee or member of a city board or commission, including a city appointee to the Dallas Area Rapid Transit Board. A nominee or member of a city board or commission, including a city appointee to the Dallas Area Rapid Transit Board, must comply with any applicable conflict of interest or ethics provisions in the state law and the Dallas City Code."

ARTICLE XI.

NOTICES

All notices, communications, invoices and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties as follows or to such other addresses as either party may subsequently specify in writing:

If intended for the City, to:

Mr. Peer Chacko
Director – Planning & Urban Design Department
1500 Marilla Street, Room 2DN
Dallas, Texas 75201

If intended for Texas Central, to:

Lori Willox
CFO – Texas Central Partners, LLC
1409 South Lamar Street, Suite 1022
Dallas, TX 75215

XII

GENERAL PROVISIONS

A. Applicable Law and Compliance with Laws and Regulations. This Agreement is entered into subject to and controlled by the Charter and ordinances of the City of Dallas and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Texas Central shall, during the course of performance of this

Agreement, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended. Texas Central will comply with all applicable codes, ordinances, permit regulations, review procedures, City plans or other City regulations, as amended, unless otherwise lawfully authorized by the City or as permitted by law or by this or any other agreements. The parties agree that this Agreement does not grant Texas Central any authority, permit, right or privilege under the Dallas City Charter or Code, or state or federal law unless explicitly described herein and properly authorized by Dallas City Council and any other appropriate legislative body. Texas Central reserves the right to challenge or contest legislative actions that may impact its ability to construct and operate a HSR transit system.

- B. Notice of Contract Claim. This Agreement is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Agreement as if written word for word in this Agreement. Texas Central shall comply with the requirements of this ordinance as a precondition of any claim relating to this Agreement, in addition to all other requirements in this Agreement related to claims and notice of claims.
- C. No Partnership, Joint Venture or Joint Enterprise. It is specifically understood that the relationship described in this Agreement between Texas Central and the City is contractual in nature and is not to be construed to create an agency, partnership, joint enterprise or joint venture relationship between Texas Central and the City; nor shall one party be liable for any debts incurred by the other party in the conduct of such other party's business or function except for the reimbursement and funding obligations of Texas Central described herein in Article II.
- D. Venue. The obligations of the parties to this Agreement are performable in Dallas County, Texas, and exclusive venue for any legal action in connection with this Agreement shall lie in Dallas County, Texas.

E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

F. Legal Construction.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

G. Captions. The captions to the various clauses to this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

H. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this Agreement, their assigns. This Agreement shall not be assigned by one party without the express written consent of the other party.

I. Entire Agreement; No Oral Modifications. This Agreement (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Agreement. Except as otherwise provided elsewhere in this Agreement, this Agreement cannot be modified without written supplemental agreement executed by both parties.

J. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Agreement is executed in counterparts, then it shall become fully executed only as of the

execution of the last such counterpart called for by the terms of this Agreement to be executed.

Executed as of this, the 24th day of August, 2016, by the City, signing by and through its City Manager, duly authorized to execute same by Resolution No. 16- _____ approved by the City Council on August 10, 2016, and by Texas Central, acting through its duly authorized officials.

CITY OF DALLAS:

APPROVED AS TO FORM:

A.C. GONZALES
City Manager

CHRISTOPHER D. BOWERS
Interim City Attorney

By: _____
Assistant City Manager

By: _____
Assistant City Attorney

TEXAS CENTRAL:

TEXAS CENTRAL RAIL HOLDINGS, LLC
a Texas limited liability company

By: _____
Authorized Representative

Memorandum



CITY OF DALLAS

DATE: August 12, 2016
TO: Honorable Mayor and Members of the City Council
SUBJECT: **Graduation Ceremony for Dallas Police Recruit Class #349**

You are cordially invited to attend the graduation of Recruit Class #349 on Friday, August 19, 2016, at 2:00 P.M. The ceremony will be held at the Hall of State at Fair Park located on 3939 Grand Avenue, Dallas, Texas 75210.

At 2:00 P.M., you and stage participants will walk onto the stage to begin the ceremony. All attending City Council Members will be recognized at this time.

Please have your staff contact Sergeant Lisette Rivera, #7947 at (214) 670-4811 and/or by email at lisette.rivera@dpd.ci.dallas.tx.us to RSVP by Monday, August 15, 2016. Thank you for your participation.

A handwritten signature in cursive script that reads "Eric D. Campbell".

Eric D. Campbell
Assistant City Manager

cc: A.C. Gonzalez, City Manager
Christopher D. Bowers, (I) City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager

Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council
Chief David O. Brown, Dallas Police Department

Memorandum



CITY OF DALLAS

DATE August 12, 2016

TO Honorable Mayor and Members of the City Council

SUBJECT **J. Erik Jonsson Central Library, 7th Floor Grand Re-Opening**

The Dallas Public Library is excited to announce the completion of the 7th floor renovation at the J. Erik Jonsson Central Library and a Grand Re-Opening Ceremony scheduled for August 20, 2016 at 10:30 am.

The 7th floor houses the Dallas History & Archives division, which collects, preserves, and makes available to our customers information on the diverse history of Dallas and the surrounding area, as well as the entire State of Texas. This floor also houses a Fine & Rare Book collection, as well as two permanent exhibits; Shakespeare's First Folio printed in 1623 and one of only 26 known copies of the Declaration of Independence.

On April 22, 2015, Council approved the acceptance of a \$1,908,965 donation from the Friends of the Dallas Public Library, Inc. (FoDPL), in matching capital funds and authorized a construction services contract with Byrne Construction Services, in the amount of \$3,817,930 for the renovation of the 7th floor. Capital funds from the 2006 Bond provided funding for the remaining contract balance for construction services.

Join us in celebrating and experience the fully renovated 40,000 sq. ft. floor that includes an interactive touch-screen video wall, updated O'Hara Hall with state of the art audio and visual technology, additional meeting spaces with enhanced technology and research areas, as well as; a new gallery and exhibit cases to display the Fine Book collection and rare items that have been tucked away for far too long in our vault.

Please let me know if you have questions.

A handwritten signature in blue ink, appearing to read 'Jody Zapata'.

Jody Zapata
Assistant City Manager

c: Honorable Mayor and Members of the City Council
A.C. Gonzalez, City Manager
Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager

Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

Memorandum



CITY OF DALLAS

DATE: August 12, 2016

TO: Honorable Mayor and Members of the City Council

SUBJECT: City Council Addendum Item # 9 & #10 – August 10, 2016 Response to Questions for the Employees’ Retirement Fund of the City of Dallas (“ERF”)

The Council asked ERF staff three main questions:

1. What is the impact of the proposed changes on future hires in physically demanding jobs?
2. What is the cost to change the retirement age from 65 to 63 years old?
3. What is the cost impact of delaying the start date of the changes from January 1, 2017?

The Employees’ Retirement Fund staff hosted Focus Group Sessions (FGS) with two different groups of employees working for and contracting with the City’s Sanitation Services Department on August 11, 2016 to include:

- *Group #1 permanent civilian employees; and*
- *Group #2 contract employees of Results Staffing*

Key questions were asked of each group with an attempt to forecast concerns regarding recruitment and retention of future hires and summarized in #1 below:

(The full survey is attached as Appendix A)

1. What is the impact of the proposed changes on future hires in physically demanding jobs?

Response:

- **71% of the permanent employees responded that they would have accepted a truck driver job at the beginning of their work history with the City of Dallas, even if it required them to work until the age of 65.**
- **78.1% of the contracted employees responded that they would work up to the age 65, if the City of Dallas offered them a job in the year 2017.**



2. What is the cost to change the retirement age from 65 to 63 years old?

Response: Reducing the proposed Normal Retirement from age 65 to age 63 would reduce the savings by \$300 million.

Gabriel, Roeder & Smith & Company, the Board’s actuary, examined the long-term impact on the ERF if the proposed plan is modified to allow Normal Retirement at age 63 rather than the original proposal of age 65. Moving the Normal Retirement Age from age 60 to age 65 was the single most significant cost savings in the proposed changes presented by ERF. This proposed age increase is compared to the established rules of the Social Security Administration.

The Social Security Act was established on August 14, 1935. Regular monthly payments to retirees began in 1940 and have continued ever since. But there have been several important adjustments to the program, including changes in the retirement age and increases in benefits to keep up with inflation. The original age to claim Social Security payments was 65. A 1961 law allowed workers to begin claiming permanently reduced Social Security payments as early as age 62, but they still needed to wait until the full retirement age, 65, to receive the entire payment they qualified for. A 1983 law raised the full retirement age to 66 for most baby boomers and 67 for people born in 1960 or later and increased the reduction in monthly payments for people who sign up before their full retirement age.

3. What is the cost impact of delaying the start date of the changes from January 1, 2017?

Response: The lost savings if the benefit changes are delayed to July 1, 2017 will be approximately \$1.5 million short term and \$10.9 million long term.

Dallas ERF asked the actuary to provide the cost impact of delaying the effective date of the plan change from January 1, 2017 to July 1, 2017. To get a better idea of what the cost impact is of delaying the implementation, we will discuss the cost in terms of the benefits that will be accrued by members that are hired in 2017 - short term (ST) and long term (LT).

	Tier B Effective Date	Sunday, January 1, 2017	Saturday, July 1, 2017
A	Election Cost*	(\$1,000,000)	\$0
B	ST Savings	\$1,350,000	(\$1,350,000)
C	Present Value (PV) of LT Savings	\$12,000,000	(\$12,000,000)
D	Interest cost on \$1 million at 1.5%**	(\$15,000)	\$15,000
	Net ST (Cost) Savings (A-B+D)	\$335,000	(\$1,335,000)
	Net PV of LT (Cost) Savings (A-C+D)	\$10,985,000	(\$11,985,000)

* Estimate

**City investment rate of 1.5%

Based on our actuarial model, the active membership of the ERF is expected to need 900 new hires to replace those employees who retire or leave the City’s employment in 2017. These employees on average are expected to have an annual salary of \$44,000. Therefore, the lost savings in 2017 will be approximately \$1.5 million if the benefit changes are delayed to July 1, 2017. Furthermore, that is only the first half year’s impact. If we look at the impact over the employees’ career, the lost savings is approximately \$12 million.

If you have any questions, please feel free to contact me at 214-580-7710.

Best regards,

Cheryl D. Alston,
Executive Director

Appendix A

The Employees’ Retirement Fund appreciated the questions of concern that Council Members raised regarding the proposed pension benefit changes for future hires. As a result, on August 11, 2016, ERF staff hosted Focus Group Sessions (FGS) with two different groups of employees working for and contracting with the City’s Sanitation Services Department.

As you are well aware, the Sanitation Services Department serves City of Dallas citizens. The department also has five district offices located around the City Programs and services including garbage collection, single-stream recycling collection, residential brush & bulky item collection, recycling drop-off locations and a host of other services.



There were two different types of employees participating in the FGS (*Group #1 permanent employees*); and (*Group #2 contract employees of Results Staffing*). Each group was provided an overview of the current ERF pension benefits and the proposed benefits for new hires. Key questions were asked of each group with an attempt to forecast concerns regarding recruitment and retention of future hires.

Characteristics of Group #1: There were 45 permanent employees present. Each of the employees had their CDL driver’s license and have responsibility of driving or assisting sanitation trucks or serving in similar jobs. More than half of the permanent employees present were vested with the ERF and had from 1-27 years of credited service.

Focus Group Questions	Group #1
<p><i>1. Which job would you accept if you were at the beginning of your work history with the City of Dallas:</i></p> <p><i>a) A job with a defined benefit plan (lifetime monthly payments) that required you to work until age 65?</i></p> <p style="text-align: center;"><i>or</i></p> <p><i>b) A job that offered a lump sum account with no guarantee no lifetime guarantee?</i></p>	<p>Option-a). <u>71%</u> (32 people of the 45 permanent employees) responded that they <u>would have accepted</u> the truck driver job at the beginning of their work history with the City of Dallas, even if it required them to work until the age of 65.</p> <p>Option-b). <u>13%</u> (6 people of the 45 permanent employees) responded that they <u>may have considered a job that offered a retirement account without a lifetime guarantee.</u></p> <p>Seven people had no response to question 1.</p> <p><u>Note:</u> <i>The City offers employees the opportunity to transfer or promote from physically demanding jobs based on available</i></p>

	<i>opportunities.</i>
2. How many employees present, plan to work to the age of 65 or greater?	<p>42.2% (19 people of the 45 permanent employees) responded that they <u>would</u> work up to the age 65 and beyond.</p> <p>22.2% (10 people of the 45 permanent employees) responded that they <u>would not</u> work up to the age 65 and beyond.</p> <p>Sixteen workers had no response to question 2.</p>
3. How many employees plan to retire as soon as you are eligible based on the rule of 78; age 60 or 30 years of service.	<p>17.7% (8 people of the 45 permanent employees) responded that they <u>would retire at the point of eligibility.</u></p> <p>Thirty-seven people had no response to question 3.</p>

Characteristics of Group #2: The City currently contracts with “**Results Staffing**” a temporary agency that provides contract employees to City of Dallas, including the Sanitation Services Department. There were 32 contract employees present. Each of the contractors were working toward their CDL license with hopes of becoming a full time employee with the City. Their tenure as a contractor varied from 1 to 4 years of service with the primary vendor working with the City’s.

Focus Group Questions	Group #2
If the City of Dallas offered you a job in the year 2017 would you accept it if the job offered a defined benefit plan (lifetime monthly payments) that require you to work until age 65?	<p>78.1% (25 of the 32 contracted employees) responded that they <u>would</u> work up to the age 65 and beyond.</p> <p>Seven contractors had no response to question 1.</p>
How many of you currently plan to retire with a portion of your benefit being Social Security from previous employers?	<p>62.5% (20 of the 32 contracted employees) responded that they plan to retire with a portion of their benefit being from Social Security from previous employers.</p> <p>Twelve contractors had no response to question 2.</p>
If hired, how many contractors plan to retire as soon as you are eligible, based on the proposed benefits rule of 80; age 65 or 40 years of service.	<p>59.4% (19 contractors of the 32 contracted employees) responded that they <u>would retire at the point of eligibility.</u></p> <p>Thirteen contractors had no response to question 3.</p>

Memorandum



DATE: August 12, 2016
TO: Honorable Mayor and Members of the City Council
SUBJECT: **City License Applications**

There were no Dance Hall and/or Sexual Oriented Business applications received for the week of August 1-5, 2016 by the Investigations Bureau Licensing Squad of the Dallas Police Department.

Please have your staff contact Sergeant Lisette Rivera, #7947 at (214) 670-4811 and/or by email at lisette.rivera@dpd.ci.dallas.tx.us should you need further information.



Eric D. Campbell
Assistant City Manager

cc: A.C. Gonzalez, City Manager
Christopher D. Bowers, (I) City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager

Mark McDaniel, Assistant City Manager
Joey Zapata, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council
Chief David O. Brown, Dallas Police Department