

AGENDA
Irving City Council Regular Meeting
Thursday, October 12, 2017 at 7:00 PM
City Hall, First Floor, Council Chambers
825 W. Irving Blvd., Irving, Texas 75060

Organizational Service Announcements

Invocation

Minister Rogelio "Roy" Soto, Oak View Baptist Church

Pledge of Allegiance

Proclamations and Special Recognitions

Citizens' Forum

Citizens are invited to speak for three (3) minutes on matters relating to City government and on items not listed on the regular agenda.

Public Hearing: Items 1 through 29

CITY COUNCIL AGENDA

1 City Operations Update

- Construction Update - Las Colinas Boulevard Reconstruction Project

CONSENT AGENDA

2 Approving Special Meeting Minutes for Thursday, September 14, 2017

3 Approving Work Session Minutes for Wednesday, September 20, 2017

4 Approving Regular Meeting Minutes for Thursday, September 21, 2017

This meeting can be adjourned and reconvened, if necessary, the following regular business day.

Any item on this posted agenda could be discussed in executive session as long as it is within one of the permitted categories under sections 551.071 through 551.076 and section 551.087 of the Texas Government Code.

This facility is physically accessible and parking spaces for the disabled are available. Accommodations for people with disabilities are available upon request. Requests for accommodations must be made 48 hours prior to the meeting. Contact the City Secretary's Office at 972-721-2493 or Relay Texas at 7-1-1 or 1-800-735-2988.

5 Resolution - Approving an Interlocal Agreement Between the City of Grand Prairie and the City of Irving for Grand Prairie to Participate in and Reimburse the City of Irving for Its Share of a Validated and Legally Defensible Physical Fitness Entrance Test for Police Officer Applicants

Administrative Comments

1. This item is recommended by the Police Department. It supports Strategic Goal No. 4.1: Safeguard public safety, security and health.
2. **Impact:** Recruiting and hiring quality applicants who meet our physical fitness standards is critical to maintaining an effective workforce, and having a valid entrance test is important to our hiring process. An updated and valid entrance test also ensures there will be no disparate impact to protected class applicants. This Interlocal agreement (ILA) between the City of Irving and the City of Grand Prairie helps reduce costs for each city, as well as provide a more uniform regional physical fitness testing standard.
3. This item requires no funding.

Recommendation

The resolution be approved.

6 Resolution - Approving an Agreement with VBikes Technology to Allow VBikes Bicycles on City Property at No Cost to the City of Irving

Administrative Comments

1. This item is recommended by the Parks and Recreation.
2. **Impact:** Approval of this agreement will allow VBikes Technology to provide bicycles along Champion Trails for use by residents and the general public.
3. The VBikes program was presented to TNR on July 5, 2017.
4. Interested parties can download the VBikes app to sign up for service and pay \$1.00 per hour for each ride, or \$14.95 per month for unlimited rides.
5. VBikes will operate their program on city property free of charge for a term of one year, commencing upon execution of this agreement.
6. The agreement has a one-year renewal option and can be terminated at any time by either party with ten (10) days written notice.

Recommendation

The resolution be approved.

7 Resolution - Approving the Fiscal Year 2018 Agreement Amendment and Extension and Rate Setting Documents with Dallas Area Agency on Aging (DAAA) for the Reimbursement of Meals Provided at Heritage Senior Center in an Amount Not to Exceed \$59,474.71

Administrative Comments

1. This item is recommended by the Parks and Recreation Department.
2. **Impact:** Approval of the attached Rate Settings Documents and Agreement Amendment and Extension with Dallas Area Agency on Aging (DAAA) allows the City to request Title III State funding for the reimbursement of congregate meals provided at Heritage Senior Center.
3. The City of Irving purchases congregate meals from Visiting Nurses Association of Texas (VNA) and Dallas Area Agency on Aging (DAAA) provides reimbursement funds. The provision of these meals is vital for some senior residents and enhances their quality of life.
4. An estimated 14,000 free meals are projected to be served in FY2017-18.
5. The agreement with DAAA also provides seniors access to additional services and benefits including counseling, information and referrals, health screenings, nutritional education, and other resources.
6. This amendment extends the agreement with DAAA for the period of October 1, 2017 through September 30, 2018.

Recommendation

The resolution be approved.

8 Resolution - Reimbursing the City of Irving for Capital Expenditures for Projects in Advance of the Fiscal Year 2017-18 General Obligation Bond Sale, Sale of Certificates of Obligation, and Water and Sewer Revenue Bond Sale in an Amount Not to Exceed \$66,810,000

Administrative Comments

1. This item is recommended by the Financial Services Department.
2. **Impact:** This resolution provides that any funds advanced for the projects listed in Attachment A will be reimbursed with proceeds from the FY2017-18 General Obligation Bond Sale, sale of Certificates of Obligation, and the Water and Sewer Revenue Bond Sale.
3. The City wishes to begin capital projects included in the 2017-18 Budget in an effort to expedite the design and construction of projects.

4. The proposed reimbursement resolution allows the City to be reimbursed for eligible costs for the projects listed in Attachment A.
5. Any funds advanced for the General Obligation projects listed in Attachment A will be from currently available funds in the General Fund and those funds will be reimbursed in proceeds from the General Obligation Bonds issued in FY 2017-18.
6. Any funds advanced for the Certificates of Obligation project listed in Attachment A will be from currently available funds in the Technology Fund or the General Fund and those funds will be reimbursed in proceeds from the Certificates of Obligation issued in FY 2017-18.
7. Any funds advanced for the Water and Sewer Revenue Bonds will be using currently available funds in the Water and Sewer Operating Fund and the Water and Sewer Non-Bond CIP Fund and reimbursing those funds once the Water and Sewer Revenue Bonds are issued in FY 2017-18.

Recommendation

The resolution be approved.

9 Resolution - Approving an Interlocal Agreement and a Letter of Authorization Between the City of Irving and the North Central Texas Council of Governments for the Regional Stormwater Management Program and Authorizing Fiscal Year 2018 Funding, in the amount of \$8,875.00, for the Regional Stormwater Management Program

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It supports Strategic Objective 2.4 – Maintain and extend water, wastewater and storm water systems.
2. **Impact:** Participation in this program meets the Texas Commission on Environmental Quality (TCEQ) Texas Pollutant Discharge Elimination System (TPDES) permit requirements for municipal stormwater discharges.
3. **This item will be discussed at the Transportation and Natural Resources Committee on October 11, 2017.**
4. The NCTCOG Regional Stormwater Management Program provides for coordination of a regional effort to gather data and information, perform analysis, and develop programs to address stormwater quality issues effecting the waters of North Central Texas.

5. The Interlocal Agreement for the Stormwater Management Program, effective October 1, 2017 through September 30, 2022, allows for the participation of additional smaller cities and entities. The Interlocal Agreement requires a Letter of Authorization that provides for the fiscal year 2018 funding in the amount of \$8,875.00 for the Regional Stormwater Management Program.
6. This year's participation request of \$8,875.00 is to fund education elements, provide tools for addressing businesses and citizens that may be contributing to contaminated discharges in stormwater, assist with municipal pollution prevention, and regional cooperative monitoring efforts.
7. Funding for this annual expenditure was approved by the adoption of the FY 2017-2018 Municipal Drainage Utility (MDU) budget.
8. Funding in the amount of \$8,875.00 is available in the MDU budget within the MDU Fund.

Recommendation

The resolution be approved.

10 Resolution - Approving Change Order No. 2 to Humphrey and Morton Construction Company, Inc., in the Amount of \$179,966.70 for Embassy Channel and Middle Delaware Creek Improvements Project

Administrative Comments

1. This item is recommended by the Capital Improvement Program Department. It Supports Strategic Objective 2.4 - Maintain and extend water, wastewater and storm water systems
2. **Impact:** This is the first of four proposed projects to improve the drainage channels downstream of SH183 which will be receiving greater flows as a result of improvements being made by TxDOT's contractor to the drainage culverts crossing SH183.
3. **This item will be presented to the Transportation and Natural Resources Committee on October 11, 2017.**
4. On October 22, 2015, the City Council approved RES-2015-366, awarding the Embassy Channel and Middle Delaware Creek Improvements Project to Humphrey and Morton Construction Company, Inc., in the amount of \$10,818,096.60.
5. This project will improve the channel capacity to contain the 100 year storm event in Delaware Creek from Grauwylers Road to Cripple Creek Drive and Embassy Channel from Delaware Creek to SH 183 and rebuilds the Live Oak bridge over Delaware Creek and the Colony bridge over Embassy Channel.

6. These channel improvements have been coordinated with TxDOT and their SH 183 contractor, SouthGate Mobility Partners, to provide lower flow-line elevations on the box culvert crossings which will allow future drainage improvements to Embassy Channel upstream of SH 183.
7. The channel improvements made with this phase will protect 38 structures and 2 bridges from a 100 year storm event while the four phases of the channel improvements downstream of SH 183 will protect 229 structures and 10 bridges from a 100 year storm event. The completion of all four phases of channel improvements will also provide the ability to make improvements and protect an additional 320 structures upstream with future improvement projects when funding is available.
8. Change Order No. 1 added \$47,567.40 (0.4%) and 88 calendar days to the original contract. It was needed to fund the relocation of an 8-inch wastewater main discovered during construction that was serving a medical tower building on the east side of West Park Drive that had to be rerouted to the new alignment of the 18-inch wastewater main west of West Park Drive.
9. Change Order No. 2 will add \$179,966.70 (1.7%) and 11 calendar days to the original contract for a new contract amount of \$11,045,630.70.
10. Change Order No. 2 is for an additional 5,451 square feet of block wall that is necessary to better match the existing ground conditions of residents' back yards. This Change Order No. 2 also removes some other quantities that will not be used in the final construction of the project to provide only the additional funding necessary to final the project.
11. Staff has negotiated a fair and reasonable price for this change order mostly based on existing unit prices in the contract.
12. Funding in the amount of \$179,966.70 is available in the Storm Sewer Bond Fund.

Recommendation

The resolution be approved.

11 Resolution - Approving Assignment of Theme Tower Management Agreement and Consent to Assignment Between the Greater Irving-Las Colinas Chamber of Commerce and the City of Irving

Administrative Comments

1. This item is recommended by the Economic Development Department.
2. **Impact:** Assignment of this agreement allows the City of Irving to assume the Chamber's obligations and benefits under of the Theme Towers Management Agreement with Clear Channel Outdoor, Inc.

3. **This item was discussed at the Irving City Council Planning and Development Committee meeting on July 6, 2017.**
4. The City Council adopted RES-2009-406 on September 24, 2009, approving an economic development services agreement with the Greater Irving-Las Colinas Chamber of Commerce to provide for the management and leasing of the three theme towers owned by the City.
5. The Greater Irving-Las Colinas Chamber of Commerce has entered into an agreement with Clear Channel Outdoor, Inc., (the "Theme Tower Management Agreement") dated May 20, 2009, for a period of time ending December 31, 2019.
6. The new economic development services agreement effective October 1, 2017, does not contain the same provisions for the management of the three Theme Towers.
7. The Chamber desires to assign to the City all their interests, obligations, and benefits in the Theme Tower Management Agreement. The last Clear Channel contract payment is to be paid in May 2018, and the lease ends in December 2019.
8. This resolution approves the Assignment of the Theme Towers Management Agreement and Consent to Assignment and assigns all Chamber's interests to the City.

Recommendation

The resolution be approved.

12 Resolution - Approving a Purchase and Sale Agreement in the Amount of \$55,700.00 for the Acquisition of an Access Easement, a Sanitary Sewer Easement and Two Right-Of-Entry and Temporary Construction Easements Located at 230 West Rochelle Drive Related to the Brockbank Drive and Channel, Rochelle, Vassar and Ireland Alley Water and Wastewater Improvements Project - Rochelle Place, L.P. - Property Owner

Administrative Comments

1. This item is recommended by the Economic Development Department and the Water Utilities Department. This item supports Strategic Objective 2.4-Maintain and extend water, wastewater and storm water systems.
2. **Impact:** Acquisition of these easements will allow for the maintenance and/or replacement of existing water and sanitary sewer lines related to the Brockbank Drive and Channel, Rochelle, Vassar and Ireland Alley Water and Wastewater Improvements Project.
3. The easements are located on the Rochelle Place Apartments property at 230 W. Rochelle Drive, within their parking lot.

4. The property owner has agreed to the amount of \$55,700.00 for the easements.
5. Funding in the amount of \$55,700.00, plus closing costs not to exceed \$5,000.00, is available in the Water Utilities Department budget within the Water and Sewer System Non-Bond CIP Fund.

Recommendation

The resolution be approved.

13 Resolution - Approving a Special Events Permit for the Irving Vintage Trail Market to be Held on Main Street in Downtown Irving October 14, 2017

Administrative Comments

1. This item is recommended by the Irving Convention and Visitors Bureau. It supports Strategic Objectives 3.1: Promote revitalization of targeted areas and 3.2: Create a thriving downtown.
2. **Impact:** The Irving City Council has indicated its desire to bring more special events and activities to the City of Irving. The 2017 Irving Vintage Trail Market is a family-oriented event where vendors will sell their arts & crafts, and handmade goods. The event is free to the public.
3. The City's Special Events Permit Application requires City Council approval for all events with time periods that exceed four and one-half hours anytime between 7:00 a.m. and 1:00 p.m. This event takes place on Saturday, October 14, 2017, with setup beginning at 8 a.m.; the event hours are from 10 a.m. until 4 p.m.
4. If the estimated number of participants and spectators exceeds 500 during the special event, or there will be any street closures, the City's Special Events Permit Application requires the applicant to, at least 30 days prior to the start of the event, deliver written notices to all owners or occupants of real property abutting the event site, including all owners or occupants of real property abutting the route of a progressive event, such as a parade, walk/run or triathlon. The event anticipates 200 spectators.
5. Road closures requested are both directions of South Main Street between Irving Blvd. & Second Street, as well as both directions of North Main Street between Irving Blvd. and Rock Island.
6. The applicant requests authorization to utilize a block of City-owned property north of Irving Boulevard and West of Main Street, which is highlighted on the map provided.
7. The following City departments have reviewed the Special Events Permit Application from the 2017 Irving Vintage Trail Market for their respective departments' requirements: Police, Fire, Traffic and Transportation, and Convention and Visitors Bureau.
8. No funding is required from the City of Irving.

Recommendation

The resolution be approved.

**Bids & Purchasing Items
Items 14-18**

14 Resolution - Renewing the Annual Contracts with Sunbeam Foods, Inc., and Oak Farms Dairy in the Total Estimated Amount of \$125,186.24 for Prisoner Food

Administrative Comments

1. This item is recommended by the Police Department.
2. **Impact:** The city is able to provide nutritious meals for jail inmates in the most cost effective manner.
3. This renewal establishes the continuation of an annual contract to provide prisoner food for the City of Irving jail facility. This is the second and final one-year renewal option. The current contract expires October 31, 2017.
4. Funding is available in the Police Department budget within the General Fund while funding for Fiscal Year 2018-19 is subject to budget appropriation.
5. Because this contract term runs November 2017 through October 2018, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year's additional purchases and the total contract award amount is not exceeded.

Vendor	Group	Contract Term	FY 2017-18 Est. Exp.	FY 2018-19 Est. Exp.	Total Est. Annual Exp.
Sunbeam Foods, Inc.	A – Food	11/1/17 –10/31/18	\$101,004.00	\$9,182.24	\$110,186.24
Oak Farms Dairy	B – Milk		\$ 13,750.00	\$ 1,250.00	\$ 15,000.00
TOTAL			\$114,754.00	\$10,432.24	\$125,186.24

Recommendation

The resolution be approved.

15 Resolution - Approving and Accepting the Proposal of All City Management Services in the Total Estimated Amount of \$721,899.00 for School Crossing Guard Services

Administrative Comments

1. This item is recommended by the Police Department. It supports Strategic Objective No. 4.1: Safeguard public safety, security and health.
2. **Impact:** The School Crossing Guard program provides a critical safety service to the children and adult residents of Irving by assisting in providing a safe environment going to and from school. The outsourcing of this service will enhance our ability to provide adequate coverage, training, and supervision at all designated school crossings within the City of Irving.
3. **This item was presented at the Community Services and Public Safety Committee meeting on June 26, 2017.**
4. Two submissions were received in response to a Request for Proposals. All City Management Services scored the highest points based on the evaluation criteria established in the RFP and is being recommended for award.
5. This award establishes an annual contract to provide school crossing guard services. This contract is for one year with four one-year renewal options.
6. Funding for Fiscal Year 2017-18 is available in the Police Department budget within the General Fund while funding for Fiscal Year 2018-19 is subject to budget appropriation.
7. Because this contract term runs November 2017 through October 2018, it is possible that more than the estimated amounts shown in the chart below may be spent in one operating year or the other as long as there are budget funds available to accommodate that year's additional purchases and the total contract award amount is not exceeded.

Vendor	Contract Term	Total Estimated Amount	Fiscal Year(s)
All City Management Services	11/1/17 – 10/31/18	\$661,740.75	2017-18
		\$ 60,158.25	2018-19
TOTAL		\$721,899.00	

Recommendation

The resolution be approved.

16 Resolution - Ratification of Expenditure to ServPro in the Total Amount of \$58,165.38 for the After-Event Cleanup of Lively Pointe Youth Center Subsequent to Its Use as a Shelter Facility for Hurricane Harvey Evacuees

Administrative Comments

1. This item is recommended by the Police Department – Emergency Management Division.
2. **Impact:** As is standard practice upon facility demobilization, a thorough deep cleaning of Lively Pointe Youth Center was in order to expedite the facility's return to normal operations after its use as a shelter serving evacuees from the Hurricane Harvey event.
3. Lively Pointe was activated as a shelter at the request of the State of Texas on August 28, 2017 and the facility was closed to city residents in order to fulfill this function until shelter operations were demobilized on September 15, 2017.
4. In order to ready the facility for the resumption of normal operations, quotes were requested from two BuyBoard vendors with expertise in general recovery cleanup. The quote received from ServPro in the amount of \$58,165.38 was the lower of the two and was determined to meet all requirements for cleaning the space within the required timeframe as well as satisfying contractual requirements as established by FEMA.
5. Cleaning commenced on September 18, 2017, and was completed on September 22, 2017, and the Recreation Center resumed operation on September 28, 2017.
6. Funding in the amount of \$58,165.38 was available within the General Fund.

Recommendation

The resolution be approved.

17 Resolution - Approving and Accepting the Bid of Bond Equipment Company Inc. in an Amount Not to Exceed \$60,000.00 for Heavy Duty Truck Maintenance

Administrative Comments

1. This item is recommended by the Building & Equipment Services Department – Fleet Operations Division.
2. **Impact:** City equipment will continue to be repaired and maintained with minimum downtime, keeping service levels high.
3. This award establishes an annual contract for providing service and parts related to service work on heavy duty trucks (Class 6, 7, 8), while routine repairs and preventive maintenance continue to be performed by Fleet Operations. This contract is for one year with two, two-year renewal options.

4. Funding for Fiscal Year 2017-18 is available in the Garage Fund.

Vendor	Contract Term	Total Amount Not To Exceed	Fiscal Year(s)
Bond Equipment Company Inc.	10/13/17 – 9/30/18	\$60,000.00	2017-18

Recommendation

The resolution be approved.

18 Resolution - Approving and Accepting the Bid of Memos Auto Body Shop in an Amount Not To Exceed \$150,000.00 for Auto Body Repairs

Administrative Comments

1. This item is recommended by the Building & Equipment Services Department – Fleet Operations Division.
2. **Impact:** By making auto body repairs, vehicles that have sustained body damage will bring a higher value at auction when retired.
3. This award establishes a contract for the continuation of providing automotive body repairs for all passenger vehicles and light trucks up to 3000 GVW (Gross Vehicle Weight) rating. This award is for one year with two, two-year renewal options.
4. Funding for Fiscal Year 2017-18 is available in the Garage Fund.

Vendor	Contract Term	Total Amount Not To Exceed	Fiscal Year(s)
Memos Auto Body Shop	10/13/17 – 9/30/18	\$150,000.00	2017-18

Recommendation

The resolution be approved.

End of Bids

19 Ordinance - Amending Ordinance No. 9383 by Approving a Schedule of Classified Personnel for the Police Department

Administrative Comments

1. This item has been recommended by Human Resources and the Police Department. It supports Strategic Objective No. 4.1: Safeguard public safety, security and health.
2. **Impact:** This schedule of personnel change is necessary to establish two additional classified personnel positions for the Police Department.
3. City Council approval is required to establish the schedule of classified personnel for the Fire and Police Departments. This amended ordinance would authorize the Police Department to make adjustments in classified personnel for the addition of two sergeants that will help improve the ratio of first line supervisors to police officers.
4. This amendment will reflect an increase in the rank of Police Sergeant from 40 to 42. The funding for these additional positions was approved in the FY 17-18 budget.

Recommendation

The ordinance be adopted.

20 Ordinance - Amending Ordinance No. Ord-2016-9771 by Approving a Schedule of Classified Personnel for the Fire Department

Administrative Comments

1. This item has been recommended by Human Resources Department and Fire Department.
2. **Impact:** This schedule of personnel change is part of staffing changes necessary to meet the needs of the Toyota Music Factory.
3. City Council approval is required to establish the schedule of classified personnel for the civil service personnel in Fire and Police Departments. The amended ordinance would authorize the Fire Department to make adjustments in classified personnel to assure proper staffing to meet past and future commercial business growth.
4. This amendment will reflect an increase in the number of personnel in the rank of Fire Prevention Specialist from nine to eleven.
5. This schedule of classified personnel will increase the fire prevention classification personnel from 14 to 16 by **adding a total of 2 new personnel**. When added to the 345 positions in the emergency activities class, the total number of fire civil service personnel increases from 359 to 361.

6. The funding for these additional positions was approved in the FY 17-18 budget.

Recommendation

The ordinance be adopted.

21 Ordinance - Authorizing the Partial Abandonment of a Public Utility Easement at 1310 Meridian Drive, Located at the Southeast Corner of State Highway 161 and State Highway 114

Administrative Comments

1. This item has been recommended by the Economic Development Department.
2. **Impact:** This abandonment request will facilitate development of the vacant tract at the southeast corner of SH161 and SH114.
3. The property owner, Blue Star Land and McKinney Corner, LP has requested the partial abandonment of a public utility easement that is located within the parcel and confirmed not to be in use or necessary by the City of Irving nor local franchise companies.
4. Staff has completed the necessary investigation and research into the appropriateness and necessity of the abandonment requested and finds it in the best interest of the city to abandon these easements.
5. In conformance with Section 2-13, Irving City Code related to the requirement of the City Manager to provide a recommendation regarding the abandonment of easements and similar actions, the City Manager is recommending approval.

Recommendation

The ordinance be adopted.

22 Ordinance - Approving a Second Amendment to the Purchase Agreement with KMS Retail Investments, LP for the Sale of 4.24 Acres of Land Located at 400 South MacArthur Boulevard

Administrative Comments

1. This item has been recommended by the Economic Development Department. It supports Strategic Objective 3.1-Promote revitalization of targeted areas.
2. **Impact:** The second amendment extends the Inspection Period of the Purchase Agreement for six months, with the option to extend for an additional six months.

3. **This item was discussed at the Irving Planning and Development Council Subcommittee meeting on September 7, 2017.**
4. Ordinance 2016-9782, accepted the bid in the amount of \$923,470.00 by KMS Retail Investments, LP for the purchase of 4.24 acres of city–owned land located at 400 South MacArthur Boulevard.
5. KMS intends to redevelop the property and the adjacent shopping center as a grocery store anchored shopping center. The center is planned to include a fueling station, possible drive-thru restaurant and retail stores.
6. Ordinance 2016-9858, approved a first amendment to extend the Inspection Period to February 27, 2017, and included an option to extend for an additional six months upon deposit of an additional \$10,000 earnest money. The closing date is calculated as 30 days after the expiration of the Inspection Period.
7. KMS will pay \$923,470.00 cash at closing. Prior to closing, KMS is required to (1) acquire the adjacent shopping center, and (2) secure the proper zoning in accordance with the bid. The current extended contract called for the inspection period to end on August 26, 2017 and a closing date of September 26, 2017. KMS issued a conditional letter of termination prior to the expiration of the Inspection period to allow the city and KMS to negotiate an extension.
8. KMS purchased the adjacent shopping center in November 2016. KMS has requested another extension of the Inspection Period and subsequent closing date due to the need to complete the negotiations with the grocer before proceeding with the zoning case. The Original deadlines, the current First Amendment deadlines and the proposed Second Amendment deadlines are summarized below.

Deadlines	ORIGINAL Deadline	1 st AMEND 1 st Deadline	1 st AMEND 2 nd Deadline	2 nd AMEND Deadline
Inspection Period	8/26/2016	2/27/2017	8/26/2017	2/28/2018
Complete Purchase	9/26/2016	3/27/2017	9/26/2017	3/28/2018

9. The second amendment extends the Inspection Period to February 28, 2018, upon deposit of an additional \$10,000 earnest money. The closing date is calculated as 30 days after the expiration of the Inspection Period.
10. **This item accompanies a proposed resolution amending the Economic Incentive Agreement related to the development of the property at 400 S. MacArthur that is scheduled for consideration on this same agenda. The separate Economic Incentive Agreement will be extended in similar increments as the Purchase and Sale Agreement.**

Recommendation

The ordinance be adopted.

23 Resolution - Approving an Amended and Restated Economic Development Agreement Between the City of Irving and KMS Retail Investments, LP Related to the Development of the Property Located at 400 S. MacArthur Boulevard with a Grocery Store, Fueling Station and Associated Shopping Center to Extend Certain Deadlines in the Agreement

Administrative Comments

1. This item has been recommended by the Economic Development Department. It supports Strategic Objective 3.1-Promote revitalization of targeted areas.
2. **Impact:** This amended and restated economic development agreement provides for an additional six-month extension on certain deadlines in the agreement to coincide with the extension in the Purchase and Sale Agreement between the parties.
3. **This item was discussed at the Irving Planning and Development Council Subcommittee meeting on September 7, 2017.**
4. Resolution 2016-117, approved on March 17, 2016, was for an economic incentive agreement between the City of Irving and KMS Retail Investments, LP in the amount not to exceed \$423,470 related to the purchase and development of the property located at 400 S. MacArthur Boulevard with a grocery store, fueling station and associated shopping center.
5. Resolution 2016-365, approved on September 22, 2016, approved the First Amendment for an extension of the deadlines and milestones due to the need for KMS to complete negotiations with the grocer before proceeding with the zoning case.
6. The sale price of the City land is \$923,470.00. The economic incentive agreement provides a grant to KMS not to exceed \$423,470 over a ten-year period as long as certain minimum development criteria are met. The current criteria with the First Amendment extension deadlines includes (i) substantial completion and occupancy of the grocery store and related retail by January 31, 2021; (ii) continuous occupancy by the grocery store for 10 years and (iii) maintain a minimum increase in real property valuation of \$3,000,000 and minimum increase in sales tax revenue of \$20,000. The grant would be paid as measured by 80% of the new taxes generated by the development. The proposed extension will extend the target dates by six-months as appropriate.
7. KMS purchased the adjacent shopping center in November 2016. The Second Amendment would provide for up to an additional six-month extension on certain agreement deadlines. The Original deadlines, current First Amendment deadlines and proposed Second Amendment deadlines/milestones are summarized below.

Description	ORIGINAL Milestone	1 st AMEND 1 st Deadline	1 st AMEND 2 nd Deadline	2 nd AMEND Deadline
Complete Purchase	12/31/2016	6/30/2017	12/31/2017	6/30/2018
Demo Permit	3/31/2018	9/30/2018	3/31/2019	9/30/2019
Building Permit	3/31/2019	9/30/2019	3/31/2020	9/30/2020
Complete Construction/ Occupy	1/31/2020	7/30/2020	1/31/2021	7/31/2021
Achieve Minimum Value	1/1/2021	1/1/2022	1/1/2022	1/1/2022
Achieve Minimum Sale Tax	12/31/2021	12/31/2022	12/31/2022	7/31/2022

8. **This item accompanies the proposed ordinance amending the acceptance of the bid from KMS for the sale of the property at 400 S. MacArthur that is scheduled for consideration on this same agenda.**

Recommendation

The resolution be approved.

ZONING CASES AND COMPANION ITEMS

- 24 **Ordinance - Zoning Case #ZC16-0067 - Granting S-P-1 (Detailed Site Plan) for R-AB (Restaurant with the Accessory Use of the Sale of Alcoholic Beverages for On-Premises Consumption) Uses - Approximately 1.692 Acres Located West of Home Depot Drive, on the North Side of Interstate Highway 635 - Texas Roadhouse Holdings, LLC., Applicant - MWC Development Irving, LLC., Owner.**

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: September 18, 2017 – Favorable 9-0.
2. The 2017 Comprehensive Plan recommends *Commercial Corridor* uses for this property. The Commercial Corridor land use category is described as an “Auto-oriented district for retail, office and commercial uses [with] parking in front with buildings set back from the street.” This request is in conformance with the Comprehensive Plan.
3. The applicant is requesting a zoning change to allow a new *Texas Roadhouse* restaurant the accessory use of the sale of alcoholic beverages for on-premises consumption.

4. The subject property is 1.692 acres and will have a total of 281 seats. A minimum of 112 parking spaces are required at a ratio of 1 space/2.5 seats. All parking is provided on site.
5. The west elevation includes 12% wood fascia. This is a variance from the Commercial Design Standards which limits non-masonry materials to 10% per side. Staff can support this variance because the overall use of wood fascia is less than 10% and because this side does not face Home Depot Drive or the westbound traffic on Interstate Highway 635.
6. The proposed request meets all other requirements of the R-AB ordinance, and all other applicable ordinances.
7. A total of ten (10) public notices were mailed. Staff received one (1) response in support and none in opposition to this request.
8. This item supports Strategic Objective 3.5 – Effectively plan and manage land use.

Recommendation

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

25 Ordinance - Zoning Case #ZC17-0030 - Granting S-P-2 (Generalized Site Plan) for C-N (Neighborhood Commercial) Uses - Approximately 3.105 Acres Located at the Northeast Corner of Northgate Drive and State Highway 161 - Sikka Investments, Applicant - Northgate Corner Investments, Owner.

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: September 18, 2017 – Favorable 8-1 (Commissioner Taylor, nay) with the stipulation that the landscape plan “table” reflect the number of trees shown on the drawing and show 4-inch caliper for all trees. The stipulation of the Planning and Zoning Commission has been met.
2. The property is currently undeveloped. The applicant is requesting to rezone the property to develop it with a convenience store with gasoline sales, a restaurant and laundromat.
3. The Comprehensive Plan recommends *Business District and Commercial Corridor* uses for this property. The *Business District* land use category is described as being “A flexible use district for retail, office and commercial uses [with] predominantly mid-rise with a mix of surface and structured parking.” The *Commercial Corridor* land use category is described as being “An auto-oriented district for retail, office and commercial uses [with] parking in front with buildings set back from the street with low to mid-rise buildings.” This request is in conformance with the Comprehensive Plan.

4. The proposed development is for a 13,200 sq. ft. building which will include a 3,500 sq. ft. convenience store, a 3,327 sq. ft. restaurant, a 4,870 sq. ft. laundromat and two (2) 473 sq. ft. suites. A total of 68 parking spaces are required, and 112 spaces are being provided.
5. The property lies within the State Highway 161 Overlay District, which requires that property used for dining and/or gasoline sales be 200 feet or more from a residential property line. The purpose of this provision was so that the dining and gasoline sales would not be a nuisance to nearby residences. The multifamily property line on the south side of Northgate Drive is less than 200 feet away.
6. The State Highway 161 Overlay District also requires that surplus parking cannot exceed the minimum number of parking spaces by more than 20%. The applicant is proposing 64% surplus parking (44 spaces). The criteria for exceptions for excessive parking include:
 - a. The proposed development has unique or unusual characteristics such as high sales volume per floor area, low parking turnover, or overlapping shift work which creates a parking demand that exceeds the maximum ratio, and which typically do not apply to comparable uses;
 - b. The parking demand cannot be accommodated by shared parking with nearby uses; and
 - c. The requirement is the minimum necessary variation from the standards.
7. The site plan includes notes regarding the requested exceptions in addition to all the city's standard notes.
8. The proposed landscaping plan shows 46 trees with shrubs along both street frontages, and 18 trees within the interior and rear of the property for a total of 64 trees. This meets the landscaping requirements.
9. The purpose of the State Highway 161 Overlay District is "to prohibit land uses that could be detrimental to the future appearance and economic objectives of the corridor." Staff believes this request is not in conformance with the purpose of the State Highway 161 Overlay District.
10. During the Planning and Zoning Commission public hearing, the applicant presented anecdotal information to suggest the proposed use has lower turnover and other unique characteristics that might justify the additional parking. The applicant repeatedly cited his experience with similar properties he owned elsewhere. However, the applicant has not provided a written traffic or parking study for those sites for staff to review. If the site does, in fact, have high traffic volume and low turnover, then staff questions the appropriateness of the restaurant and gasoline sales in such close proximity to residential uses. Accordingly, staff cannot support this request.
11. A total of nine (9) public notices were mailed. Staff has received one (1) response in support and none in opposition to this request.
12. This item supports Strategic Objective 3.5 – Effectively plan and manage land use.

RECOMMENDATION

Denial.

26 Ordinance - Zoning Case #ZC17-0052 - Granting S-P-2 (Generalized Site Plan) for C-N (Neighborhood Commercial) Uses - Approximately 3.29 Acres Located at 819 North O'Connor Road - O'Connor Park LLC, Applicant/Owner.

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: October 2, 2017 - Favorable 7-1 (Commissioner Niemeier, nay; Commissioner McPhail, absent).
2. The 2017 Comprehensive Plan recommends *Main Street* uses for this property. This category is described as a “mixed use walking district with single and multi-story buildings, continuous street wall, on street parking, [and] pedestrian-design streets and buildings.” This request is in conformance with the Comprehensive Plan.
3. The applicant is requesting rezoning to allow professional office, post-secondary education, and restaurant uses in an existing building.
4. This is an existing structure that was once the Irving Independent School District administration building. In 2008, the property was rezoned to allow Professional Office uses.
5. The applicant is proposing the restaurant be located in the northeast corner of the building. A new entrance door will be located on the north wall close to O'Connor Road. The entrance will be accessible from the parking lot and sidewalk from O'Connor Road. Furthermore, a sidewalk will be constructed from the parking lot to the entrance to provide additional pedestrian access.
6. Day care, day nursery uses, and primary and secondary public and nonprofit educational institutions are explicitly prohibited on the proposed site plan. Staff will not support any future zoning case adding these as permitted uses without a traffic impact analysis.
7. The following table represents the requested uses along with the amount of parking required by the zoning ordinance:

ZC17-0052 (819 N O'Connor Road)			
Primary Use	Square Footage	Parking Ratio	Parking Count
Professional Office	25,365	A minimum of eight (8) parking spaces for each development up to 1000 square feet of floor space and 1 additional space /300 square feet	90
Post-Secondary Education	2,950	1 for each 3 students. (60 maximum students)	20
Restaurant	900	Restaurant, 1 space per 2.5 seats at 20 seats	8
Total	29,215		118

8. The applicant is requesting a parking variance, providing 107 of the 118 required spaces. In order to provide the 107 spaces, the southern “flag” that leads to Union Bower must be paved and striped to city standards. Given the mix of uses and peak times of operation, staff can support the requested variance.
9. A total of 55 public notices were mailed. Staff received two (2) responses in support and one (1) in opposition. The opposition represents 0.85% of the land within 200 feet of the subject property. Since this is less than 20%, a ¾-vote of the City Council is not required for approval of this request.
10. This item supports Strategic Objective 3.5 - Effectively plan and manage land use.

Recommendation

The ordinance be adopted per the recommendation of the Planning and Zoning Commission.

27 Ordinance - Zoning Case #ZC17-0058 – Comprehensive Plan Amendment to Change the Recommended Land Use from "Commercial Corridor" to "Residential Neighborhood", and Granting S-P-2 (Generalized Site Plan) District for R-6 (Single Family) Uses - Approximately 0.222 Acres Located at 2422 E. Shady Grove Road - Janice E. Wagner, Applicant/Owner.

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: October 2, 2017 – Favorable 8-0 (Commissioner McPhail, absent).
2. The 2017 Comprehensive Plan recommends *Commercial Corridor* uses for this property. This land use category is described as an “auto-oriented district for retail, office and commercial uses.”
3. The zoning request is not in conformance with the 2017 Imagine Irving Comprehensive Plan. The applicant is justifying a proposed amendment to *Residential Neighborhood* uses because she has an existing home that was built over twenty years ago and is residentially zoned. Additionally, the existing homes on either side and across the street are residentially zoned.
4. The applicant built an oversized metal accessory structure to replace a previous storage building. The new accessory structure has existed for three months. The applicant self-reported the structure after receiving a brochure in the water bill addressing permitting for accessory buildings.
5. The exterior of the building is metal and has two (2) roll up doors located on the north and south ends of the property. The metal building is constructed on a pier-and-beam deck foundation with a plywood overlay floor. The building will only be used for storage and does not have any utilities.
6. The height of the building, at the tallest point is 9’10” and drops to a wall height of 7 feet. The height conforms to the accessory building regulations.

7. The accessory structure is 840 square feet, which exceeds the maximum allotted square footage. The maximum square footage of all accessory structures on a lot under ½-acre is 250 square feet or 25% of the footprint of the house, whichever is greater. The house is shown in the DCAD records at 1,847 square feet; therefore, the maximum allowable square footage is 462 square feet.
8. The accessory structure regulations prohibit buildings over 150 square feet with a metal exterior. This structure has a 100% metal exterior.
9. The Planning and Zoning Commission recommended approval based on the following findings:
 - a. The structure could not be seen from the roadway;
 - b. The structure could not be seen from adjacent residential property;
 - c. The building was similar to many other nonresidential buildings in the surrounding area; and
 - d. The building appears to be well-constructed.
10. Although staff appreciates the applicant informing the Inspections Department of the accessory structure, the building was constructed without permits, the exterior is 100% metal and the accessory structure exceeds the maximum allotted square footage by 378 square feet. Since the current regulations for residential accessory buildings were adopted in 2008 specifically to disallow large, metal accessory buildings on single family residential lots, staff cannot support this request.
11. A total of 18 public notices were mailed. Staff has received three (3) responses in support and none in opposition to this request.
12. This item supports Strategic Objective 3.5 – Effectively plan and manage land use.

Recommendation

Denial.

28 Ordinance - Public Hearing and Adopting an Ordinance Amending Section 52-35A. Landscaping and Tree Preservation of Comprehensive Zoning Ordinance No. 1144 Regarding Minimum Landscaping and Tree Preservation Requirements (Postponed from the July 20, 2017, August 10, 2017, September 7, 2017 City Council Meetings).

Administrative Comments

1. The Planning and Zoning Commission Hearing Date and Recommendation: July 17, 2017 – Postpone to August 7, 2017. August 7, 2017 – Postpone to August 21, 2017. August 21, 2017 – Postpone to September 5, 2017. September 5, 2017 – Postpone to September 18, 2017. September 18, 2017 – Postpone to October 2, 2017. October 2, 2017 – Postpone to October 16, 2017.
2. This item was discussed at the July 6, 2017 Planning and Development Committee meeting.

3. Staff initially advertised this amendment for a July 20, 2017 City Council date. However, staff postponed work on the ordinance until after the State Legislature completed its work in the special legislative session.
4. During the special legislative session, HB 7 was passed by the House and Senate that added some additional criteria and requirements for tree preservation ordinances, but was substantively similar to the compromise bill that was approved by the House and Senate during the regular legislative session but vetoed by the Governor. The Governor signed the bill that passed during the special legislative session into law.
5. Since the parameters established by the State are now known, staff can continue review of the draft ordinance for compliance with the changes in State law.
6. An initial draft ordinance was presented to the Planning and Zoning Commission on October 2, 2017. Staff anticipates the Commission will take a vote on October 16 or November 6. However, staff also wants to allow adequate time to post the finalized ordinance on the website for public review and comments before the City Council meeting. Accordingly, staff recommends postponing this item until November 9.
7. This item supports Strategic Objective 3.5 – Effectively plan and manage land use.

Recommendation

The ordinance be postponed to November 9, 2017.

APPOINTMENTS AND REPORTS

29 Mayor's Report

Adjournment