

DRAFT

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: May 14, 2014

COUNCIL DISTRICT(S): 7, 8

DEPARTMENT: Trinity Watershed Management
Office of Economic Development

CMO: Jill A. Jordan, P.E., 670-5299
Ryan S. Evans, 671-9837

MAPSCO: 57-P T U X Y & Z, 67-B C & D

SUBJECT

Authorize a contract with DCI Contracting, Inc., lowest responsible bidder of five, for closed landfill improvements associated with the Simpkins Remediation located at 5950 Elam Road, 6300 Great Trinity Forest Way Boulevard, and 811 Pemberton Hill Road - Not to exceed \$2,371,711 - Financing: Stormwater Drainage Management Capital Construction Funds (\$2,000,000) and Company of Trinity Forest Golfers Funds (\$371,711) (to be reimbursed by the Company of Trinity Forest Golfer's, Inc.)

BACKGROUND

This item was placed on the addendum to assist with the completion schedule for golf course related improvements. Having this construction contractor, DCI Contracting, Inc., work concurrently with the remediation contractor, L. D. Kemp Excavating, will address stormwater, erosion and vegetative support layer construction issues.

The Elam and South Loop 12 Landfills, also known as Simpkins Landfills, were issued a Municipal Solid Waste (MSW) Permit No. 88 on August 29, 1975, by the Texas State Department of Health. Both landfills are located in the vicinity of Great Trinity Forest Way (also known as Loop 12) and Pemberton Hill Road. The total permitted landfill area is approximately 340 acres; 85 acres for Elam and 255 acres for South Loop.

On May 15, 2013, Council authorized a lease agreement with the nonprofit corporation, Company of Trinity Forest Golfers, Inc. (CTFG) responsible for development, management and operation of a championship golf course. As part of the agreement, the City agreed to pursue certain infrastructure improvements. On April 9, 2014, Council approved a remediation contract with L.D. Kemp Excavating to obtain a permit from the Texas Commission on Environmental Quality (TCEQ). Additionally, Council approved an engineering design contract with Pacheco Koch Consulting for golf course related improvements. The construction contract will be conducted concurrently with the L.D. Kemp Excavating contract.

BACKGROUND (Continued)

Based on prior environmental investigations, remediation efforts are to be made for environmental conditions at the site to be in compliance with regulations by the state regulatory agency, TCEQ. The Elam and South Loop Landfills require additional fill to be placed on top of this remediation area to preserve the existing landfill cap as the remediation work will restore the clay cap to the 2-foot minimum clay cap. Additional fill will ensure that this clay cap within the Simpkins Remediation area is not disturbed or structural integrity damaged due to future golf course related improvements. In addition, structural fill is necessary for the golf course's clubhouse, entrance and parking lot area.

This action will authorize a construction contract with DCI Contracting, Inc. for the additional fill for the Simpkins Remediation area and the structural fill for the golf course's clubhouse, entrance and parking lot area. The Company of Trinity Forest Golfer's, Inc. will reimburse the City in the amount of \$371,711 for the structural fill.

ESTIMATED SCHEDULE OF PROJECT

Began Engineering Design	March 2014
Completed Engineering Design	April 2014
Begin Construction	May 2014
Complete Construction	October 2014

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized acquisition of approximately 61 acres from Weir Bros, Partners, L.L.C. on April 28, 2004, by Resolution No. 04-1416.

Authorized settlement in lieu of proceeding further with condemnation for the acquisition of approximately 1,415 acres of land located near the intersection of Loop 12 and Pemberton Hill Road from Metropolitan Sand and Gravel Company, L.L.C. or its successor, and approximately 111 acres of land located near the intersection of Linfield Road and Hull Avenue from Weir Bros. Partners, L.L.C., for the Trinity River Corridor Project on May 28, 2008, by Resolution No. 08-1591.

Authorized a professional services contract with Terracon Consultants, Inc., on October 22, 2008, by Resolution No. 08-2874.

Authorized acquisition of approximately 1,415 acres from Metropolitan Sand & Gravel Co., L.L.C. on February 13, 2008, by Resolution No. 08-0398.

Authorized a lease agreement with the nonprofit corporation, Company of Trinity Forest Golfers, Inc. (CTFG) responsible for development, management and operation of a championship golf course on May 15, 2013, by Resolution No. 13-0776.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS) (Continued)

Authorized Supplemental Agreement No. 1 with Terracon Consultants, Inc., on April 9, 2014, by Resolution No. 14-0629.

Authorized an engineering design contract with Pacheco Koch Consulting on April 9, 2014, by Resolution No. 14-0627.

Authorized a construction contract with L.D. Kemp Excavating, Inc., on April 9, 2014, by Resolution No. 14-0628.

FISCAL INFORMATION

Stormwater Drainage Management Capital Construction Funds - \$2,000,000.00
Company of Trinity Forest Golfers Funds - \$371,711.00

Engineering Design Cost	\$842,290.00
Construction Cost (this action)	<u>\$2,371,711.00</u>

Total Project Cost	\$3,214,001.00
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<u>Council District</u>	<u>Amount</u>
7	\$ 806,381.74
8	<u>\$1,565,329.26</u>
Total	\$2,371,711.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

DCI Contracting, Inc.

Hispanic Female	1	Hispanic Male	11
African-American Female	0	African-American Male	0
Other Female	0	Other Male	0
White Female	1	White Male	11

BID INFORMATION

The following bids with quotes were received and opened on Thursday, May 1, 2014:

*Denotes successful bidder

BID INFORMATION (Continued)

BIDDERS

BID AMOUNT

* DCI Contracting, Inc. 2045 East Highway 380, Suite 100 Decatur, Texas 76234	\$2,371,711.00
Vilhauer Enterprises	\$2,798,692.90
Longhorn Excavators, Inc.	\$3,350,799.60
L.D. Kemp Excavating, Inc.	\$3,463,246.10
FCS Construction	\$3,583,785.65

OWNER

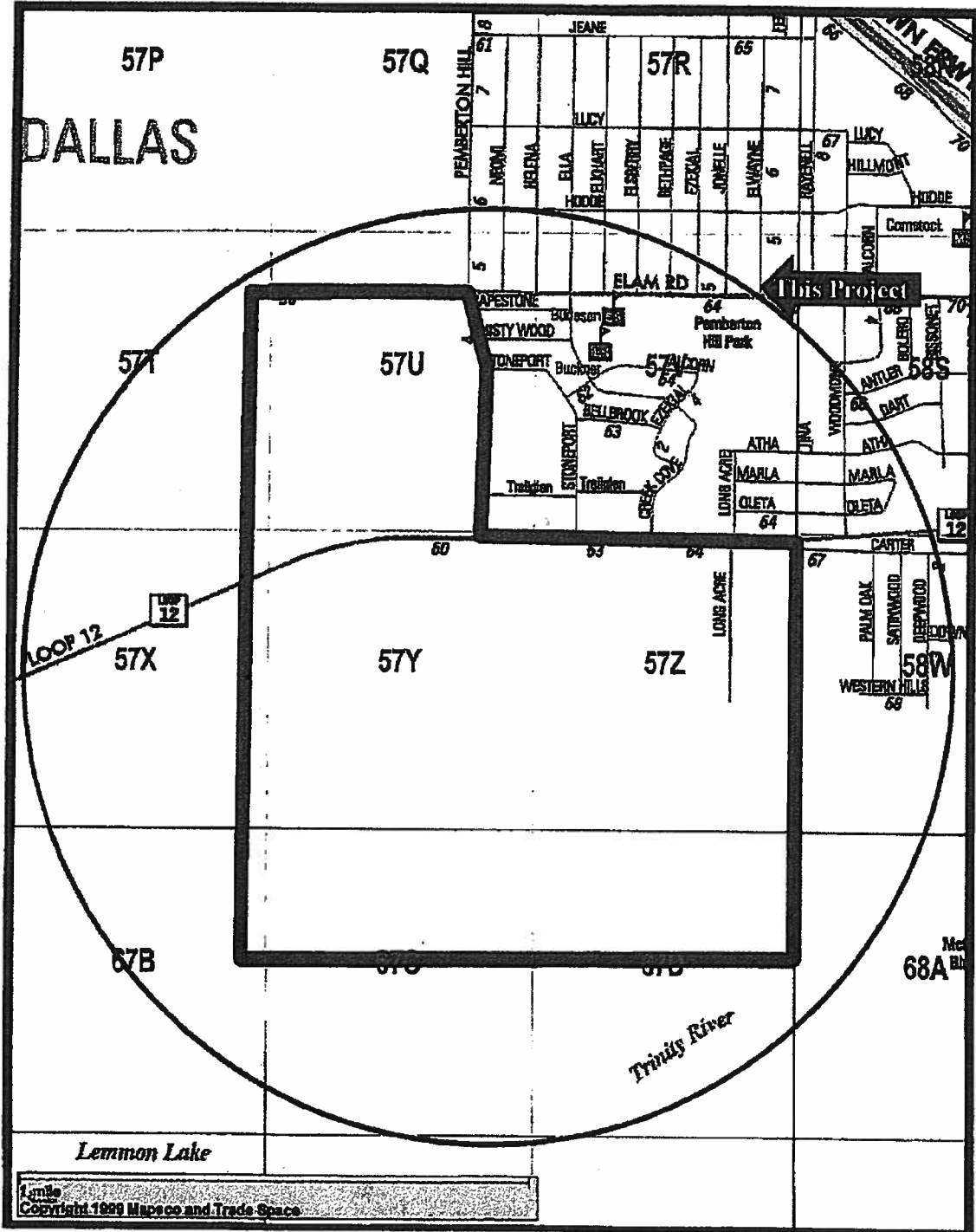
DCI Contracting, Inc.

Greg Sherman, Vice President

MAP

Attached

Simpkins Remediation



Mapsco 57-P, T, U, X, Y, Z, and 67-B, C, D

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a contract with DCI Contracting, Inc., lowest responsible bidder of five, for closed landfill improvements associated with the Simpkins Remediation located at 5950 Elam Road, 6300 Great Trinity Forest Way Boulevard, and 811 Pemberton Hill Road - Not to exceed \$2,371,711 - Financing: Stormwater Drainage Management Capital Construction Funds (\$2,000,000) and Company of Trinity Forest Golfers Funds (\$371,711) (to be reimbursed by the Company of Trinity Forest Golfer's, Inc.)

DCI Contracting, Inc. is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY

	<u>Amount</u>	<u>Percent</u>
Total local contracts	\$0.00	0.00%
Total non-local contracts	\$2,371,711.00	100.00%
TOTAL CONTRACT	\$2,371,711.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

<u>Non-local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Champion Fuel Solutions	WFDB57670Y0614	\$493,870.00	20.82%
G. J. Seeding, LLC	WFWB61254N0415	\$77,000.00	3.25%
J.M. Materials, Inc.	WFDB61580Y0515	\$20,000.00	0.84%
Total Minority - Non-local		\$590,870.00	24.91%

TOTAL M/WBE CONTRACT PARTICIPATION

	<u>Local</u>	<u>Percent</u>	<u>Local & Non-Local</u>	<u>Percent</u>
African American	\$0.00	0.00%	\$0.00	0.00%
Hispanic American	\$0.00	0.00%	\$0.00	0.00%
Asian American	\$0.00	0.00%	\$0.00	0.00%
Native American	\$0.00	0.00%	\$0.00	0.00%
WBE	\$0.00	0.00%	\$590,870.00	24.91%
Total	\$0.00	0.00%	\$590,870.00	24.91%

May 14, 2014

WHEREAS, on May 28, 2008, Resolution No. 08-1591 authorized acquisition of approximately 1,415 acres of land located near the intersection of Loop 12 and Pemberton Hill Road from Metropolitan Sand and Gravel Company, L.L.C. or its successor, and approximately 111 acres of land located near the intersection of Linfield Road and Hull Avenue from Weir Bros. Partners, L.L.C., for the Trinity River Corridor Project; and,

WHEREAS, on May 28, 2008, Resolution No. 08-1591 authorized the City Attorney to assume, on behalf of the City, the responsibility for the costs to remediate environmental conditions on the Metropolitan Tract and the Linfield Tract known by the City as of the date the settlement closed, and to waive any right to contribution for those costs from Metropolitan Sand and Gravel Co., L.L.C. and Weir Brothers Partners, L.L.C., including their officers, successors, and assigns; and,

WHEREAS, Terracon Consultants Inc., conducted a Phase I Environmental Site Assessment on August 24, 2005. In addition, Terracon also prepared a Limited Solid Waste Evaluation Report on October 12, 2005, a Limited Site Investigation on January 8, 2008, and a Methane and Landfill Cap Evaluation and Proposed Response Actions on January 30, 2008. Based on the preliminary investigation and findings, Terracon Consultants, Inc. recommends further detailed investigations and assessment, before remedial designs are prepared; and,

WHEREAS, on October 22, 2008, Resolution No. 08-2874 authorized a professional services contract with Terracon Consultants Inc., for such detailed environmental investigation, assessment, remedial designs, and coordination with TCEQ, in an amount not to exceed \$814,464.00, and,

WHEREAS, on May 15, 2013, Resolution No. 13-0776 authorized a lease agreement with the nonprofit corporation, Company of Trinity Forest Golfers, Inc. (CTFG) for development, management and operation of a championship golf course; and,

WHEREAS, on April 9, 2014, Resolution No. 14-0627 authorized an engineering design contract with Pacheco Koch Consulting Engineering, Inc. for the engineering design for improvements associated with Elam Road and Simpkins Remediation in an amount not to exceed \$842,290.00; and,

WHEREAS, on April 9, 2014, Resolution No. 14-0628 authorized a construction contract with L. D. Kemp Excavating, Inc. for the construction of closed landfill improvements for Simpkins Remediation in an amount not to exceed \$2,530,276.20, this being the lowest responsive bid as indicated by the tabulation of bids; and,

May 14, 2014

WHEREAS, on April 9, 2014, Resolution 14-0629 authorized Supplemental Agreement No. 1 to the engineering services contract with Terracon Consulting, Inc. for additional detailed environmental investigation, assessment, remedial designs, and coordination with TCEQ associated with Simpkins Remediation in an amount not to exceed \$273,720.00; increasing the contract from \$814,464.00 to \$1,088,184.00; and,

WHEREAS, bids were received on May 1, 2014, for the construction of closed landfill improvements for Simpkins Remediation, as follows:

<u>BIDDERS</u>	<u>BID AMOUNT</u>
DCI Contracting, Inc.	\$2,371,711.00
Vilhauer Enterprises	\$2,798,692.90
Longhorn Excavators, Inc.	\$3,350,799.60
L.D. Kemp Excavating, Inc.	\$3,463,246.10
FCS Construction	\$3,583,785.65

WHEREAS, it is now necessary to enter into a contract with DCI Contracting, Inc. lowest responsible bidder of five, for closed landfill improvements associated with the Simpkins Remediation located at 5950 Elam Road, 6300 Great Trinity Forest Way Boulevard, and 811 Pemberton Hill Road in an amount not to exceed \$2,371,711.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager is hereby authorized to enter into a contract with DCI Contracting, Inc. lowest responsible bidder of five, for closed landfill improvements associated with the Simpkins Remediation located at 5950 Elam Road, 6300 Great Trinity Forest Way Boulevard, and 811 Pemberton Hill Road in an amount not to exceed \$2,371,711.

Section 2. That the City Manager is hereby authorized to execute the contract after approval as to form by the City Attorney.

Section 3. That the City Controller is hereby authorized to receive and deposit funds in the amount of \$371,711.00 from the Company of Trinity Forest Golfers, Inc. in the Company of Trinity Forest Golfers Fund, Fund 0289, Dept. TWM, Revenue Source 8476, Act. CTFG.

Section 4. That the City Manager is hereby authorized to establish appropriations in the amount of \$371,711.00 in the Company of Trinity Forest Golfers Fund 0289, Dept. TWM, Unit P891, Object 4599.

May 14, 2014

Section 5. That the City Controller is hereby authorized to disburse funds in accordance with the terms and conditions of the contracts from:

Stormwater Drainage Management Capital Construction Fund
Fund 0063, Department SDM, Unit 4796, Act. SD01
Obj. 4599, Program # PBSWM007, CT SDM4796BM06
Vendor #VS0000052497, in an amount not to exceed \$2,000,000.00

Company of the Trinity Forest Golfers Fund
Fund 0289, Dept. TWM, Unit P891, Act. CTFG
Obj. 4599, Program # PBSWM007, CT TWMP891VH01
Vendor #VS0000052497, in an amount not to exceed \$ 371,711.00

Total Amount not to exceed \$2,371,711.00

Section 6. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so resolved.

DRAFT

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: May 14, 2014
COUNCIL DISTRICT(S): 5
DEPARTMENT: Trinity Watershed Management
CMO: Jill A. Jordan, P.E., 670-5299
MAPSCO: 57Q

SUBJECT

Authorize modifications to the Development and Operations Agreement with Equest for the Texas Horse Park to: **(1)** allow for a line of credit for Equest's operating account balance; **(2)** reduce the operating balance from three month average to one month average; and **(3)** strengthen the termination clauses - Financing: No cost consideration to the City

BACKGROUND

This action would approve modifications to the development and operations agreement with Equest approved on December 12, 2012, where the City is constructing a facility at the Texas Horse Park and Equest, a non-profit corporation, will operate a therapeutic riding program as more fully described in the agreement between the City of Dallas and Equest. The Texas Horse Park has long been part of the Dallas' Trinity River Project vision. Equest operates in Wylie, Texas, providing therapeutic riding for children and adults with physical, cognitive, emotional and learning disabilities. To operate at the Horse Park, Equest agreed to the following terms as part of the original agreement:

A six-year agreement with five 5-year renewal options with mutual consent subject to City approval.

Equest is responsible for all operating and maintenance costs, including major maintenance and utilities, associated with the facilities and portion of the site that they utilize.

A minimum of 75% of Equest's patrons at the Texas Horse Park location shall be residents of the city of Dallas.

Equest will endeavor to host the Special Olympics and other similar events at the Texas Horse Park site, including charity fund-raising events.

City reserves the right to reserve the event portion (including ancillary components, such as restrooms, visitor center, etc.) of the facility at no charge up to six dates per year, if not previously reserved, on mutually agreed upon terms and conditions.

BACKGROUND (Continued)

The modifications to the Development and Operations Agreement are as follows:
Requested clarification in Section 4.1 to address operating account balances, which clarifies the ability to use a line of credit and reduces number of months from three to one:

"Equest shall maintain a one-month balance equivalent to its one-month average operating costs either; 1) in cash deposited in an insured depository institution within the city limits of Dallas or; 2) through a line of credit; beginning upon City Council award of the construction contract and during the remaining Term of this Agreement."

Requested clarification to Exhibit C (Insurance Requirements) to include a schedule of activities. Insurance cannot be obtained for some items until actual activities begin.

Addition of Section 9.1(f) and 9.1(g) to address default in the event of moral turpitude, which requires conviction. This provides for Equest remedies to personnel issues prior to default:

"(f) conviction or a plea of nolo contendere (no contest) of Equest, or a then-serving member of Equest's Board of Directors, executive officers, or senior management, of any felony criminal statute(s) involving moral turpitude, or the harming of, or the intent to harm, persons or animals;

(g) conviction or a plea of nolo contendere (no contest) of Equest, or a then-serving member of Equest's Board of Directors, executive officers, or senior management, of any misdemeanor criminal statute(s) involving moral turpitude, or the harming of, or the intent to harm, persons or animals provided that Equest does not take immediate and decisive action to 1) remedy the harm caused by the violation; and 2) to take steps to City's (through its Director) reasonable satisfaction to ensure that future misdemeanor violations of a similar nature will not occur; and"

Addition of Section 9.1(h) to address default in the event of accreditation of therapeutic services is not maintained:

"(h) failure of Equest to maintain its status as an "Accredited Center" as determined by the Professional Association of Therapeutic Horsemanship International ("PATH"). Alternatively, should PATH cease offering this accreditation, the failure of Equest to maintain an accreditation, if available, at a level commensurate with the standards set forth in the most current PATH-issued Standards of Certification and Accreditation Manual."

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On November 7, 2012, City Council was briefed on the Horse Park and Equest Educational Charities.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS) (Continued)

On December 12, 2012, City Council approved Resolution No. 12-3068, authorizing a six-year development and operations agreement, with five five-year renewal options, with Equest, for the Texas Horse Park.

On May 7, 2014, the Transportation and Trinity River Project Committee was briefed on the Texas Horse Park update.

FISCAL INFORMATION

No cost consideration to the City

OWNER

Equest

Patrick J. Bricker, Chief Executive Officer

2012 Equest Board of Directors Executive Committee:

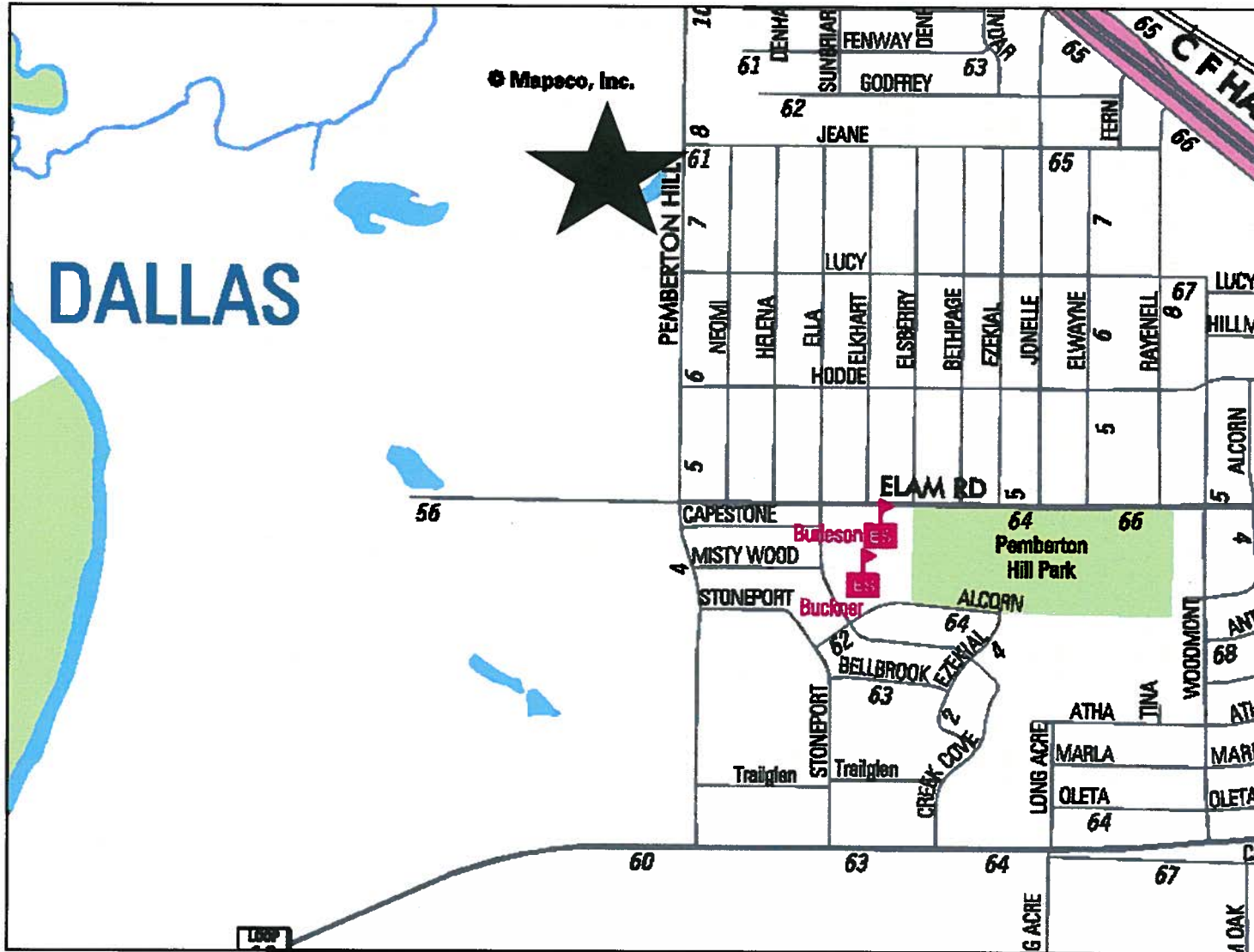
Emily Hargrove, Chairman
Dawn Spalding, Chairman-Elect
Natalie Snyder, Secretary
William J. Seeger, Ph.D., Treasurer
Melissa Cooksey, Chairman-Emeritus
Nekima Booker
Christina Collins
William Earhart
Tom Floyd
Phyllis Glazer
Paulette Hopkins
David Johnson
Terri Kennedy
William Noble
Susan Schwartz
Waverly Smith
Terry Stallcup
Andy Steingasser
Jocelyn White

MAP

Attached

Texas Horse Park

Council District 5



May 14, 2014

WHEREAS, the City is presently undertaking the Trinity River Corridor Project that will provide economic development opportunities along the Trinity River Corridor and the Great Trinity Forest located in Dallas County, Texas, and a component of the Trinity River Corridor Project is the development of an equestrian center, (the “ Texas Horse Park”); and

WHEREAS, \$12 million for the development of the Horse Park was approved in the 2006 Bond election; and

WHEREAS, Equest is a Texas non-profit corporation organized and existing under Texas law for the purpose of empowering, enriching, and educating children and adults with physical, cognitive, emotional, and learning disabilities, primarily through equine-assisted therapy; and

WHEREAS, the City is constructing the Texas Horse Park and the parties desire for Equest to provide therapeutic and other enrichment, educational equine-related services for the citizens of Dallas, particularly children and veterans with physical, cognitive and emotional learning disabilities; and

WHEREAS, Equest will operate its program at its own cost and maintain and manage a portion of the Texas Horse Park as discussed in the Agreement; and

WHEREAS, on December 12, 2012, City Council approved Resolution No. 12-3068, authorizing a six-year development and operations agreement, with five five-year renewal options, with Equest, for the Texas Horse Park.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That modifications to the development and operations agreement with Equest for the Texas Horse Park to: **(1)** allow for a line of credit for Equest’s operating account balance; **(2)** reduce the operating balance from three month average to one month average; and **(3)** strengthen the termination clauses be approved.

Section 2. That the City Manager be authorized to execute an amendment to the Equest development and operation agreement, reflecting the modifications herein, subject to the terms and conditions, after approval as to form by the City Attorney’s Office.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with provisions of the Charter of the City of Dallas, and it is accordingly so resolved.