



# Wylie City Council

## NOTICE OF MEETING

### Regular Meeting Agenda October 11, 2016 – 6:00 pm Wylie Municipal Complex Council Chambers/Council Conference Room 300 Country Club Road, Building #100

Eric Hogue .....	Mayor
Keith Stephens .....	Mayor Pro Tem
Diane Culver .....	Place 2
Jeff Forrester .....	Place 3
Candy Arrington .....	Place 4
William Whitney III .....	Place 5
David Dahl .....	Place 6
Mindy Manson.....	City Manager
Richard Abernathy .....	City Attorney
Carole Ehrlich .....	City Secretary

*In accordance with Section 551.042 of the Texas Government Code, this agenda has been posted at the Wylie Municipal Complex, distributed to the appropriate news media, and posted on the City website: [www.wylietexas.gov](http://www.wylietexas.gov) within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Wylie website: [www.wylietexas.gov](http://www.wylietexas.gov).*

*The Mayor and City Council request that all cell phones and pagers be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to respond to a page or to conduct a phone conversation.*

*The Wylie Municipal Complex is wheelchair accessible. Sign interpretation or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972.516.6020.*

*Hearing impaired devices are available from the City Secretary prior to each meeting.*

#### CALL TO ORDER

*Announce the presence of a Quorum*

#### INVOCATION & PLEDGE OF ALLEGIANCE

- **Police Chaplain Dan Rainey**

#### PRESENTATIONS

- **Award of Public Service Medals to the Wylie Police, Fire, EMS, & 911 employees – Sons of the American Revolution**

- **Recognition for the officers/firefighters who saved the life of Draper Student Enrique Monroy in March of 2016.**
- **Update on the ReBuild Wylie Initiative**
- **Proclamation Declaring October 9-15, 2016 as Fire Prevention Week in the City of Wylie.**
- **ICAN Presentation of group project**

#### CITIZENS COMMENTS ON NON-AGENDA ITEMS

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*Residents may address Council regarding an item that is not listed on the Agenda. Residents must fill out a non-agenda form prior to the meeting in order to speak. Council requests that comments be limited to three (3) minutes. In addition, Council is not allowed to converse, deliberate or take action on any matter presented during citizen participation.*

#### CONSENT AGENDA

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*All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

- A. Consider, and act upon, approval of the Minutes of September 27, 2016 Regular Meeting of the Wylie City Council. (C. Ehrlich, City Secretary)**
- B. Consider and act upon, Ordinance No. 2016-25 setting the time and place for all regular City Council Meetings in the 2017 calendar year. (C. Ehrlich, City Secretary)**
- C. Consider, and act upon the approval of the lease-purchase of mobile and portable radio equipment for Wylie Fire Rescue, Wylie Police Department; and network recorder equipment for Wylie Communications Department from Motorola Solutions in the estimated total amount of \$1,189,096.55 through a cooperative purchasing agreement with the Houston-Galveston Area Council (H-GAC Buy) and authorizing the City Manager to execute any necessary documents. (G. Hayes, Purchasing)**
- D. Consider and act upon the approval of the purchase of a dump truck from Southwest International Trucks in the amount of \$113,607.61 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents. (G. Hayes, Purchasing)**
- E. Consider and act upon the approval of the purchase of an El Dorado Aerotech 14 passenger bus from Alliance Bus Group in the amount of \$65,635.50 through a cooperative purchasing contract with Houston Galveston Area Council, and authorizing the City Manager to execute any necessary documents. (G. Hayes, Purchasing)**
- F. Consider and act upon the approval of the purchase of John Deere 410L Backhoe from RDO Equipment Company in the amount of \$108,526.14 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents. (G. Hayes, Purchasing)**

- G. Consider, and place on file, the Animal Shelter Advisory Board report to City Council regarding meeting held on September 14, 2016. (D. Dahl, ASAB Chair)**

## REGULAR AGENDA

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### **Tabled from 09-13-2016**

*Remove from table and consider*

- 1. Consider, and act upon, Ordinance No. 2016-19, amending the zoning from Agricultural-30 (A-30) to Single-Family 10/24 (SF-10/24) for Serene Villas Subdivision, creating 51 residential lots on 16.739 acres, generally located west of Kreymer Lane and north of Stone Road, (1033 S. Kreymer Ln; 1053 S. Kreymer Ln) ZC 2016-09 (R. Ollie, Development Services Director)**

#### **Executive Summary**

Zoning Case 2016-09 requires an Ordinance to amend the zoning accordingly in the Official Zoning map of the City; and providing a penalty clause, a repeal clause, a savings clause, a severability clause, and an effective date

### **Tabled from 09-13-2016**

*Remove from table and consider*

- 2. Consider, and act upon, approval of a Preliminary Plat for Serene Villas Subdivision, creating 67 residential lots on 21.925 acres, generally located west of Kreymer Lane and north of Stone Road, (1023 Private Rd.; 1033 S. Kreymer Ln; 1053 S. Kreymer Ln) (R. Ollie, Development Services Director)**

#### **Executive Summary**

The purpose of the Preliminary Plat is to combine three properties totaling 21.925 acres and will create 70 lots (67 single family residential lots and 3 open space lots). Currently, the properties are three larger lots, (two recommended for approval on August 23<sup>rd</sup> by City Council to be rezoned to SF-10/24 and one in Wylie's ETJ.

- 3. Conduct the 2nd Public Hearing for the annexation of 4.165 acres of land situated in the R.D. Newman Survey, Abstract No. 660, Collin County, Texas, located 2701 Hwy 78. (R. Ollie, Development Services Director)**

#### **Executive Summary**

This annexation is at the request of the property owner and applicant of a 4.165 acre tract. The subject tract is contiguous to existing city limits on the north, east and south sides, while properties to west are within the jurisdiction of Sachse.

### **Presentation:**

- 4. Consider, and act upon, the final artist and art designs by Michael Szabo for the 2016 CIP Thoroughfare Public Art Projects, Site #1 and Site #2 and authorize the City Manager to execute two contracts in the amount of \$130,000 each, to commission the art pieces. (C. Ehrlich, City Secretary)**

**Executive Summary**

The Public Art Advisory Board issued a Call for Artists for three public art projects funded by the 2005 Thoroughfare Bond projects. Site #1 and Site#2, located near each end of the Municipal Complex Walking Trails (Country Club Road/ FM 544 and West Brown) were funded at \$130,000 per site, and Site #3 located at the Disc Golf Park on West Brown was funded at \$52,000.

5. **Consider, and act upon, the final artist and art design by John Davis for the 2016 CIP Thoroughfare Public Art Project, Site #3 and authorize the City Manager to execute a contract, not to exceed \$52,000 to commission the art. (C. Ehrlich, City Secretary)**

**Executive Summary**

The Public Arts Advisory Board issued a Call for Artists for three public art projects funded by the 2005 Thoroughfare Bond projects. Site #1 and Site#2, located near each end of the Municipal Complex Walking Trails (Country Club Road/ FM 544 and West Brown) were funded at \$130,000 per site, and Site #3 located at the Disc Golf Park on West Brown was funded at \$52,000.

**READING OF ORDINANCES**

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*Title and caption approved by Council as required by Wylie City Charter, Article III, Section 13-D.*

**WORK SESSION**

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- **Hold a work session to discuss the Building Condition Assessment, Program and Preliminary Project Estimate for the Public Safety Building (C. Holsted, Asst. City Manager)**

**RECONVENE INTO REGULAR SESSION****ADJOURNMENT**

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If during the course of the meeting covered by this notice, the City Council should determine that a closed or executive meeting or session of the City Council or a consultation with the attorney for the City should be held or is required, then such closed or executive meeting or session or consultation with attorney as authorized by the Texas Open Meetings Act, Texas Government Code § 551.001 et. seq., will be held by the City Council at the date, hour and place given in this notice as the City Council may conveniently meet in such closed or executive meeting or session or consult with the attorney for the City concerning any and all subjects and for any and all purposes permitted by the Act, including, but not limited to, the following sanctions and purposes:

**CERTIFICATION**

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*I certify that this Notice of Meeting was posted on October 7, 2016 at 5:00 p.m. as required by law in accordance with Section 551.042 of the Texas Government Code and that the appropriate news media was contacted. As a courtesy, this agenda is also posted on the City of Wylie website: [www.wylietexas.gov](http://www.wylietexas.gov).*

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**Carole Ehrlich, City Secretary**

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**Date Notice Removed**



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** ICAN  
**Prepared By:** Stephanie Storm  
**Date Prepared:** August 16, 2016

**Item Number:** Presentation  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** N/A  
**Exhibits:** \_\_\_\_\_

### Subject

ICAN Presentation

### Recommendation

None

### Discussion

The City of Wylie Individual Career Advancement Navigation Class of 2016 (ICAN), is a succession and leadership program made up of City employees. Each class has a community project. This year's class has asked the citizens of Wylie to help raise donations and items for the *Children's Advocacy Center of Collin County Rainbow Room (CACCC)*.

The Children's Advocacy Center of Collin County (CACCC) is a non-profit organization whose mission is to provide safety, healing, and justice to children victimized by abuse or neglect.

Located within the CACCC, the Rainbow Room is a dedicated space for meeting emergency needs of the children and families they serve. Children who have to leave their homes because of abuse or neglect often leave home with nothing but the clothes on their back. Non-offending family members caring for a child who has been a victim of abuse may struggle to meet the unexpected needs of a child in crisis. The Rainbow Room accepts *new items only*, operating on the credo that "abused and neglected children don't deserve abused and neglected things." The Rainbow Room provides immediate access to clothing, shoes, hygiene products and baby items completely free of charge to those individuals. It is also accessible for our partners from Child Protective Services and law enforcement to access the things they need to ensure safe environments for their clients.

This mission of the CACCC is accomplished using coordinated intervention among child abuse professionals to ensure protection of victims of abuse or neglect. These professionals include law enforcement, Child Protective Services, community education programs, medical and mental health professionals, family advocates, and members of the Collin County District Attorney's Office. The services of the CACCC include but are not limited to providing forensic interviews, therapy, community resources, and family advocacy to child victims of abuse and neglect. These services are provided to children and non-offending family members at no cost to them and there are no waiting lists.

There are significant needs for these services in Collin County. Approximately 3,866 clients (children and non-offending family members) received services through the CACCC during fiscal year 2015. Of those 3,866 clients who received services, 340 of those clients are citizens of Wylie.

The CACCC relies on support from the community to carry out its mission of safety, healing, and justice. The CACCC provides such essential services to the community, that two Wylie Police Detectives are assigned to the Advocacy Center to investigate crimes against children.

The ICAN class partnered with the Smith Library to help reach their goals. During the month of August, patrons were able to bring baby diapers and wipes and have up to \$10 waived on overdue fines. The ICAN class also set up a donation bin located in the City Secretary's Office to accept new items such as clothes, shoes, backpacks, etc. Orange Leaf frozen yogurt held a Cups with Cops where they donated 10% of their sales during a specified time to the Rainbow Room. The POLICE Club donated their time to assist with a car wash on October 1<sup>st</sup> at Brookshire's, which raised \$850 for the Rainbow Room. Wal-Mart donated a \$100 gift card to assist with purchasing items for the Rainbow Room.

Both the community and the City of Wylie employees have been very generous throughout this entire project. We look forward to continue to contribute and bring awareness to the Rainbow Room.



# Wylie City Council

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## Minutes

### City Council Meeting

Tuesday, September 27, 2016 – 6:00 p.m.  
Wylie Municipal Complex – Council Chambers  
300 Country Club Road, Bldg. 100  
Wylie, TX 75098

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#### CALL TO ORDER

*Announce the presence of a Quorum.*

Mayor Eric Hogue called the meeting to order at 6:00 p.m. City Secretary Ehrlich took roll call with the following City Council members present: Mayor pro tem Keith Stephens, Councilman David Dahl, Councilwoman Candy Arrington, Councilwoman Diane Culver, Councilman William Whitney III, and Councilman Jeff Forrester.

Staff present were: Assistant City Manager, Chris Holsted; Fire Chief, Brent Parker; Development Services Director, Renae Ollie; Police Chief, Anthony Henderson; Finance Director, Linda Bantz; Special Services Director, Mike Sferra; Library Director, Rachel Orozco; City Secretary, Carole Ehrlich; Public Information Officer, Craig Kelly, and various support staff.

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#### INVOCATION & PLEDGE OF ALLEGIANCE

Mayor pro tem Stephens gave the invocation and Councilman Whitney led the Pledge of Allegiance.

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#### PRESENTATIONS

- **Presentation of Keep Texas Beautiful Award** - Robert Medigovich, CWD

Robert Medigovich, representing Community Waste Disposal, presented a Keep American Green plaque to the City of Wylie for their solid waste events and recycling program. Medigovich noted that only 10% of cities nationally received this honor.

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#### CITIZENS COMMENTS ON NON-AGENDA ITEMS

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No citizens were present wishing to address Council.

## **CONSENT AGENDA**

*All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

- A. Consider, and act upon, approval of the Minutes of September 13, 2016 Regular Meeting of the Wylie City Council. (C. Ehrlich, City Secretary)**
- B. Consider, and act upon, approval of the Financial Management Policies. (L. Bantz, Finance Director)**
- C. Consider, and act upon, Resolution No. 2016-25(R) approving the current Investment Policy as required by the Texas Government Code, Chapter 2256, Public Funds Investment Act, Subchapter A – Authorized Investments for Governmental Entities. (L. Bantz, Finance Director)**
- D. Consider, and place on file, the City of Wylie Monthly Investment Report for August 31, 2016. (L. Bantz, Finance Director)**
- E. Consider, and place on file, the City of Wylie Monthly Revenue and Expenditure Report for August 31, 2016. (L. Bantz, Finance Director)**
- F. Consider, and act upon, approval of a Final Plat for Bozman Farm Estates Phase 5B Addition, creating 74 residential lots and 4 open space lots on 21.874 acres, generally located south of Bozman Farm Estates Phase 3, north of Beaver Creek Rd. (R. Ollie, Development Services Director)**
- G. Consider, and act upon, approval of a Preliminary Plat for Kreymer East Phase 1, creating 86 residential lots and 2 open space lots on 26.782 acres, generally located east of W.A. Allen and north of Kings Court. (R. Ollie, Development Services Director)**
- H. Consider, and act upon, approval of Ordinance No. 2016-23 of the city council of the City of Wylie, Texas, amending Wylie's Code of Ordinances, Ordinance No. 2005-07, as amended, Appendix C (Wylie Comprehensive Fee Schedule), Section VIII (Public Library); modifying certain library fees; providing a penalty clause, savings/repealing clause, severability clause and an effective date; and providing for the publication of the caption hereof. (R. Orozco, Library Director)**
- I. Consider, and act upon, the award of bid # W2016-91-B for Wylie Senior Center Parking Lot Expansion Project; to Wall Enterprises in the amount of \$49,890.82, and authorizing the City Manager to execute any and all necessary documents. (G. Hayes, Purchasing)**
- J. Consider, and place on file, the monthly Revenue and Expenditure Report for the Wylie Economic Development Corporation as of August 31, 2016. (S. Satterwhite, WEDC Director)**

### **Council Action**

A motion was made by Councilwoman Culver, seconded by Councilman Whitney to approve the Consent Agenda as presented. A vote was taken and the motion passed 7-0.

## **REGULAR AGENDA**

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- 1. Conduct the 2nd Public Hearing for the annexation of approximately 2 acres of land situated in the Guadalupe De Los Santos Survey, Abstract No. 1100, Collin County, Texas, located southeast of the intersection of South Ballard and Pleasant Valley Road. 2016-03A.**  
*(R. Ollie, Development Services Director)*

### **Staff Comments**

Development Services Director Ollie addressed Council stating that this annexation is at the request of the property owner and applicant of a 2.009 acre tract. The subject tract is contiguous to existing city limits on the west, south, and east side, while properties to the north across Pleasant Valley are within unincorporated Collin County.

### **Public Hearing**

Mayor Hogue opened the second public hearing on Annexation 2016-03A at 6:11 p.m. asking anyone present wishing to address Council to come forward.

No one was present wishing to address Council.

Mayor Hogue closed the second public hearing on Annexation 2016-03A at 6:13 p.m.

No action required on this item.

- 2. Consider, and act upon, Ordinance No. 2016-24 authorizing the annexation of approximately 2 acres of land situated in the Guadalupe De Los Santos Survey, Abstract No. 1100, Collin County, Texas, located southeast of the intersection of South Ballard and Pleasant Valley Road. 2016-03A** *(R. Ollie, Development Services Director)*

### **Staff Comments**

Development Services Director Ollie addressed Council stating that the subject tract is contiguous to existing city limits on the west, south, and east side, while properties to the north across Pleasant Valley are within unincorporated Collin County. The applicant desires to bring the subject tract into the city and zone it under the same Planned Development as the surrounding Dominion of Pleasant Valley master planned community.

### **Council Action Councilman Whitney**

A motion was made by Councilman Whitney, seconded by Councilwoman Culver to authorize the annexation of approximately 2 acres of land situated in the Guadalupe De Los Santos Survey, Abstract No. 1100, Collin County, Texas, located southeast of the intersection of South Ballard and Pleasant Valley Road. (2016-03A) A vote was taken and the motion passed 7-0.

- 3. Conduct the 1st Public Hearing for the annexation of 4.165 acres of land situated in the R.D. Newman Survey, Abstract No. 660, Collin County, Texas, located at 2701 Hwy 78.** *(R. Ollie, Development Services Director)*

### **Staff Comments**

Development Services Director Ollie addressed Council, stating that this annexation is at the request of

the property owner and applicant of a 4.165 acre tract. The subject tract is contiguous to existing city limits on the north, east, and south sides, while properties to west are within the jurisdiction of Sachse.

### **Applicant Comments**

Applicant Jim Cook representing Serene Builders stated this annexed area would be constructed as commercial property including a Serene Builders Office space and showroom. Cook indicated he could not determine how much land would be utilized until they studied the flood plain and other factors. Mayor pro tem Stephens asked the applicant to leave as many trees on the property as possible.

### **Public Hearing**

Mayor Hogue opened the first public hearing on Annexation 2016-04A at 6:18 p.m. asking anyone present wishing to address Council to come forward.

No one was present wishing to address Council.

Mayor Hogue closed the first public hearing on Annexation 2016-04A at 6:19 p.m.

The following schedule has been adhered to:

Notice published for Public Hearing	September 14, 2016 and September 21, 2016
First Public Hearing	September 27, 2016
Second Public Hearing	October 11, 2016
Adoption of Ordinance	October 25, 2016

No action required on this item.

### **READING OF ORDINANCES**

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*Title and caption approved by Council as required by Wylie City Charter, Article III, Section 13-D.*

City Secretary Ehrlich read the captions to Ordinance No.'s 2016-23 and 2016-24 into the official record.

Mayor Hogue convened into a Joint Work Session at 6:20 p.m.

### **JOINT WORK SESSION**

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- **Hold a Joint Work Session with the Historic Review Commission to discuss rules and procedures.** (R. Ollie, Development Services Director)

HRC member Bob Heath called the Historic Review Commission to order with the following members present: James Park, Gary Taylor, Mandi Wilson, Sandra Stone, and John Pugh. Staff present included Development Services Director Renae Ollie and various staff support.

Mayor Hogue convened the work session to order at 6:22 p.m.

Development Services Director Ollie reviewed a Texas Attorney General opinion regarding Chapter 171 of the Local Government Code and a Historic Review Commission. She reported Chapter 171 of the Local Government Code regulates local public officials' conflicts of interest. It prohibits a local public official from voting or participating on a matter involving a business entity or real property in which the official has a substantial interest if an action on the matter that will result in a special economic effect on the business that is distinguishable from the effect on the public, or in the case of a substantial interest in real property, it is reasonably foreseeable that the action will have a special economic effect on the value of the property, distinguishable from its effect on the public. Id. at § 171.004(a).

Ollie explained the adoption of Ordinance No. 2013-17 set forth the powers and duties of the Historic Review Commission and gave final approval on certain matters to the board, which defines them as "public officials." The primary changes in the proposed ordinance include modifications that would restrict the responsibilities of the HRC and bring it into conformance with Chapter 171 of the Texas Local Government Code; making it an advisory board, with final approval coming from City Council and/or Planning and Zoning.

Currently, the board is made up of seven board members, and has one member on the board that does not work, live, or have a business in the Downtown Historic District.

Staff is asking for direction to reflect advisory capacity of the HRC, revisions to the proposed text amendments that restrict final approval by the HRC, and re-consideration of the proposed text amendments in regard to the Historic District. Staff requested direction regarding who the final authority will be for approval of HRC items.

The HRC Board Members and Council discussed definition of Historic, contributing versus non-contributing. HRC Commissioners recommended the age of fifty years or older.

Acting City Manager, Chris Holsted, recommended that the Historic Review Commission revise the text guidelines to the Historic District and make recommendations to the Planning and Zoning Commission, and then to City Council.

Council directed staff to place the City Council as the final authority to approve Historic District recommendations from the HRC.

## **RECONVENE INTO REGULAR SESSION**

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Mayor Hogue reconvened into Regular Session at 7:30 p.m.

## **ADJOURNMENT**

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A motion was made by Councilman Whitney, seconded by Councilman Forrester to adjourn the meeting at 7:34 p.m. A vote was taken and the motion passed 7-0.

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**Eric Hogue, Mayor**

**ATTEST:**

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**Carole Ehrlich, City Secretary**



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** City Secretary  
**Prepared By:** Carole Ehrlich  
**Date Prepared:** July 26, 2016

**Item Number:** B  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** \_\_\_\_\_  
**Exhibits:** Ordinance & Calendar

### Subject

Consider and act upon, Ordinance No. 2016-25 setting the time and place for all regular City Council Meetings in the 2017 calendar year.

### Recommendation

A motion to approve, Ordinance No. 2016-25 setting the time for 6:00 p.m. and place for all regular City Council Meetings in the 2017 calendar year.

### Discussion

The City of Wylie Home Rule Charter in Article III, Section 9 states that the City Council shall hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council shall fix, by ordinance, the date and time of the regular meetings. Special meetings of the City Council shall be held on the call of the mayor or a majority of the City Council members.

By this Ordinance, the dates and times of all regular meetings in 2017 will be set. During the months of November and December one meeting per month has been scheduled due to the holidays. Upon request of the Council, special called meetings and work sessions can be scheduled at any times designated by the City Council and posted in accordance with the Texas Open Meetings Act.

**ORDINANCE NO. 2016 -25**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, HEREBY SETTING THE REGULAR CITY COUNCIL MEETING DATES FOR CALENDAR YEAR 2017 FOR THE CITY OF WYLIE, TEXAS; PROVIDING FOR SAVINGS, REPEALING AND SEVERANCE CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.**

**WHEREAS**, the City Council normally meets on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month; and

**WHEREAS**, the City Charter requires the City Council to meet at least once each month; and

**WHEREAS**, many citizens, City employees and elected officials take vacations or are unavailable during the holidays; and

**WHEREAS**, the City Council finds it will be beneficial and in the best interests of the public to set forth its regular meeting dates for the calendar year 2017.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS:**

SECTION 2: The City Council of the City of Wylie, Texas, hereby determines that regular meetings will be held on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays for the first ten months of 2017 (January through October) and on the 2<sup>nd</sup> Tuesday in November and December, 2017, which shall be on the following dates:

January 10 and 24, 2017	July 11 and 25, 2017
February 14 and 28, 2017	August 8 and 22, 2017
March 14 and 28, 2017	September 12 and 26, 2017
April 11 and 25, 2017	October 10 and 24, 2017
May 9 and 23, 2017	November 14, 2017
June 13 and 27, 2017	December 12, 2017

SECTION 3: Nothing herein shall prohibit the City Council from canceling or changing the regular meeting dates established herein or from holding special or other meetings as allowed by law.

SECTION 4: The City Council's regular meetings shall generally begin at 6:00 p.m. and are usually held at 300 Country Club Road, Building #100, Wylie, Texas in the City Council meeting chambers in City Hall; however the exact time and location for each meeting shall be posted in accordance with the Texas Open Meetings Act.

**SECTION 5: Savings/ Repealing Clause.** All provisions of any ordinance in conflict with this ordinance are hereby repealed; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

**SECTION 6: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Wylie hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION 7: Effective Date.** This Ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** by the City Council of the City of Wylie, Texas, on this the 11th day of October, 2016.

\_\_\_\_\_  
Eric Hogue, Mayor

**ATTEST TO:**

\_\_\_\_\_  
Carole Ehrlich, City Secretary

# 2017 Wylie City Council Yearly Calendar

January						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February						
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19	20	21	22	23	24	25
26	27	28				

March						
S	M	T	W	T	F	S
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April						
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30						

May						
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21	22	23	24	25	26	27
28	29	30	31			

June						
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4	5	6	7	8	9	10
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18	19	20	21	22	23	24
25	26	27	28	29	30	

July						
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2	3	4	5	6	7	8
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23	24	25	26	27	28	29
30	31					

August						
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27	28	29	30	31		

September						
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

## 2017 Council Dates



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Fire  
**Prepared By:** Purchasing  
**Date Prepared:** September 30, 2016

**Item Number:** C  
*(City Secretary's Use Only)*  
**Account Code:** 100-5241-58850;  
**Budgeted Amount:** \$245,704.00  
**Exhibits:** \_\_\_\_\_

### Subject

Consider, and act upon the approval of the lease-purchase of mobile and portable radio equipment for Wylie Fire Rescue, Wylie Police Department; and network recorder equipment for Wylie Communications Department from Motorola Solutions in the estimated total amount of \$1,189,096.55 through a cooperative purchasing agreement with the Houston-Galveston Area Council (H-GAC Buy) and authorizing the City Manager to execute any necessary documents.

### Recommendation

Motion authorizing the approval of a lease- purchase agreement for mobile and portable radio equipment for Wylie Fire Rescue, Wylie Police Department; and network recorder equipment for Wylie Communications Department from Motorola Solutions in the estimated amount of \$1,189,096.55 through a cooperative purchasing agreement with the Houston-Galveston Area Council (H-GAC Buy) and authorizing the City Manager to execute any necessary documents.

### Discussion

This lease-purchase will provide new radio equipment for police, fire, and communications. The new radios will be equipped with the latest technology including the ability to operate on a time division multiple access (TDMA) system, sometimes referred to as "Phase 2". TDMA will double the capacity of the City's system by dividing channels into multiple slots. This will accommodate both the growth of users from the current member cities, and will also create capacity for new users (helping to offset the operating cost of the system). With a new Collin College campus coming to Wylie, communication between their police department and our public safety agencies will be paramount. Being on the same radio system will streamlines the process to simply changing the channel on the radio.

Additional technology upgrades include GPS on the portable radios which will ultimately allow for personnel to be tracked when out of their vehicles. The City will also be taking advantage of a financial incentive offered by Motorola. By completing the lease-purchase agreement prior to the end of October, all APX 6000 radios will be equipped with Wi-Fi capability. This option allows for programming and updates to be sent to the radio over a Wi-Fi connection instead of the current configuration which requires interfacing directly to a computer. This will ensure radios are consistently equipped with the latest software, as well as allow for programming to be changed easily and remotely as needed.

The lease-purchase also includes a network recording system to record all radio traffic, as well as 911 and administrative calls in the Communications Center. The current recording system is a standalone system that would have required costly upgrading to become TDMA capable. The new system will be equipped with the latest technology, including redundant recording capabilities for the telephone. For radio recording, the cities of Wylie and Murphy will use each other's sites for backup. This furthers the interoperability of the Plano, Allen, Wylie, Murphy (PAWM) regional radio system while saving money and providing redundancy.

Staff recommends entering into a five-year lease-purchase agreement with Motorola Solutions through the Houston-Galveston Area Council cooperative in the amount of \$1,219,894.15, and payments will be made annually beginning October 2016 in the amount of \$237,819.31.

The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Section 271 Subchapter F of the Local Government Code; and by doing so satisfies any State Law requiring local governments to seek competitive bids for items.

HGAC CONTRACT RA-015 System 03BA/PAWM 32309; Wylie Agreement W2017-12-L



# Wylie City Council

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## AGENDA REPORT

Meeting Date: October 11, 2016  
Department: Purchasing  
Prepared By: G. Hayes  
Date Prepared: 10/5/2016

Item Number: D  
*(City Secretary's Use Only)*  
Account Code: 611-5712-58850  
Budgeted Amount: \$115,000  
Exhibits: \_\_\_\_\_

### Subject

Consider and act upon the approval of the purchase of a dump truck from Southwest International Trucks in the amount of \$113,607.61 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents.

### Recommendation

A motion to approve the purchase of a dump truck from Southwest International Trucks in the amount of \$113,607.61 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents.

### Discussion

The City's current truck is at its end of life due to normal wear, age and cost to maintain. Staff recommends the purchase of a new dump truck in the amount of \$113,607.61.

The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Chapter 791 of the Texas Government Code and Section 271 Subchapter F of the Local Government Code; and by doing so satisfies any State Law requiring local governments to seek competitive bids for items.

TASB-Buy Board Contract #430-13;  
Wylie #W2017-3-I





# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Purchasing  
**Prepared By:** G. Hayes  
**Date Prepared:** 10/5/2016

**Item Number:** F  
*(City Secretary's Use Only)*  
**Account Code:** 100-5411-58850  
**Budgeted Amount:** \$115,000  
**Exhibits:** \_\_\_\_\_

### Subject

Consider and act upon the approval of the purchase of John Deere 410L Backhoe from RDO Equipment Company in the amount of \$108,526.14 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents.

### Recommendation

A motion to approve the purchase of John Deere 410L Backhoe from RDO Equipment Company in the amount of \$108,526.14 through a cooperative purchasing contract with TASB/Buy Board, and authorizing the City Manager to execute any necessary documents.

### Discussion

The City's current backhoe is at its end of life due to normal wear, age and cost to maintain. Staff recommends the purchase of a new John Deere backhoe in the amount of \$108,526.14.

The City is authorized to purchase from a cooperative purchasing program with another local government or a local cooperative organization pursuant to Chapter 791 of the Texas Government Code and Section 271 Subchapter F of the Local Government Code; and by doing so satisfies any State Law requiring local governments to seek competitive bids for items.

TASB-Buy Board Contract #424-13;  
Wylie #W2017-4-I



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Animal Control  
**Prepared By:** David Dahl  
**Date Prepared:** September 20, 2016

**Item Number:** G  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** \_\_\_\_\_  
approved minutes/statistical  
report/shelter activity  
**Exhibits:** \_\_\_\_\_

### Subject

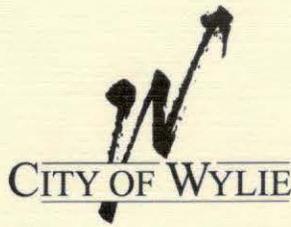
Consider, and place on file, the Animal Shelter Advisory Board report to City Council regarding meeting held on September 14, 2016.

### Recommendation

Motion to accept and place on file, the Animal Shelter Advisory Board report to City Council regarding meeting held on September 14, 2016.

### Discussion

The ASAB met on September, 2016. The attached minutes & statistical report were considered, approved and placed on file. This report is being submitted as required by city ordinance.



# Wylie Animal Shelter Advisory Board

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## Minutes

### Wylie Animal Shelter Advisory Board

May 11, 2016 – 6:00 pm

City of Wylie City Hall – Council Chambers

300 Country Club Building 100 Wylie Texas 75098

#### **CALL TO ORDER**

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*Announce the presence of a Quorum.*

David Dahl called to order at 6:05 pm. Board members present: Shelia Patton, David Dahl, Dr. Chuck Kerin and Amy Nutz.

#### **INVOCATION & PLEDGE OF ALLEGIANCE**

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The Pledge of Allegiance was led by Dr. Chuck Kerin. The Invocation was led by David Dahl.

#### **REGULAR AGENDA ITEMS**

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1. Consider and act upon approval of the Animal Advisory Board minutes of January 13, 2016. (D. Dahl, ASAB Chair)

##### **Board Action**

A motion was made by Dr. Chuck Kerin to accept Animal Shelter Advisory Board minutes of January 13, 2016 as presented. Shelia Patton seconded to accept minutes. A vote was taken and the motion passed unanimously.

2. Consider and place on first fourth quarter statistical information for shelter operations. (D. Dahl, ASAB Chair)

##### **Board Action**

A motion was made by Dr. Chuck Kerin to place into public record the statistical report for the reporting period of January 1, 2016 thru March 31, 2016. Shelia Patton seconded to place into public record the statistical report for the reporting period of January 1, 2016 thru March 31, 2016. A vote was taken and the motion passed unanimously.

## **DISCUSSION ITEMS**

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### **3. Discussion regarding shelter events and status first quarter.**

Shelia Patton reports six sterilization transports available from Wylie Animal Control for residents to low cost animal care provider. There were three additional transports available for residents to include Happy Neuter Year twenty dollar sterilization, Beat the Heat twenty dollar sterilization and Community Cats free sterilization and vaccination. Three low cost vaccination clinics held at the City of Wylie during evening hours. Forty nine animals have been through the low cost contracted sterilization program. These animals were sterilized, microchipped and given their rabies vaccination if age appropriate. Age appropriate vaccinations are given upon intake by staff of City of Wylie besides rabies. Three extended evening hours of operation for residents to comply with city registration of pets. Three total animals have been through foster program. Animal Control Officers visited areas of high volume calls to deliver information regarding sterilization and vaccination low cost options. This is an effort to promote responsible pet ownership to lower the number of unwanted, stray and abandoned animals. Volunteers logged 179.5 hours and service hour programs have logged 44.5 hours. We are partnered with several programs to offer service hours. Animals at the facility are spotlighted twice monthly via the Pet of the Week in the Wylie News. Facebook for social media outreach is utilized to highlight lost pets, adoptable pets, stray animals and area events.

Chairman David Dahl asks if any board members have questions regarding the events and status report. With no questions asked Chairman David Dahl expressed his appreciation to the outgoing board members present at the meeting. Their dedication to serve is greatly appreciated.

## **ADJOURNMENT**

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Motion was made by Amy Nutz and seconded by Dr. Chuck Kerin to adjourn meeting. With no further business before the board, consensus of the board was to adjourn at 6:27 pm.



David Dahl, Chairman



Shelia Patton, Acting Secretary

Animal Shelter Advisory Committee Report  
September 14, 2016

**April 1, 2016 thru June 30, 2016**

	Dogs	Cats	Others	Total
Impounds	230	71	142	443
Owner Surrender	10	2	0	12
Stray	188	23	45	256
Quarantine	10	0	0	10
Safe Keeping	2	0	0	2
DOA	12	15	58	85
Trapped by resident	0	29*	39	68
Born at Shelter	8	2	0	10

\*trapped but evaluated as adoptable

Dispositions	Dogs	Cats	Others	Total
Return to Owner	149	3	1	153
Adopted	35	29	0	64
Rescued	8	8	15	31
Euthanized	6	12	49	67
Other	*5	0	**19	24

\* deceased at birth

\*\*19 rehabilitation/relocation

**Euthanasia Reason**

Behavioral	2	1	0	3
Medical	3	9	12	24
Policy- H.R.R.C	**1	**2	12	15
Wild Animal	0	0	25	25

\*\*required rabies testing shipment

Euthanasia for dogs           2.67%  
Euthanasia for cats                   17.91%  
Euthanasia dogs & cats                   total           8.00%

ACO Calls For Service April 1, 2016 thru June 30, 2016: 1,020

Dogs at facility at end of report: 27

Dogs at facility at beginning of report: 12

Cats at facility at end of report: 15

Cats at facility at beginning of report: 11

**Euthanasia Rate for Facility April 1, 2016 thru June 30, 2016 8.00%**

## **Shelter Activity Update: Information for ASAB meeting held on September 14, 2016**

Last meeting date of ASAB: May 11, 2016

Shelia Patton: City of Wylie Animal Control Supervisor reporting second quarter 2016

- Six sterilization transports for public access from Wylie Animal Control for residents to low cost animal care provider.  
In collaboration with PetSmart Charities and Spay Neuter network these low cost programs are made available through grants for residents:  
Precious not Parents: Puppies and Kittens \$20.00 Sterilization and vaccination  
Feline Fridays: All Felines \$20.00 Sterilization and vaccination six clinics offered.  
Fixin' Feral Felines: \$20 includes surgery, rabies vaccination & ear tip trapped wild animals only.
- Three low cost vaccination clinics held at the City of Wylie Animal Control during evening hours to provide residents access to low cost vaccinations, heartworm testing and preventative medication. Residents can comply with registration of pets as two staff members as well as veterinarian and vet assistant are on site.
- Volunteers logged 39 hours and service workers logged 920 hours.
- Pet of the week twice monthly with Wylie News is ongoing. Facebook for social media outreach is still maintained and has proved to be an effective mode of communication for lost pets, adoptable animals and information related to the cities pet needs and services.
- 50 animals received services through the pre-adoption sterilization program.

Wylie Animal Control participated in the Clear the Shelters campaign this year. While this is not a second quarter event as it was in July it deserves mention. Staff members work extremely hard to prepare for this event each year. Staff adopted 47 total animals for the campaign this year. We had amazing volunteers on hand the day of the event to help. Twenty two pets were adopted in the few days prior to the event with full adoption fees simply because they heard about the campaign. On the day of the event animals of appropriate age were sterilized, fully vaccinated, microchipped, dewormed, flea treated and had donated vouchers for medical care valued at over \$200.00.

We cleared the shelter for the third year in a row of all adoptable pets. We were able to obtain veterinary care for two heartworm positive dogs from local veterinarian clinics by simply being in the eyes of the public through media campaigns. This was a community effort and we are very thankful to our citizens, managers and city council for supporting our efforts to have an amazing event.



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Planning  
**Prepared By:** Renae' Ollie  
**Date Prepared:** October 6, 2016

**Item Number:** 1  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** \$ \_\_\_\_\_  
**Exhibits:** \_\_\_\_\_

### Subject

#### Tabled from 09-13-2016

*Remove from table and consider*

Consider, and act upon, Ordinance No. 2016-19, amending the zoning from Agricultural-30 (A-30) to Single-Family 10/24 (SF-10/24) for Serene Villas Subdivision, creating 51 residential lots on 16.739 acres, generally located west of Kreymer Lane and north of Stone Road, (1033 S. Kreymer Ln; 1053 S. Kreymer Ln) **ZC 2016-09**

### Recommendation

Motion to TABLE to the October 25, 2016 meeting. **ZC 2016-09**

### Discussion

**Owners: Beatriz Chavez (Lujan) and Cleo Kikuchi (Living Trust)    Applicant: Jim Koch (Serene Development)**

Zoning Case 2016-09 requires an Ordinance to amend the zoning accordingly in the Official Zoning map of the City; and providing a penalty clause, a repeal clause, a savings clause, a severability clause, and an effective date.



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Planning  
**Prepared By:** Renaë' Ollie  
**Date Prepared:** September 2, 2016

**Item Number:** 2  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** \_\_\_\_\_  
**Exhibits:** \_\_\_\_\_

### Subject

**Tabled from 09-13-2016**  
*Remove from table and consider*

Consider, and act upon, approval of a Preliminary Plat for Serene Villas Subdivision, creating 67 residential lots on 21.925 acres, generally located west of Kreymer Lane and north of Stone Road, (1023 Private Rd.; 1033 S. Kreymer Ln; 1053 S. Kreymer Ln)

### Recommendation

Motion to TABLE to the October 25, 2016 meeting

### Discussion

**OWNER: SGG Villas**

**ENGINEER: Roome Land Surveying**

The purpose of the Preliminary Plat is to combine three properties totaling 21.925 acres and will create 70 lots (67 single family residential lots and 3 open space lots). Currently, the properties are three larger lots, (two recommended for approval on August 23<sup>rd</sup> by City Council to be rezoned to SF-10/24 and one in Wylie's ETJ.



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** Planning  
**Prepared By:** Renae' Ollie  
**Date Prepared:** September 28, 2016

**Item Number:** 3  
*(City Secretary's Use Only)*  
**Account Code:** \_\_\_\_\_  
**Budgeted Amount:** \_\_\_\_\_  
**Exhibits:** 4

### Subject

Conduct the 2<sup>nd</sup> Public Hearing for the annexation of 4.165 acres of land situated in the R.D. Newman Survey, Abstract No. 660, Collin County, Texas, located at 2701 Hwy 78

### Recommendation

Conduct Public Hearing only. No action is necessary.

### Discussion

**Property Owner: Sandy Chen Ho**

**Applicant: Ryan Cole – Serene Global**

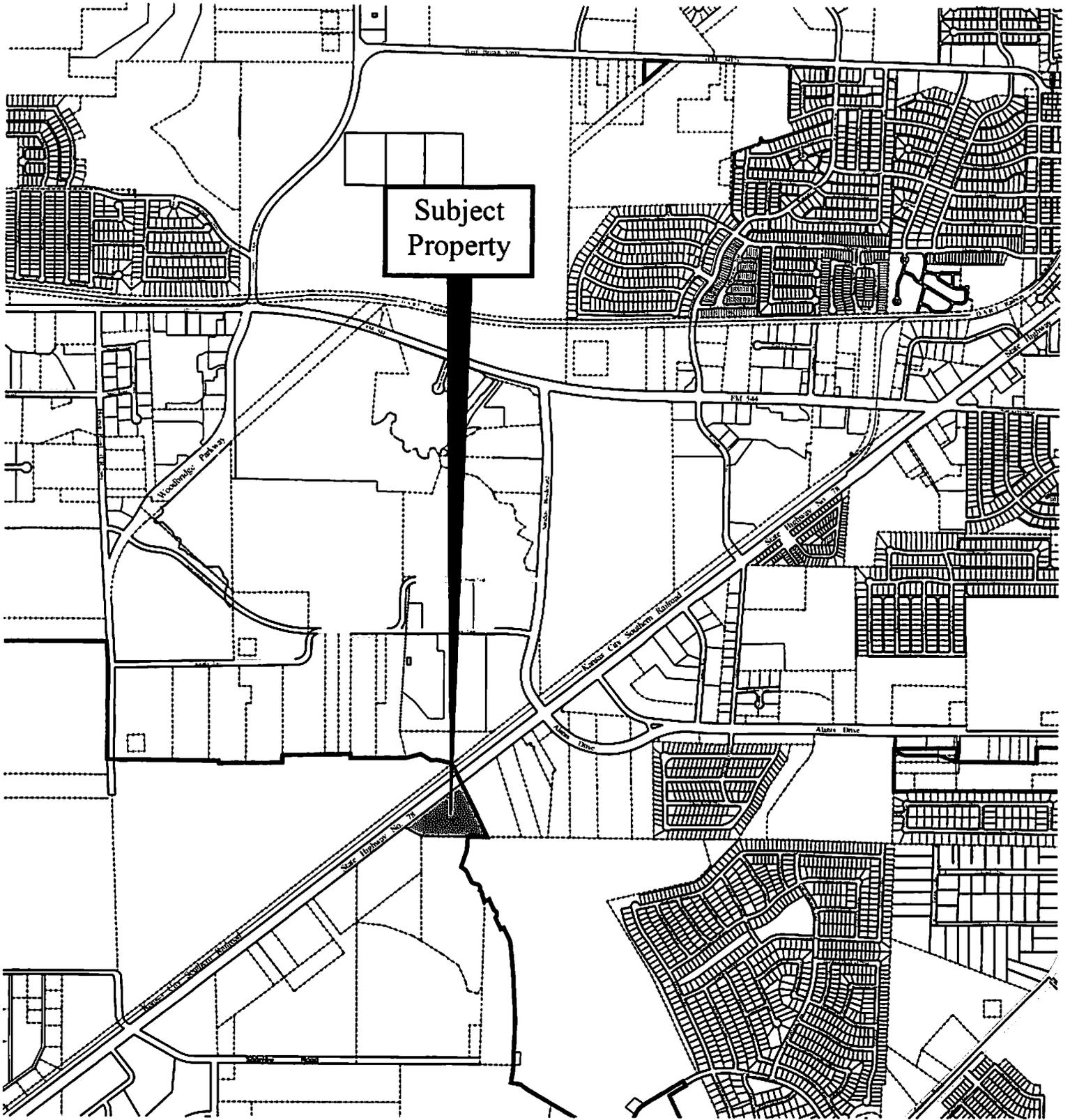
This annexation is at the request of the property owner and applicant of a 4.165 acre tract. The subject tract is contiguous to existing city limits on the north, east and south sides, while properties to west are within the jurisdiction of Sachse.

Exhibits attached: Exhibit "A" Legal Description; Exhibit "B" Annexation Boundary; Exhibit "C" Service Plan

Before a municipality may begin annexation proceedings, the governing body of the municipality must conduct two (2) public hearings at which persons interested in the annexation are given the opportunity to be heard. The notice for each hearing must be published at least once on or after the 20th day but before the 10th day before the date of the hearing and must remain posted on the municipality's website until the date of the hearing. In compliance with state law, the following schedule has been adhered to:

Notice published for Public Hearings	September 14, 2016 and September 21, 2016
First Public Hearing	September 27, 2016
Second Public Hearing	October 11, 2016
Adoption of Ordinance	October 25, 2016

Article 1, Section 3 of the Wylie City Charter authorizes the City Council to adjust boundaries. This annexation is being conducted in compliance with Sections 43.052 (h) (2) and 43.063 of the Local Government Code.



LOCATION MAP  
ANNEXATION CASE #2016-04

# EXHIBIT "A"

## Property Description

SITUATED in the State of Texas and the County of Collin, being part of the R. D. Newman Survey, Abstract No. 660, being part of a called 4.95 acre tract of land conveyed to All East Inc. by deed recorded in Document No. 92-0081176 of the Deed Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod capped "Roome" set for corner in the existing southeast right-of-way line of State Highway 78, in the southwest line of said 4.95 acre tract and marking the northwest corner of Tract 2 of Woodbridge Villas, an addition to the City of Sachse, Collin County, Texas, according to the plat thereof recorded in Volume P, Page 933 of the Plat Records of Collin County, Texas;

THENCE with said southeast right-of-way line and crossing said 4.95 acre tract, North 52°18'37" East, 673.36 feet to a 1/2 inch iron rod capped "Roome" set for corner in the east line of said 4.95 acre tract and marking the northwest corner of the remainder of a called 7.062 acre tract of land conveyed to T. S. Miller, Ltd. by deed recorded in Volume 4418, Page 1494 of the Deed Records of Collin County, Texas;

THENCE with the west line of said Miller tract and the east line of said 4.95 acre tract, South 20°08'57" East, 517.58 feet to a point for corner in the north line of the remainder of a called 83.2736 acre tract of land conveyed to WGC Properties, LLC by deed recorded in Volume 4110, Page 1774 of the Deed Records of Collin County, Texas and marking the southwest corner of said Miller tract and the southeast corner of said 4.95 acre tract, from which an old wood fence post found for reference bears South 20°08'57" East, 0.59 feet;

THENCE with the north line of said WGC Properties tract, the north line of said Tract 2 and the south line of said 4.95 acre tract, North 88°51'27" West, 185.63 feet to a 1/2 inch iron rod capped "Roome" set for corner;

THENCE with the north line of said Tract 2 and the south line of said 4.95 acre tract as follows:

North 86°39'56" West, 117.57 feet to a 1/2 inch iron rod capped "Roome" set for corner,

North 87°36'56" West, 315.06 feet to a 1/2 inch iron rod capped "Roome" set for corner, and

North 61°33'29" West, 106.20 feet to the Point of Beginning and containing 4.165 acres of land, more or less.



EXHIBIT "C"

**CITY OF WYLIE, TEXAS  
SERVICE PLAN FOR ANNEXED AREA  
SERENE GLOBAL GROUP, INC**

ANNEXATION ORDINANCE NO.: \_\_\_\_\_

DATE OF ANNEXATION ORDINANCE: \_\_\_\_\_

ACREAGE ANNEXED: 4.165 acres

SURVEY, ABSTRACT & COUNTY: R.D. Newman Survey, Abstract No. 660,  
Collin County, Texas, 2701 S. Hwy 78

Municipal Services to the acreage described above shall be furnished by or on behalf of the City of Wylie, Texas (the "City"), at the following levels and in accordance with the following schedule:

**A. POLICE SERVICE**

1. Patrolling, responses to calls and other routine police services, within the limits of existing personnel and equipment and in a manner consistent with any of the methods of the City, extends police service to any other area of the municipality, will be provided within sixty (60) days of the effective date of the annexation ordinance.
2. As development and construction commence in this area, sufficient police personnel and equipment will be provided to furnish this area the maximum level of police services consistent with the characteristics of topography, land utilization and population density within the area as determined by the City Council within four and one-half (4-1/2) years from the effective date of the annexation ordinance, or upon commencement of development within the area, whichever occurs later.
3. Upon ultimate development of the area, the same level of police services will be provided to this area as are furnished throughout the City.

**FIRE SERVICES**

1. Fire protection by the present personnel and the present equipment of the Fire Department, within the limitations of available water and distances from existing fire stations, and in a manner consistent with any of the methods of the City, extends fire service to any other area of the municipality, will be provided to this area within sixty (60) days of the effective date of the annexation ordinance.
2. As development and construction commence in this area, sufficient fire and emergency ambulance equipment will be provided to furnish this area the maximum level of fire services consistent with the characteristics of topography, land utilization and population density within the area as

## EXHIBIT "C"

determined by the City Council within four and one-half (4-1/2) years from the effective date of the annexation ordinance, or upon commencement of development within the area, whichever occurs later.

3. Upon ultimate development of the area, the same level of fire and emergency ambulance services will be provided to this area as are furnished throughout the City.

### **C. ENVIRONMENTAL HEALTH AND CODE ENFORCEMENT SERVICES**

1. Enforcement of the City's environmental health ordinances and regulations, including but not limited to, weed and brush ordinances, junked and abandoned vehicle ordinances and animal control ordinances, shall be provided within this area sixty (60) days of the effective date of the annexation ordinance. These ordinances and regulations will be enforced through the use of existing personnel.
2. Complaints of ordinance or regulation violations within this area will be answered and investigated within sixty (60) days of the effective date of the annexation ordinance.
3. Inspection services, including the review of building plans, the issuance of permits and the inspection of all buildings, plumbing, mechanical and electrical work to ensure compliance with City codes and ordinances will be provided within sixty (60) days of the effective date of the annexation ordinance. Existing personnel will be used to provide these services.
4. The City's zoning, subdivision, sign and other ordinances shall be enforced in this area beginning within sixty (60) days of the effective date of the annexation ordinance.
5. All inspection services furnished by the City, but not mentioned above, will be provided to this area beginning within sixty (60) days of the effective date of the annexed ordinance.
6. As development and construction commence in this area, sufficient personnel will be provided to furnish this area the same level of Environmental Health and Code Enforcement Services as are furnished throughout the City.

### **D. PLANNING AND ZONING SERVICES**

The planning and zoning jurisdiction of the City will extend to this area within sixty (60) days of the effective date of the annexation ordinance. City planning will thereafter encompass this property, and it shall be entitled to consideration for zoning in accordance with the City's Comprehensive Zoning Ordinance and Comprehensive Plan.

## EXHIBIT "C"

### **E. PARK AND RECREATION SERVICES**

1. Residents of this property may utilize all existing park and recreational services, facilities and sites throughout the City, beginning within sixty (60) days of the effective date of the annexation ordinance.
2. Additional facilities and sites to serve this property and its residents will be acquired, developed and maintained at locations and times provided by applicable plans for providing parks and recreation services to the City.
3. Existing parks, playgrounds, swimming pools and other recreational facilities within this property shall, upon dedication to and acceptance by the City, be maintained and operated by the City of Wylie, but not otherwise.

### **F. SOLID WASTE COLLECTION**

1. Solid waste collection shall be provided to the property in accordance with existing City policies, beginning within sixty (60) days of the effective date of the annexation ordinance. Residents of this property utilizing private collection services at the time of annexation shall continue to do so until it becomes feasible because of increased density of population to serve the property municipally. Commercial refuse collection services will be provided to any business located in the annexed area at the same price as presently provided for any business customer within the City, upon request.
2. As development and construction commence in this property and population density increases to the property level, solid waste collection shall be provided to this property in accordance with the current policies of the City as to frequency, changes and so forth.
3. Solid waste collection shall begin within sixty (60) days of the effective date of the annexation ordinance.

### **G. STREETS**

1. The City's existing policies with regard to street maintenance, applicable throughout the entire City, shall apply to this property beginning within sixty (60) days of the effective date of the annexation ordinance. Unless a street within this property has been constructed or is improved to the City's standards and specifications, that street will not be maintained by the City.
2. As development, improvement or construction of streets to City standards commences within this property, the policies of the City with regard to participation in the costs thereof, acceptance upon completion and maintenance after completion, shall apply.
3. The same level of maintenance shall be provided to streets within this property which have been accepted by the City as is provided to City streets throughout the City.

## EXHIBIT "C"

4. Street lighting installed on streets improved to City standards shall be maintained in accordance with current City policies.

### **H. WATER SERVICES**

1. Connection to existing City water mains for water service for domestic, commercial and industrial use within this property will be provided in accordance with existing City policies. Upon connection to existing mains, water will be provided at rates established by City ordinances for such service throughout the City.
2. As development and construction commence in this property, water mains of the City will be extended in accordance with provisions of the Subdivision Regulations and other applicable ordinances and regulations. City participation in the costs of these extensions shall be in accordance with the applicable City ordinances and regulations. Such extensions will be commenced within two (2) years from the effective date of the annexation ordinance and substantially completed with four and one-half (4 1/2) years after that date.
3. Water mains installed or improved to City standards which are within the annexed area and are within dedicated easements shall be maintained by the City of Wylie beginning within sixty (60) days of the effective date of the annexation ordinance.
4. Private water lines within this property shall be maintained by their owners in accordance with existing policies applicable throughout the City.

### **I. SANITARY SEWER SERVICES**

1. Connections to existing City sanitary sewer mains for sanitary sewage service in this area will be provided in accordance with existing City policies. Upon connection, sanitary sewage service will be provided at rates established by City ordinances for such service throughout the City.
2. Sanitary sewage mains and/or lift stations installed or improved to City standards, located in dedicated easements, and which are within the annexed area and are connected to City mains will be maintained by the City of Wylie beginning within sixty (60) days of the effective date of the annexation ordinance.
3. As development and construction commence in this area, sanitary sewer mains of the City will be extended in accordance with provisions of the Subdivision Regulations and other applicable City ordinances and regulations. Such extensions will be commenced within two (2) years from the effective date of the annexation ordinance and substantially completed within four and one-half (4 1/2) years after that date.

## EXHIBIT "C"

### **J. MISCELLANEOUS**

1. Any facility or building located within the annexed area and utilized by the City in providing services to the area will be maintained by the City commencing upon the date of use or within sixty (60) days of the effective date of the annexation ordinance, whichever occurs later.
2. General municipal administrative services of the City shall be available to the annexed area beginning within sixty (60) days of the effective date of the annexation ordinance.
3. Notwithstanding, anything set forth above, this Service Plan does not require all municipal services be provided as set forth above if different characteristics of topography, land use and population density are considered a sufficient basis for providing different levels of service.
4. The Service Plan is valid for ten (10) years from the effective date of this Ordinance.



# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** City Secretary  
**Prepared By:** C. Ehrlich  
**Date Prepared:** September 26, 2016

**Item Number:** 4  
*(City Secretary's Use Only)*  
**Account Code:** 175-5175-54060  
**Budgeted Amount:** \$260,000 (\$130,000 each site)  
**Exhibits:** Contract/Design

### Subject

Consider, and act upon, the final artist and art designs by Michael Szabo for the 2016 CIP Thoroughfare Public Art Projects, Site #1 and Site #2 and authorize the City Manager to execute two contracts in the amount of \$130,000 each, to commission the art.

### Recommendation

Motion to approve the final artist and art designs by Michael Szabo for the 2016 CIP Thoroughfare Public Art Projects, Site #1 and Site #2 and authorize the City Manager to execute two contracts in the amount of \$130,000 each, to commission the art.

### Discussion

The Public Art Advisory Board issued a Call for Artists for three public art projects funded by the 2005 Thoroughfare Bond projects. Site #1 and Site#2, located near each end of the Municipal Complex Walking Trails (Country Club Road/FM 544 and West Brown) were funded at \$130,000 per site, and Site #3 located at the Disc Golf Park on West Brown was funded at \$52,000.

The board received 57 submissions for these projects and appointed a pare-down committee to review the submissions, including previous work of each artist. The committee narrowed the submissions to 34 artists to move to the next selection process. Committee members included: Lynn Grimes (PAAB Chair), Mindy Manson, and Margaret Robinette (Public Art Administrator-Dallas Cultural Arts, retired).

The Public Art Advisory Board appointed a selection committee to review the remaining submissions and choose 2-3 semi-finalists for each of the three projects. The semi-final artists were asked to come to the City to view the sites and tour the City. They also attended a Public Art Input meeting to hear from the public regarding the art for the sites. On August 25, 2016 the artists completed their proposals and presented them to both the Selection Panel and the Public Art Board. Committee members included: John Pototschnik, Lynn Grimes, Shirley Burnett, Margaret Robinette, Shohn Rogers, Mindy Manson, and Kathy Spillyards.

Michael Szabo was unanimously chosen as the final artist for Site #1 and #2. The committee and board felt his proposals, *Entwine and Prairie Crossing* best suited site specific needs and the natural environment surrounding the sites. Artist Michael Szabo is present tonight to present his proposals and answer any questions Council may have.

The contracts to commission the art have been reviewed by the City Attorney and are attached to this item.

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF WYLIE, TEXAS**  
**AND**  
**MICHAEL SZABO**  
**FOR**  
**THE FABRICATION AND INSTALLATION OF THE PROPOSED**  
**2016 THOROUGHFARE CIP PUBLIC ART PROJECTS**  
**SITE #1**  
**ENTRANCE TO WALKING TRAILS- COUNTRY CLUB ROAD AND WEST BROWN**  
**STREET**  
**300 COUNTRY CLUB ROAD**  
**WYLIE, TEXAS 75098**

Made as of the 11<sup>th</sup> day of October, 2016.

**BETWEEN** City:                   City of Wylie, Texas  
  300 Country Club Road, Bldg. 100  
  Wylie, Texas 75098  
  Telephone: (972) 442-8100  
  Facsimile: (972) 516-6026

and Artist(s):                   Michael Szabo  
  1433 Yosemite Avenue  
  San Francisco, CA 94124  
  Telephone: (415) 671-2267  
  Facsimile: \_\_\_\_\_

For the following Project:    **Fabrication and Installation of the proposed - Site #1 - Entwine**

**THIS AGREEMENT** (“Agreement”) is made and entered by and between the **City of Wylie, Texas**, a home-rule municipality, (“City”), and **Michael Szabo**, individually, (“Artist”), to be effective from and after the date as provided herein. City and Artist are at times each referred to herein as the “parties” or collectively as a “party.”

WHEREAS, City desires to engage the services of Artist to fabricate and install a stainless steel with soft bronze patina sculpture (“Artwork”) in connection with the Public Art Project at City's Municipal Complex (“Project”), which shall be installed in the location

designated by City in its sole discretion on property located at Wylie, Texas 75098 (Entrance to Walking Trails - Country Club Road) ("Walking Trails"); and

WHEREAS, Artist desires to render fabrication and installation services for City on the terms and conditions provided herein.

**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:**

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
ARTIST'S SERVICES**

1.1 **Employment of Artist** - City hereby agrees to retain Artist to provide the Services hereinafter defined) set forth herein in connection with the Project. Artist agrees to perform such Services in accordance with the terms and conditions of this Agreement.

1.2 **Scope of Services** - The parties agree that Artist shall provide the Services and deliverables that are set forth and described in the Scope of Services, attached hereto as **Exhibit A** and incorporated herein by reference for all purposes ("Scope of Services"), and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide all of the services and deliverables as specified by the terms and conditions of this Agreement collectively, ("Services"). The parties understand and agree that deviations or modifications to the Scope of Services, in the form of written change orders, may be authorized from time to time by City ("Change Orders"). Artist shall not perform any "extra" work and/or additional services without a duly executed, written change order issued by the Wylie City Manager or authorized designee.

1.3 **Schedule of Work** - The Artist agrees to commence work immediately upon execution of this Agreement and receipt of first payment, and to proceed diligently with said work to completion as described in the Completion Schedule/ Project Billing/Project Budget, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes. **Exhibit B** can be amended only upon the agreement of both Parties. Any delays caused by foundry or transportation of the Artwork that are not caused by Artist shall be good cause of amendment of the project schedule as set forth in **Exhibit B**. Notwithstanding anything herein to the contrary, fabrication of the Artwork shall be completed no later than July 1, 2017. The Artwork shall be delivered on July 1, 2017 or reasonably promptly thereafter, as determined by City in its sole discretion. The Artwork shall not be delivered to Site #1 before City sends a written request to Artist for the delivery ("Request for Delivery") and after all portions of the base construction have been completed by the Artist. Delivery and full installation of the Artwork shall be completed within fourteen (14) days of the City's Request for Delivery.

**ARTICLE 2  
CITY'S RESPONSIBILITIES**

City shall use reasonable efforts to not delay the Services of Artist as follows:

2.1 **Project Data** - City shall furnish required information that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Artist shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.

2.2 **City Project Manager** - City shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project ("Project Manager"). City or the Project Manager shall examine the documents submitted by Artist and shall render any required decisions pertaining thereto as soon as practical so as to avoid unreasonable delay in the progress of the Services.

### **ARTICLE 3 ARTIST'S COMPENSATION**

3.1 **Compensation for Artist's Services** - As described in "Article 1, Artist's Services" of this Agreement, compensation for this Project shall be on a lump sum basis, in an amount not to exceed **One Hundred Thirty Thousand and No /100 Dollars (\$130,000.00)** ("Artist's Fee"), and will cover all Services to be rendered and materials to be provided in accordance with this Agreement. Artist's Fee shall be paid in accordance with this Article 3 and the Completion Schedule/ Project Billing /Project Budget as set forth in **Exhibit B**. The final fifteen (15) percent of the Artist's Fee, or **Nineteen Thousand Five Hundred and No/100 Dollars (\$19,500.00)** ("Final Payment"), shall not be paid to Artist until Artist has completed, delivered and installed, as applicable, all of the Artwork, Services and tasks described in **Exhibits A and B** to City's satisfaction.

3.2 **Invoices** - No payment to Artist shall be made until Artist tenders an invoice to the City. Payments are payable to the Artist within thirty (30) days from the date of invoice as long as the invoice is mailed to City within three ( 3) days of the date of the invoice. Invoices are to be mailed to City immediately upon completion of each individual task listed in **Exhibit A**. If any invoice remains outstanding and unpaid for more than sixty (60) days from the date of invoice, and Artist has fully performed its obligations as set forth herein, Artist has the option upon written notice to City, to suspend all work specified under this Agreement until the account is brought current. Continued performance and/or completion of work by Artist under this Agreement shall resume upon the payment of the earned fees by City.

3.3 **Failure to Pay** - Failure of City to pay an invoice, for a reason other than cause, to Artist within sixty (60) days from the date of the invoice shall grant Artist the right, in addition to any and all other rights provided, to, upon written notice to City, refuse to render further Services to City and such act or acts shall not be deemed a breach of this Agreement. City shall not be required to pay any invoice submitted by Artist if Artist breached any provision(s) herein.

3.4 **Adjusted Compensation** - If the Scope of Services for the Project or if the Services are materially changed by written change order, as defined in Article 5.2, the Artist's

Fee shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist as a result of any material change to the Scope of Services for the Project shall be agreed upon in writing by both parties before the Services are performed.

3.5 **Project Suspension** - If the Project is suspended or abandoned, in whole or in part, by City for more than three (3) months, Artist shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Artist shall deliver to City all finished or unfinished Artwork, documents, data, studies, surveys, drawings, maps, models, reports, photographs and /or any other items prepared by Artist in connection with this Agreement prior to Artist receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Artist's compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist after the Project is resumed shall be agreed upon in writing by both parties before the Services are performed.

#### **ARTICLE 4 OWNERSHIP AND COPYRIGHT**

4.1 **Ownership of Work** - Upon completion, the Artwork and the Project shall be the sole property of City, and Artist shall not make any duplicate work of the same or substantially similar size, nor shall Artist grant permission to others to do so except with the written permission of City. City shall be entitled to copies of the plans and the maquette which are prepared by Artist in connection with the development and fabrication of the Projects under this Agreement. The ownership of the Artwork shall be transferred to City upon full payment of the Artist's Fee as set forth in Article 3.1 of this Agreement.

4.2 **Ownership of Copyright** - Artist shall retain the copyright to the Artwork. Artist shall take all steps, at his own expense, to protect the copyright of the Artwork.

4.3 **License to City** - Artist irrevocably grants a license to City, its employees, representatives, officers and agents, the right to make photographs, two dimensional reproductions, and adaptations of the work for educational, public relations, arts promotional and other non - commercial purposes. For the purposes of this Agreement, the following, among others, are deemed to be reproductions and /or adaptations for noncommercial purposes: reproduction in exhibition catalogues, websites, books, slides, photographs, postcards, posters, and calendars; in magazines, books, art and news sections of newspapers; in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; slides, videos and film strips not intended for a mass audience, and television from stations operated for educational purposes or on programs for educational and news purposes from all stations.

4.4 **Copyright Notice** - City undertakes to use its reasonable efforts to include in any reproductions which it makes of the Artwork a copyright notice in the following form:

“Copyright Michael Szabo, Artist”

4.5 **Representations and Warranties Regarding Copyright** - Artist represents and warrants that the Artwork is an original creation of Artist and will not infringe the copyright, trademark or other intangible rights of any third party.

## **ARTICLE 5 FABRICATION**

5.1 **Specifications** - Artist will fabricate the Artwork, or cause it to be fabricated, in substantial conformity with the design approved by City as set forth in **Exhibit A**.

5.2 **Changes** - Any significant changes to the Artwork by either Artist or as requested by City must be approved in writing by the other party. For purposes of this Agreement, a significant “change” will mean any change, including but not limited to, a change in the scope, design, color, size or material of the Artwork, which affects cost, installation, site preparation, maintenance and concept as represented in the design described in **Exhibit A**. If Artist wishes to make a significant change to the Artwork, he must request written approval from City of the change in writing at the address provided in Section 14. City will provide a written response within thirty (30) calendar days. Timelines under Section 1.3 will be extended by the number of days missed while awaiting said response.

5.3 **Review of the Artwork** - City will be given access to the Artwork during reasonable business hours at Artist's or fabricator's studio in order to review the Artwork and Artist's or fabricator's progress with fabrication of the Artwork. Alternatively, City may request and shall be given photographic documentation of Artist's progress.

5.4 **Notification of Fabrication Completion** - Artist will notify City in writing pursuant to Section 14 when the Artwork is completed and ready for delivery. Designated representatives of City will have the opportunity to inspect the Artwork under Section 5.3 for conformity with the design and structural requirements prior to delivery and to give written approval or disapproval of the Artwork for thirty (30) business days following notice from the Artist. As an alternative to the studio inspection, photographic documentation may be submitted to City upon completion of the Artwork.

**Preparation of Site** - Due to the nature of the Project's sites and installation of the Artwork, cooperation from Artist is required. Artist will provide City with the specifications and drawings for the specific area at the site where base of the Artwork is to be installed. Artist is responsible for obtaining and forwarding to City design drawings and calculations for the installation of the Artwork. The drawings will illustrate the Artwork's design and weight and its connection to the base. City will then use those drawings for review by the City Engineer and for permitting. Completion of the base designs is the sole responsibility of the Artist.

5.5 **Warranty of Craftsmanship** - Artist warrants that the Artwork will be free of defects in workmanship and materials. In the event that any defects become apparent in the workmanship or materials within five (5) years of the execution of this Agreement, Artist will remedy any defects at Artist's sole cost and expense provided that City has followed and documented the maintenance procedures detailed in **Exhibit A**.

## **ARTICLE 6 STORAGE**

6.1 **Storage** - Artist shall be solely responsible for any and all necessary storage and transportation costs associated with this Agreement as provided by the mutually agreed delivery and installation timetable. If, for reasons outside the control of Artist, there is a delay in installation, City will store the Artwork at a secure City facility. If the delay in installation is caused by Artist, Artist will be responsible for the costs of storage. Artist will be on site at time of delivery of the Artwork.

## **ARTICLE 7 FINAL APPROVAL OF ARTWORK**

7.1 **Final Approval** - Within ten (10) business days after the permanent installation of the Artwork, City will inspect the Artwork to determine whether it conforms to all of the requirements of this Agreement. If City finds that any aspect of the Artwork is not in conformance with this Agreement, City will notify Artist in writing within seven (7) business days of the inspection. Artist will have an opportunity to address and cure any defects, requests or concerns of City within fifteen (15) days of the date of City's notice provided, pursuant to this Article 7.

## **ARTICLE 8 INTEGRITY OF THE WORK**

8.1 **Repairs and Maintenance** - The City undertakes to exercise reasonable care to protect, repair, and maintain the work. Artist agrees to cooperate with and advise the City in connection with any such non-routine maintenance, including, without limitation, damage by acts of God, vandalism, conservation and/or replacement of any portion of the Artwork to the extent that he or she is able to do so. During Artist's lifetime, the City will not undertake any non-routine maintenance on the Artwork without attempting to consult with the Artist or his or her authorized representative unless an emergency requires the City to do so.

8.2 **Relocation of the Work** – To the extent that the Artwork is capable of being relocated, the City shall have the right to do so. If feasible, the City shall attempt to consult with the Artist concerning the relocation of the Artwork prior to any such relocation; however, the Artist's approval is not required for the relocation, if any. If the Artist is not pleased with such relocation, he or she shall have the right to renounce credit for the Artwork. If Artist renounces credit for his Artwork, this would include, among other things, relinquishment and abandonment of the copyrights described herein.

8.3 **Credit** - The City agrees, at its own expense, to prepare and install at or near the Project a public notice, the form and exact location of which shall be solely determined by City, giving Artist credit for the creation of the Artwork.

## **ARTICLE 9**

## **INSURANCE COVERAGE**

9.1 **Required Insurance** - Artist shall provide and maintain the types and amounts of insurance set forth herein for and during all aspects and phases of this Project. Artist shall be required to provide and maintain general liability insurance with a minimum of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars \$2,000,000.00) in the aggregate. In addition, Artist shall provide and maintain insurance for loss (including theft, fire and damage) and any statutorily required workers' compensation insurance. All insurance and certificate(s) of insurance shall contain the following provisions:

1. Name City, its officers, agents, representatives and employees as additional insureds as to all applicable coverage with the exception of workers' compensation insurance.
2. Provide for at least thirty (30) days prior written notice to City for cancellation, non - renewal or material change of the insurance.
3. Provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

9.2 **Insurance company qualification** - All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

9.3 **Certificate of insurance** - A certificate of insurance and endorsement(s) evidencing the required insurance shall be submitted no later than the date of the execution of this Agreement. If this Agreement is renewed or extended by the City, a certificate of insurance shall also be provided to the City prior to the date the Agreement is renewed or extended.

## **ARTICLE 10**

### **AUDITS AND RECORDS/PROHIBITED INTEREST/VENDOR DISCLOSURE**

Artist agrees that at any time during normal business hours and as often as City may deem necessary, Artist shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Artist agrees that he is aware of the prohibited interest requirement of the City Charter, which is repeated on the Affidavit attached hereto as **Exhibit C** and incorporated herein by reference for all purposes, and will abide by the same. Further, Artist shall execute the Affidavit attached

hereto as **Exhibit C**. Artist understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Artist agrees that he is further aware of the vendor disclosure requirements set forth in Chapter 176, LOCAL GOV' T CODE, as amended, and will abide by the same. In this connection, Artist shall execute the Conflict of Interest Questionnaire, Form C1Q, attached hereto as **Exhibit D** and incorporated herein for all purposes.

## **ARTICLE 11 TERMINATION OF AGREEMENT/REMEDIES**

11.1 **Artist Default** - Failure or refusal of Artist to perform any act herein required, unless mutually agreed to in writing by City and Artist, shall constitute a default under this Agreement. In the event of a default, in addition to any other remedy available to City, this Agreement may be terminated by City upon ten (10) days' written notice. Such notice does not waive any other legal remedies available to City.

11.2 **Conditions for Termination of Agreement Other than Artist's Default** - If City deems, in its sole discretion, the Project design is inappropriate or unworkable for the site, or if the deadlines specified herein are not met due, in whole or in part, to the Artist's actions and/or omissions, or if cost estimates indicate that the Project cannot be completed within the Project budget, City retains the right to terminate this Agreement and is released from the obligation to enter into fabrication and installation of Artist's design concept for the Project.

In the event of any termination under this Section 11.2, Artist shall deliver to City all work, entirely or partially completed. Artist shall receive as compensation, full payment for Services satisfactorily performed, as solely determined by City, as outlined in **Exhibit B**, as applicable, to the date of the termination notice received. City shall make this final payment within thirty (60) days of notifying the Artist. Any payment not timely made under this Section 11.2 is subject to interest charges as described in Section 3.1.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

## **ARTICLE 12 DISPUTE RESOLUTION/MEDIATION**

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator. However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

## **ARTICLE 13**

## INDEMNITY

ARTIST SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITYCOUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES ( INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES INCLUDING LOSS OF USE), CLAIMS FOR PATENT, TRADEMARK AND /OR COPYRIGHT INFRINGEMENT AND /OR ANY OTHER INTELLECTUAL PROPERTY AND/OR PROPRIETARY CLAIM, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND /OR OMISSION OF ARTIST, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FROM WHOM ARTIST IS LEGALLY RESPONSIBLE, IN ITS /THEIR PERFORMANCE OF THIS AGREEMENT AND /OR ARISING OUT OF GOODS AND /OR SERVICES PROVIDED BY ARTIST PURSUANT TO THIS AGREEMENT HEREINAFTER " CLAIMS "). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL. IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN ARTIST AND HIS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND /OR SEPARATION FROM EMPLOYMENT WITH ARTIST, INCLUDING BUT NOT LIMITED TO, ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND /OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. ARTIST IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY ARTIST IN FULFILLING HIS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT

**TO BE CONSTRUED AS A WAIVER OF ARTIST'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ARTIST'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ARTIST SHALL RETAIN CITY- APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY' S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ARTIST FAILS TO RETAIN COUNSEL WITHIN SUCH TIME. PERIOD CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND ARTIST SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

**ARTICLE 14  
NOTICES**

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand - delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

**If to City, addressed to it at:**

Mindy Manson, City Manager  
Carole Ehrlich, Public Arts Coordinator  
City of Wylie  
300 Country Club Road, Bldg. 100  
Wylie, Texas 75098

**With a copy to:**

Abernathy, Roeder, Boyd & Hullett, P.C.  
Attention: Ryan D. Pittman  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
Telephone: (214) 544 -4000  
Facsimile: (214) 544 -4054

**If to Artist, addressed to at:**

Michael Szabo  
1433 Yosemite Avenue  
San Francisco, CA 94124  
Telephone: (415) 671-2267

Facsimile: \_\_\_\_\_

## **ARTICLE 15 MISCELLANEOUS**

15.1 **Complete Agreement** - This Agreement, including the exhibits hereto labeled "A" through "D," all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented and/or modified except by written agreement, duly executed by both parties. The following exhibits are attached and made part of this Agreement:

**Exhibit A**, Scope of Services.

**Exhibit B**, Compensation Schedule/ Project Billing/ Project Budget.

**Exhibit C**, Affidavit.

**Exhibit D**, Conflict of Interest CIQ.

15.2 **Assignment and Subletting** - Artist agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City, except for transportation, delivery and foundry services. Artist further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Artist of its full obligations to the City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Artist, and there shall be no third party billing.

15.3 **Attorney's Fees** - If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Artist, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable and necessary attorneys' and experts' fees and litigation expenses to be fixed by the court both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE §271.153, as it exists or may be amended, if applicable.

15.4 **Successors and Assigns** - City and Artist, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

15.5 **Savings/Severability** - In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.

15.6 **Venue** - This entire Agreement is performable in Collin County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas, without regard to Texas' choice of law provisions. The exclusive venue for any action arising out of the parties' performance under this Agreement shall be a court of appropriate jurisdiction in Collin County, Texas.

15.7 **Execution/Consideration** - This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

15.8 **Authority** - The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date thereof.

15.9 **Waiver** - Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

15.10 **Headings** - The headings of the various sections of this Agreement are included solely for the convenience of reference and are not to be full or accurate descriptions of the content thereof.

15.11 **Multiple Counterparts** - This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

15.12 **Immunity** - The parties acknowledge and agree that, in executing this Agreement, City has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

15.13 **Representations** - Each signatory represents his Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.

15.14 **Miscellaneous Drafting Provisions** - This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as

a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.

15.15 **Death of Artist** - In the event the Artist dies or becomes incapacitated during the term of this Agreement, the fabrication, delivery and installation of the Artwork shall be completed pursuant to the Artist's design, conception and plans by: Name: Alex Smith Phone: 415-671-2267 E-mail: alex@szaboworks.com

15.16 **No Third Party Beneficiaries** - Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

15.17 **Reference to Artist** - When referring to "Artist," this Agreement shall refer to and be binding upon Artist, and his partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and /or any other third parties for whom Artist is legally responsible.

15.18 **Reference to City** - When referring to "City," this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and /or any other authorized third parties for whom City is legally responsible.

15.19 **No Joint Enterprise** - The parties do not intend that this Agreement be construed as finding that the parties have formed a joint enterprise. The purposes for which each party has entered into this Agreement are separate and distinct. It is not the intent of either of the parties that a joint enterprise relationship is being entered into and the parties hereto specifically disclaim such relationship. This Agreement does not constitute a joint enterprise, as there are no common pecuniary interests, no common purpose and no equal right of control among the parties hereto.

*(Signature pages follow.)*

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

**CITY:**

City of Wylie, Texas,  
a home-rule municipality

**ARTIST:**

Michael Szabo, Artist

By: \_\_\_\_\_  
Mindy Manson, City Manager

By: \_\_\_\_\_  
Michael Szabo, Artist

**APPROVED AS TO FORM:**

By:  \_\_\_\_\_  
Abernathy, Roeder, Boyd & Hullett, P.C.  
Ryan Pittman, City Attorneys

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of Texas, on this day personally appeared **MINDY MANSON**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of Texas

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of \_\_\_\_\_, on this day personally appeared **Michael Szabo**, Artist, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of \_\_\_\_\_

**EXHIBIT “A”  
SCOPE OF SERVICES**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS  
AND MICHAEL SZABO**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED  
2016 THOROUGHFARE CIP ART PROJECT, SITES #1  
300 COUNTRY CLUB ROAD  
WYLIE, TEXAS 75098**

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Project Description

**2016 Thoroughfare Public Art Project – Site #1 (Site #1-Entrance to Walking Trails-Country Club Road) “Entwine” – A sculpture with six forms fabricated from brushed stainless steel and patina bronze, with an abstracted appearance of prairie grasses in the wind. The sculpture will stand 32.9 feet tall and have a width of 12 feet 10 inches. The sculpture will be lit with up-lights at night. In addition to the up-lights from the ground, the connection of the six forms surround a point light that further emanates a glow in the center of the piece.**

To fabricate and install the proposed 2016 Thoroughfare CIP Public Art Project Sculpture entitled Entwine, artist Michael Szabo will perform the following tasks:

- A) Following a site visit, submit final schematic drawings of the proposal, based upon submitted maquette to City staff and the Public Arts Advisory Board for their review and approval within sixty (60) days of the receipt of this agreement. These drawings will include:
- Detailed information of every physical feature of the construction of the Artwork and its integration with the site with any proposed changes to the previously submitted concept highlighted. (Final Design).
  - A description of any issues involved in the construction, integration and maintenance of the Artwork, as well as any third party subcontractors needed to work on the project.
  - A final project budget breakdown not to exceed \$130,000.00.
  - An installation timeline.
- B) Following formal approval by the Public Arts Advisory Board, and the Wylie City Council, the Artist shall submit drawings stamped by an engineer, licensed by the State of Texas and paid for by the Artist, for certification that the Artwork, foundations, and its connection will be structurally sound.
- C) The Artist shall fabricate and install the Artwork in substantial conformity with the approved design. Any significant changes in the concept, as defined in Article 5.2, must be approved by the City. It is the responsibility of the Artist to coordinate with the City, the Project Landscape Architect, and Contractor to ensure that the site is prepared to receive the Artwork. The Artist will be responsible for preparation of the site, including installation of

the foundation base, risers, sculpture and lighting. The City will be responsible for landscaping around the space and electrical power to the site.

- D) Upon completion of the permanent installation and clean-up of the site, the City Project Manager will inspect the work and give notice of acceptance, as provided in this Agreement. The Artist will complete the City's maintenance worksheet and submit it to the City within ten (10) days of City's final acceptance of the Artwork.

## MAINTENANCE PROCEDURES

Materials and Care Information Sheet (to be filled out by the artist and submitted upon completion of the project prior to final payment.)

Artist: Michael Szabo Date: \_\_\_\_\_

Title of Work: **Entwine**

Media: \_\_\_\_\_

Specific materials used (Brand name and type of all materials, i.e. type of paper and fiber content, metal alloy, chemical composition of patina, etc.)

Specific techniques used in the fabrication of the Artwork. (Airbrush painting, lost wax casting, TIG welding, etc.):

Fabricator name and address (if other than artist):

Installation materials and techniques (Attach as-built drawings as appropriate):

Recommended Maintenance procedures. (Be as specific as possible about techniques and materials):

Cautions regarding maintenance, handling, etc:

**EXHIBIT "B"**  
**COMPLETION SCHEDULE/PROJECT BILLING/PROJECT BUDGET**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS (CITY)**  
**AND "MICHAEL SZABO" (ARTISTS)**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED 2016**  
**THOROUGHFARE PUBLIC ART PROJECT – SITE #1, LOCATED AT W. BROWN TRAIL**  
**ENTRANCE, 300 COUNTRY CLUB ROAD, WYLIE TEXAS 75098**

Completion Schedule and Project Billing

<b>TASK</b>	<b>DESCRIPTION</b>	<b>PAYMENT</b>	<b>TIMELINE</b>
1	Execution of Agreement and Notice to Proceed. Insurance documentation sent to City.	\$18,500	10-2016
2	Submit final design and budget breakdown for approval to city staff. Stamped engineered drawings submitted.	\$18,500	12-2016
3	Artist begins work upon issuance of city permit.	\$18,500	1-2017
4	Artist studio fabrication (half complete) confirmed with staff. (pictures or examination)	\$18,500	3-2017
5	Artist provides Notification of Fabrication Completion	\$18,500	5-2017
6	Artist installs work at site	\$18,000	5-2017
7	City inspection and approval-final signoff	\$19,500.	6-2017
<b>TOTAL</b>		\$130,000	



**EXHIBIT "D"**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> For vendor doing business with local governmental entity		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	Date Received	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p align="center">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p align="center"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p align="center">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p align="center"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p>		
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p><b>7</b></p> <p align="center">                 _____                  Signature of vendor doing business with the governmental entity             </p> <p align="right">                 _____                  Date             </p>		

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

### OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Michael Szabo, San Francisco, CA USA

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

City of Wylie, TX

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

City of Wylie 2016 Thoroughfare CIP Art Projects, Sites #1 and #2

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

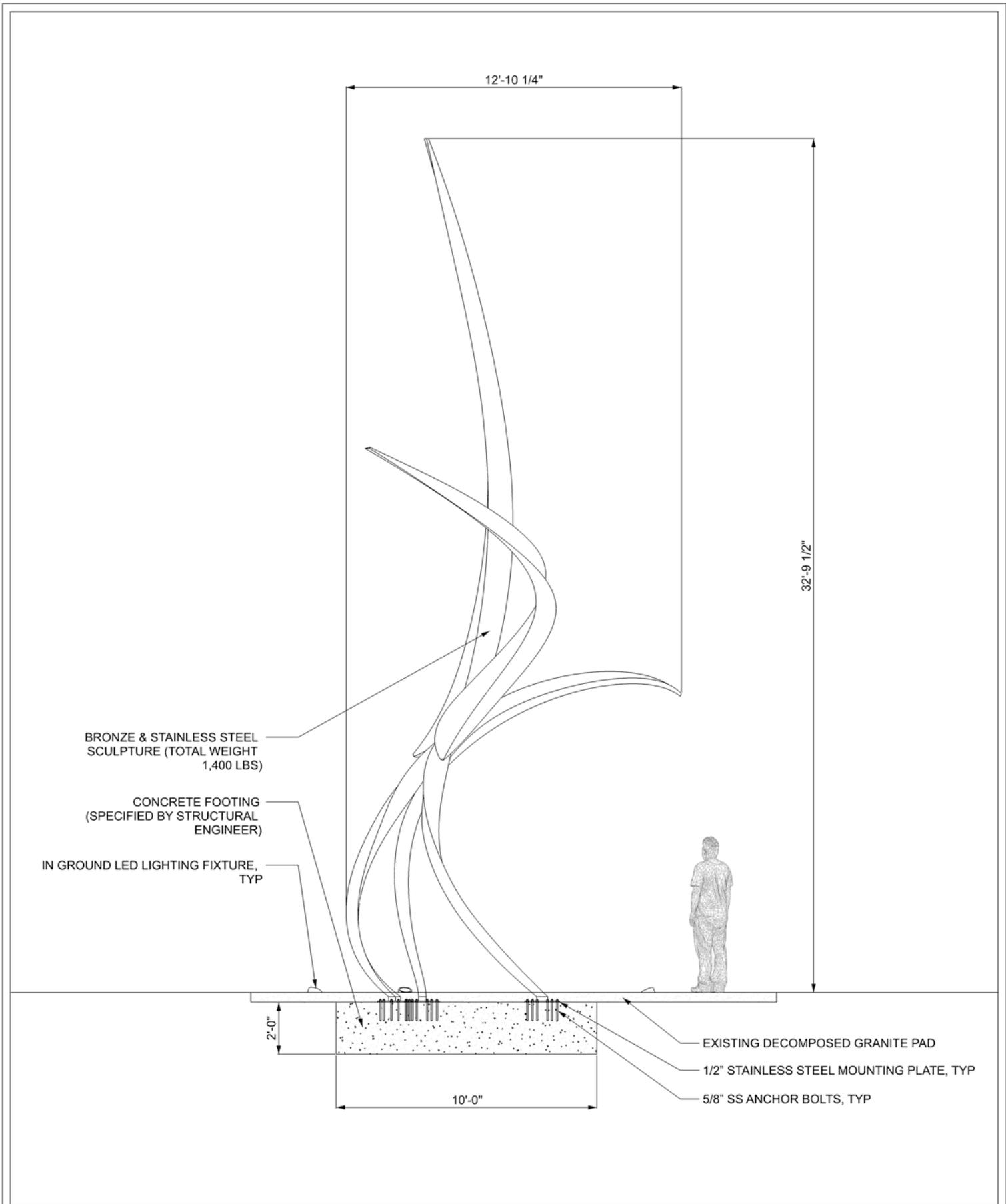
\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**

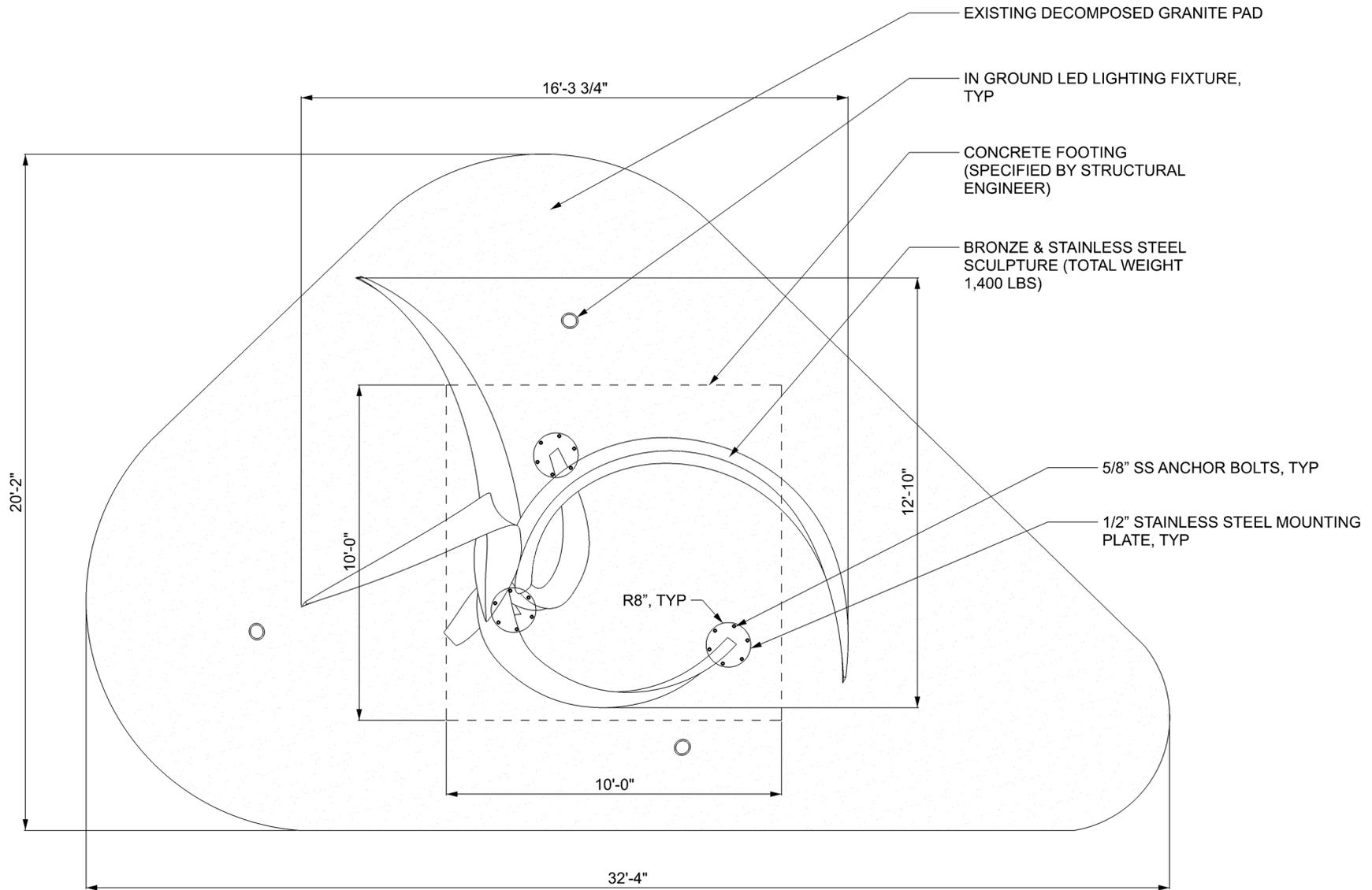


MICHAELSZABO STUDIO  
 1433 YOSEMITE AVE. SAN FRANCISCO, CA 94124  
 415.671.2267 INFO@SZABOWORKS.COM  
 WWW.SZABOWORKS.COM

*Entwine*  
 Site 1 - Country Club Rd & W FM 544  
 City of Wylie, TX

ELEVATION  
 (PRELIMINARY, NOT  
 FOR CONSTRUCTION)

Designed By:	M. SZABO
Date:	9/12/2016
Scale:	N.T.S



MICHAELSZABOSTUDIO  
 1433 YOSEMITE AVE. SAN FRANCISCO, CA 94124  
 415.671.2267 INFO@SZABOWORKS.COM  
 WWW.SZABOWORKS.COM

*Entwine*  
 Site 1 - Country Club Rd & W FM 544  
 City of Wylie, TX

PLAN  
 (PRELIMINARY, NOT  
 FOR CONSTRUCTION)

Designed By:	M. SZABO
Date:	9/12/2016
Scale:	N.T.S

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF WYLIE, TEXAS**  
**AND**  
**MICHAEL SZABO**  
**FOR**  
**THE FABRICATION AND INSTALLATION OF THE PROPOSED**  
**2016 THOROUGHFARE CIP PUBLIC ART PROJECTS**  
**SITE #2**  
**ENTRANCE TO WALKING TRAILS- WEST BROWN STREET**  
**300 COUNTRY CLUB ROAD**  
**WYLIE, TEXAS 75098**

Made as of the 11<sup>th</sup> day of October, 2016.

**BETWEEN** City:                   City of Wylie, Texas  
  300 Country Club Road, Bldg. 100  
  Wylie, Texas 75098  
  Telephone: (972) 442-8100  
  Facsimile: (972) 516-6026

and Artist(s):                   Michael Szabo  
  1433 Yosemite Avenue  
  San Francisco, CA 94124  
  Telephone: (415) 671-2267  
  Facsimile: \_\_\_\_\_

For the following Project:    **Fabrication and Installation of the proposed - Site 2 - Prairie Crossing**

**THIS AGREEMENT** (“Agreement”) is made and entered by and between the **City of Wylie, Texas**, a home-rule municipality, (“City”), and **Michael Szabo**, individually, (“Artist”), to be effective from and after the date as provided herein. City and Artist are at times each referred to herein as the “parties” or collectively as a “party.”

WHEREAS, City desires to engage the services of Artist to fabricate and install a brushed steel with rich textured bronze patina sculpture (“Artwork”) in connection with the Public Art Project at City’s Municipal Complex (“Project”), which shall be installed in the

location designated by City in its sole discretion on property located at 300 Country Club Road, Wylie, Texas 75098 (Entrance to Walking Trails - West Brown Street) ("Walking Trails"); and

WHEREAS, Artist desires to render fabrication and installation services for City on the terms and conditions provided herein.

**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:**

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
ARTIST'S SERVICES**

1.1 **Employment of Artist** - City hereby agrees to retain Artist to provide the Services hereinafter defined) set forth herein in connection with the Project. Artist agrees to perform such Services in accordance with the terms and conditions of this Agreement.

1.2 **Scope of Services** - The parties agree that Artist shall provide the Services and deliverables that are set forth and described in the Scope of Services, attached hereto as **Exhibit A** and incorporated herein by reference for all purposes ("Scope of Services"), and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide all of the services and deliverables as specified by the terms and conditions of this Agreement (collectively, "Services"). The parties understand and agree that deviations or modifications to the Scope of Services, in the form of written change orders, may be authorized from time to time by City ("Change Orders"). Artist shall not perform any "extra" work and/or additional services without a duly executed, written change order issued by the Wylie City Manager or authorized designee.

1.3 **Schedule of Work** - The Artist agrees to commence work immediately upon execution of this Agreement and receipt of first payment, and to proceed diligently with said work to completion as described in the Completion Schedule/Project Billing/Project Budget, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes. **Exhibit B** can be amended only upon the agreement of both Parties. Any delays caused by foundry or transportation of the Artwork that are not caused by Artist shall be good cause of amendment of the project schedule as set forth in **Exhibit B**. Notwithstanding anything herein to the contrary, fabrication of the Artwork shall be completed no later than July 1, 2017. The Artwork shall be delivered on July 15, 2017 or reasonably promptly thereafter, as determined by City in its sole discretion. The Artwork shall not be delivered to Site #1 before City sends a written request to Artist for the delivery ("Request for Delivery") and after all portions of the base construction have been completed by the Artist. Delivery and full installation of the Artwork shall be completed within fourteen (14) days of the City's Request for Delivery.

## ARTICLE 2 CITY'S RESPONSIBILITIES

City shall use reasonable efforts to not delay the Services of Artist as follows:

2.1 **Project Data** - City shall furnish required information that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Artist shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.

2.2 **City Project Manager** - City shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project ("**Project Manager**"). City or the Project Manager shall examine the documents submitted by Artist and shall render any required decisions pertaining thereto as soon as practical so as to avoid unreasonable delay in the progress of the Services.

## ARTICLE 3 ARTIST'S COMPENSATION

3.1 **Compensation for Artist's Services** - As described in "Article 1, Artist's Services" of this Agreement, compensation for this Project shall be on a lump sum basis, in an amount not to exceed **One Hundred Thirty Thousand and No/100 Dollars (\$130,000.00)** ("**Artist's Fee**"), and will cover all Services to be rendered and materials to be provided in accordance with this Agreement. Artist's Fee shall be paid in accordance with this Article 3 and the Completion Schedule/Project Billing/Project Budget as set forth in **Exhibit B**. The final fifteen (15) percent of the Artist's Fee, or **Nineteen Thousand Five Hundred and No/100 dollars (\$19,500.00)** ("**Final Payment**"), shall not be paid to Artist until Artist has completed, delivered and installed, as applicable, all of the Artwork, Services and tasks described in Exhibits A and B to City's satisfaction.

3.2 **Invoices** - No payment to Artist shall be made until Artist tenders an invoice to the City. Payments are payable to the Artist within thirty (30) days from the date of invoice as long as the invoice is mailed to City within three (3) days of the date of the invoice. Invoices are to be mailed to City immediately upon completion of each individual task listed in **Exhibit A**. If any invoice remains outstanding and unpaid for more than sixty (60) days from the date of invoice, and Artist has fully performed its obligations as set forth herein, Artist has the option upon written notice to City, to suspend all work specified under this Agreement until the account is brought current. Continued performance and/or completion of work by Artist under this Agreement shall resume upon the payment of the earned fees by City.

3.3 **Failure to Pay** - Failure of City to pay an invoice, for a reason other than cause, to Artist within sixty (60) days from the date of the invoice shall grant Artist the right, in addition to any and all other rights provided, to, upon written notice to City, refuse to render further Services to City and such act or acts shall not be deemed a breach of this Agreement. City shall not be required to pay any invoice submitted by Artist if Artist breached any provision(s) herein.

3.4 **Adjusted Compensation** - If the Scope of Services for the Project or if the Services are materially changed by written change order, as defined in article 5.2, the Artist's Fee shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist as a result of any material change to the Scope of Services for the Project shall be agreed upon in writing by both parties before the Services are performed.

3.5 **Project Suspension** - If the Project is suspended or abandoned, in whole or in part, by City for more than three (3) months, Artist shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Artist shall deliver to City all finished or unfinished Artwork, documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any other items prepared by Artist in connection with this Agreement prior to Artist receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Artist's compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist after the Project is resumed shall be agreed upon in writing by both parties before the Services are performed.

#### **ARTICLE 4 OWNERSHIP AND COPYRIGHT**

4.1 **Ownership of Work** - Upon completion, the Artwork and the Project shall be the sole property of City, and Artist shall not make any duplicate work of the same or substantially similar size, nor shall Artist grant permission to others to do so except with the written permission of City. City shall be entitled to copies of the plans and the maquette which are prepared by Artist in connection with the development and fabrication of the Projects under this Agreement. The ownership of the Artwork shall be transferred to City upon full payment of the Artist's Fee as set forth in Article 3.1 of this Agreement.

4.2 **Ownership of Copyright** - Artist shall retain the copyright to the Artwork. Artist shall take all steps, at his own expense, to protect the copyright of the Artwork.

4.3 **License to City** - Artist irrevocably grants a license to City, its employees, representatives, officers and agents, the right to make photographs, two dimensional reproductions, and adaptations of the work for educational, public relations, arts promotional and other non - commercial purposes. For the purposes of this Agreement, the following, among others, are deemed to be reproductions and /or adaptations for noncommercial purposes: reproduction in exhibition catalogues, websites, books, slides, photographs, postcards, posters, and calendars; in magazines, books, art and news sections of newspapers; in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; slides, videos and film strips not intended for a mass audience, and television from stations operated for educational purposes or on programs for educational and news purposes from all stations.

4.4 **Copyright Notice** - City undertakes to use its reasonable efforts to include in any reproductions which it makes of the Artwork a copyright notice in the following form:

4.5 **Representations and Warranties Regarding Copyright** - Artist represents and warrants that the Artwork is an original creation of Artist and will not infringe the copyright, trademark or other intangible rights of any third party.

## **ARTICLE 5 FABRICATION**

5.1 **Specifications** - Artist will fabricate the Artwork, or cause it to be fabricated, in substantial conformity with the design approved by City as set forth in **Exhibit A**.

5.2 **Changes** - Any significant changes to the Artwork by either Artist or as requested by City must be approved in writing by the other party. For purposes of this Agreement, a significant change will mean any change, including but not limited to, a change in the scope, design, color, size or material of the Artwork, which affects cost, installation, site preparation, maintenance and concept as represented in the design described in **Exhibit A**. If Artist wishes to make a significant change to the Artwork, he must request written approval from City of the change in writing at the address provided in Section 14. City will provide a written response within thirty (30) calendar days. Timelines under Section 1.3 will be extended by the number of days missed while awaiting said response.

5.3 **Review of the Artwork** - City will be given access to the Artwork during reasonable business hours at Artist's or fabricator's studio in order to review the Artwork and Artist's or fabricator's progress with fabrication of the Artwork. Alternatively, City may request and shall be given photographic documentation of Artist's progress.

5.4 **Notification of Fabrication Completion** - Artist will notify City in writing pursuant to Section 14 when the Artwork is completed and ready for delivery. Designated representatives of City will have the opportunity to inspect the Artwork under Section 5.3 for conformity with the design and structural requirements prior to delivery and to give written approval or disapproval of the Artwork for thirty (30) business days following notice from the Artist. As an alternative to the studio inspection, photographic documentation may be submitted to City upon completion of the Artwork.

5.5 **Preparation of Site** - Due to the nature of the Project's site and installation of the Artwork, cooperation from Artist is required. Artist will provide City with the specifications and drawings for the specific area at the site where base of the Artwork is to be installed. Artist is responsible for obtaining and forwarding to City design drawings and calculations for the installation of the Artwork. The drawings will illustrate the Artwork's design and weight and its connection to the base. City will then use those drawings for review by the City Engineer and for permitting. Completion of the base designs is the sole responsibility of the Artist.

5.6 **Warranty of Craftsmanship** - Artist warrants that the Artwork will be free of defects in workmanship and materials. In the event that any defects become apparent in the

workmanship or materials within five (5) years of the execution of this Agreement, Artist will remedy any defects at Artist's sole cost and expense provided that City has followed and documented the maintenance procedures detailed in **Exhibit A**.

## **ARTICLE 6 STORAGE**

6.1 **Storage** - Artist shall be solely responsible for any and all necessary storage and transportation costs associated with this Agreement as provided by the mutually agreed delivery and installation timetable. If, for reasons outside the control of Artist, there is a delay in installation, City will store the Artwork at a secure City facility. If the delay in installation is caused by Artist, Artist will be responsible for the costs of storage. Artist will be on site at time of delivery of the Artwork.

## **ARTICLE 7 FINAL APPROVAL OF ARTWORK**

7.1 **Final Approval** - Within ten (10) business days after the permanent installation of the Artwork, City will inspect the Artwork to determine whether it conforms to all of the requirements of this Agreement. If City finds that any aspect of the Artwork is not in conformance with this Agreement, City will notify Artist in writing within seven (7) business days of the inspection. Artist will have an opportunity to address and cure any defects, requests or concerns of City within fifteen (15) days of the date of City's notice provided, pursuant to this Article 7.

## **ARTICLE 8 INTEGRITY OF THE WORK**

8.1 **Repairs and Maintenance** - The City undertakes to exercise reasonable care to protect, repair, and maintain the work. Artist agrees to cooperate with and advise the City in connection with any such non-routine maintenance, including, without limitation, damage by acts of God, vandalism, conservation and/or replacement of any portion of the Artwork to the extent that he or she is able to do so. During Artist's lifetime, the City will not undertake any non-routine maintenance on the Artwork without attempting to consult with the Artist or his or her authorized representative unless an emergency requires the City to do so.

8.2 **Relocation of the Work** - To the extent that the Artwork is capable of being relocated, the City shall have the right to do so. If feasible, the City shall attempt to consult with the Artist concerning the relocation of the Artwork prior to any such relocation; however, the Artist's approval is not required for the relocation, if any. If the Artist is not pleased with such relocation, he or she shall have the right to renounce credit for the Artwork. If Artist renounces credit for his Artwork, this would include, among other things, relinquishment and abandonment of the copyrights described herein.

8.3 **Credit** - The City agrees, at its own expense, to prepare and install at or near the Project a public notice, the form and exact location of which shall be solely determined by City, giving Artist credit for the creation of the Artwork.

## **ARTICLE 9 INSURANCE COVERAGE**

9.1 **Required Insurance** - Artist shall provide and maintain the types and amounts of insurance set forth herein for and during all aspects and phases of this Project. Artist shall be required to provide and maintain general liability insurance with a minimum of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate. In addition, Artist shall provide and maintain insurance for loss (including theft, fire and damage) and any statutorily required workers' compensation insurance. All insurance and certificate(s) of insurance shall contain the following provisions:

1. Name City, its officers, agents, representatives and employees as additional insureds as to all applicable coverage with the exception of workers' compensation insurance.
2. Provide for at least thirty (30) days prior written notice to City for cancellation, non - renewal or material change of the insurance.
3. Provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

9.2 **Insurance company qualification** - All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

9.3 **Certificate of insurance** - A certificate of insurance and endorsement(s) evidencing the required insurance shall be submitted no later than the date of the execution of this Agreement. If this Agreement is renewed or extended by the City, a certificate of insurance shall also be provided to the City prior to the date the Agreement is renewed or extended.

## **ARTICLE 10 AUDITS AND RECORDS/PROHIBITED INTEREST/VENDOR DISCLOSURE**

Artist agrees that at any time during normal business hours and as often as City may deem necessary, Artist shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Artist agrees that he is aware of the prohibited interest requirement of the City Charter, which is repeated on the Affidavit attached hereto as **Exhibit C** and incorporated herein by reference for all purposes, and will abide by the same. Further, Artist shall execute the Affidavit attached hereto as **Exhibit C**. Artist understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Artist agrees that he is further aware of the vendor disclosure requirements set forth in Chapter 176, LOCAL GOV'T CODE, as amended, and will abide by the same. In this connection, Artist shall execute the Conflict of Interest Questionnaire, Form C1Q, attached hereto as **Exhibit D** and incorporated herein for all purposes.

## **ARTICLE 11 TERMINATION OF AGREEMENT/REMEDIES**

11.1 **Artist Default** - Failure or refusal of Artist to perform any act herein required, unless mutually agreed to in writing by City and Artist, shall constitute a default under this Agreement. In the event of a default, in addition to any other remedy available to City, this Agreement may be terminated by City upon ten (10) days' written notice. Such notice does not waive any other legal remedies available to City.

11.2 **Conditions for Termination of Agreement Other than Artist's Default** - If City deems, in its sole discretion, the Project design is inappropriate or unworkable for the site, or if the deadlines specified herein are not met due, in whole or in part, to the Artist's actions and/or omissions, or if cost estimates indicate that the Project cannot be completed within the Project budget, City retains the right to terminate this Agreement and is released from the obligation to enter into fabrication and installation of Artist's design concept for the Project.

In the event of any termination under this Section 11.2, Artist shall deliver to City all work, entirely or partially completed. Artist shall receive as compensation, full payment for Services satisfactorily performed, as solely determined by City, as outlined in **Exhibit B**, as applicable, to the date of the termination notice received. City shall make this final payment within thirty (60) days of notifying the Artist. Any payment not timely made under this Section 11.2 is subject to interest charges as described in Section 3.1.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

## **ARTICLE 12 DISPUTE RESOLUTION/MEDIATION**

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

### **ARTICLE 13 INDEMNITY**

**ARTIST SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITYCOUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES ( INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES INCLUDING LOSS OF USE), CLAIMS FOR PATENT, TRADEMARK AND/OR COPYRIGHT INFRINGEMENT AND /OR ANY OTHER INTELLECTUAL PROPERTY AND/OR PROPRIETARY CLAIM, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF ARTIST, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FROM WHOM ARTIST IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND /OR ARISING OUT OF GOODS AND/OR SERVICES PROVIDED BY ARTIST PURSUANT TO THIS AGREEMENT HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL. IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN ARTIST AND HIS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH ARTIST, INCLUDING BUT NOT LIMITED TO, ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. ARTIST IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.**

**IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY ARTIST IN FULFILLING HIS**

**OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ARTIST'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ARTIST'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ARTIST SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ARTIST FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND ARTIST SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

**ARTICLE 14  
NOTICES**

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre -paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee' s receipt thereof; or by delivering the sane in person to such party a via hand - delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

**If to City, addressed to it at:**

Mindy Manson, City Manager  
Carole Ehrlich, Public Arts Coordinator  
City of Wylie  
300 Country Club Road, Bldg. 100  
Wylie, Texas 75098

**With a copy to:**

Abernathy, Roeder, Boyd & Hullett, P.C.  
Attention: Ryan D. Pittman  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
Telephone: (214) 544-4000  
Facsimile: (214) 544 -4054

**If to Artist, addressed to at:**

Michael Szabo  
1433 Yosemite Avenue  
San Francisco, CA 94124  
Telephone: (415) 671-2267  
Facsimile: \_\_\_\_\_

## **ARTICLE 15 MISCELLANEOUS**

15.1 **Complete Agreement** - This Agreement, including the exhibits hereto labeled “A” through “D”, all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented and/or modified except by written agreement, duly executed by both parties. The following exhibits are attached and made part of this Agreement:

**Exhibit A**, Scope of Services.

**Exhibit B**, Compensation Schedule/ Project Billing/ Project Budget.

**Exhibit C**, Affidavit-Conflict of Interest CIQ.

**Exhibit D**, Certificate of Interested Party (Form 1295).

15.2 **Assignment and Subletting** - Artist agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City, except for transportation, delivery and foundry services. Artist further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Artist of its full obligations to the City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Artist, and there shall be no third party billing.

15.3 **Attorney's Fees** - If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Artist, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable and necessary attorneys' and experts' fees and litigation expenses to be fixed by the court both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE §271.153, as it exists or may be amended, if applicable.

15.4 **Successors and Assigns** - City and Artist, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

15.5 **Savings/Severability** - In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term condition or provision shall be deleted and the

remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.

15.6 **Venue** - This entire Agreement is performable in Collin County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas, without regard to Texas' choice of law provisions. The exclusive venue for any action arising out of the parties' performance under this Agreement shall be a court of appropriate jurisdiction in Collin County, Texas.

15.7 **Execution/Consideration** - This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

15.8 **Authority** - The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date thereof.

15.9 **Waiver** - Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

15.10 **Headings** - The headings of the various sections of this Agreement are included solely for the convenience of reference and are not to be full or accurate descriptions of the content thereof.

15.11 **Multiple Counterparts** - This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

15.12 **Immunity** - The parties acknowledge and agree that, in executing this Agreement, City has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

15.13 **Representations** - Each signatory represents his Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.

15.14 **Miscellaneous Drafting Provisions** -This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.

15.15 **Death of Artist** - In the event the Artist dies or becomes incapacitated during the term of this Agreement, the fabrication, delivery and installation of the Artwork shall be completed pursuant to the Artist' s design, conception and plans by: Name; Alex Smith Phone: 415-671-2267 E-mail: alex@szaboworks.com.

15.16 **No Third Party Beneficiaries** - Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

15.17 **Reference to Artist** - When referring to “Artist,” this Agreement shall refer to and be binding upon Artist, and his partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Artist is legally responsible.

15.18 **Reference to City** - When referring to “City,” this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

15.19 **No Joint Enterprise** - The parties do not intend that this Agreement be construed as finding that the parties have formed a joint enterprise. The purposes for which each party has entered into this Agreement are separate and distinct. It is not the intent of either of the parties that a joint enterprise relationship is being entered into and the parties hereto specifically disclaim such relationship. This Agreement does not constitute a joint enterprise, as there are no common pecuniary interests, no common purpose and no equal right of control among the parties hereto.

*(Signature pages follow.)*

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

**CITY:**

City of Wylie, Texas,  
a home-rule municipality

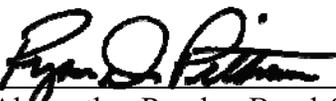
**ARTIST:**

Michael Szabo, Artist

By: \_\_\_\_\_  
Mindy Manson, City Manager

By: \_\_\_\_\_  
Michael Szabo, Artist

**APPROVED AS TO FORM:**

By:  \_\_\_\_\_  
Abernathy, Roeder, Boyd & Hullett, P.C.  
Ryan Pittman, City Attorneys

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of Texas, on this day personally appeared **MINDY MANSON**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of Texas

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of \_\_\_\_\_, on this day personally appeared **Michael Szabo**, Artist, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of \_\_\_\_\_

**EXHIBIT “A”  
SCOPE OF SERVICES**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS  
AND MICHAEL SZABO**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED  
2016 THOROUGHFARE CIP ART PROJECT, SITES #2  
300 COUNTRY CLUB ROAD  
WYLIE, TEXAS 75098**

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Project Description

**2016 Thoroughfare Public Art Project – Site #2 (Entrance to Walking Trails-West Brown Street) “Prairie Crossing” – A curving concrete seating wall spanning 50 feet from end to end, the concrete bench provides a resting point at the beginning or end of a visitors walk along the trails. Ribbons of stainless steel and patina bronze arch over the bench, crisscrossing each other in a dynamic web, 11 feet tall at the highest point. The arches will be lit with up-lights at night for a dramatic effect from the street.**

To fabricate and install the proposed 2016 Thoroughfare CIP Public Art Project Sculpture entitled Prairie Crossing, artist Michael Szabo will perform the following tasks:

- A) Following a site visit, submit final schematic drawings of the proposal, based upon submitted maquette to City staff and the Public Arts Advisory Board for their review and approval within sixty (60) days of the receipt of this agreement. These drawings will include:
- Detailed information of every physical feature of the construction of the Artwork and its integration with the site with any proposed changes to the previously submitted concept highlighted. (Final Design).
  - A description of any issues involved in the construction, integration and maintenance of the Artwork, as well as any third party subcontractors needed to work on the project.
  - A final project budget breakdown not to exceed \$130,000.00.
  - An installation timeline.
- B) Following formal approval by the Public Arts Advisory Board, and the Wylie City Council, the Artist shall submit drawings stamped by an engineer, licensed by the State of Texas and paid for by the Artist, for certification that the Artwork, foundations, and its connection will be structurally sound.
- C) The Artist shall fabricate and install the Artwork in substantial conformity with the approved design. Any significant changes in the concept, as defined in Article 5.2, must be approved by the City. It is the responsibility of the Artist to coordinate with the City, the Project Landscape Architect, and Contractor to ensure that the site is prepared to receive the Artwork. The Artist will be responsible for preparation of the site, including installation of

the foundation base, risers, sculpture and lighting. The City will be responsible for landscaping around the space and electrical power to the site.

- D) Upon completion of the permanent installation and clean-up of the site, the City Project Manager will inspect the work and give notice of acceptance, as provided in this Agreement. The Artist will complete the City's maintenance worksheet and submit it to the City within ten (10) days of City's final acceptance of the Artwork.

## MAINTENANCE PROCEDURES

Materials and Care Information Sheet (to be filled out by the artist and submitted upon completion of the project prior to final payment.)

Artist: Michael Szabo Date: \_\_\_\_\_

Title of Work: **Prairie Crossing**

Media: \_\_\_\_\_

Specific materials used (Brand name and type of all materials, i.e. type of paper and fiber content, metal alloy, chemical composition of patina, etc.)

Specific techniques used in the fabrication of the Artwork. (Airbrush painting, lost wax casting, TIG welding, etc.):

Fabricator name and address (if other than artist):

Installation materials and techniques (Attach as-built drawings as appropriate):

Recommended Maintenance procedures. (Be as specific as possible about techniques and materials):

Cautions regarding maintenance, handling, etc:

**EXHIBIT "B"**  
**COMPLETION SCHEDULE/PROJECT BILLING/PROJECT BUDGET**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS (CITY)**  
**AND "MICHAEL SZABO" (ARTISTS)**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED 2016**  
**THOROUGHFARE PUBLIC ART PROJECT – SITE #2, LOCATED AT W. BROWN TRAIL**  
**ENTRANCE, 300 COUNTRY CLUB ROAD, WYLIE TEXAS 75098**

Completion Schedule and Project Billing

<b>TASK</b>	<b>DESCRIPTION</b>	<b>PAYMENT</b>	<b>TIMELINE</b>
1	Execution of Agreement and Notice to Proceed. Insurance documentation sent to City.	\$18,500	10-2016
2	Submit final design and budget breakdown for approval to city staff. Stamped engineered drawings submitted.	\$18,500	12-2016
3	Artist begins work upon issuance of city permit.	\$18,500	1-2017
4	Artist studio fabrication (half complete) confirmed with staff. (pictures or examination)	\$18,500	3-2017
5	Artist provides Notification of Fabrication Completion	\$18,500	5-2017
6	Artist installs work at site	\$18,000	5-2017
7	City inspection and approval-final signoff	\$19,500.	6-2017
<b>TOTAL</b>		\$130,000	



**EXHIBIT "D"**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> For vendor doing business with local governmental entity		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	Date Received   	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p align="center">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p align="center"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p align="center">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p align="center"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p>		
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p><b>7</b></p> <p align="center">                 _____                  Signature of vendor doing business with the governmental entity             </p> <p align="right">                 _____                  Date             </p>		

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

### OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Michael Szabo, San Francisco, CA USA

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

City of Wylie, TX

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

City of Wylie 2016 Thoroughfare CIP Art Projects, Sites #1 and #2

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

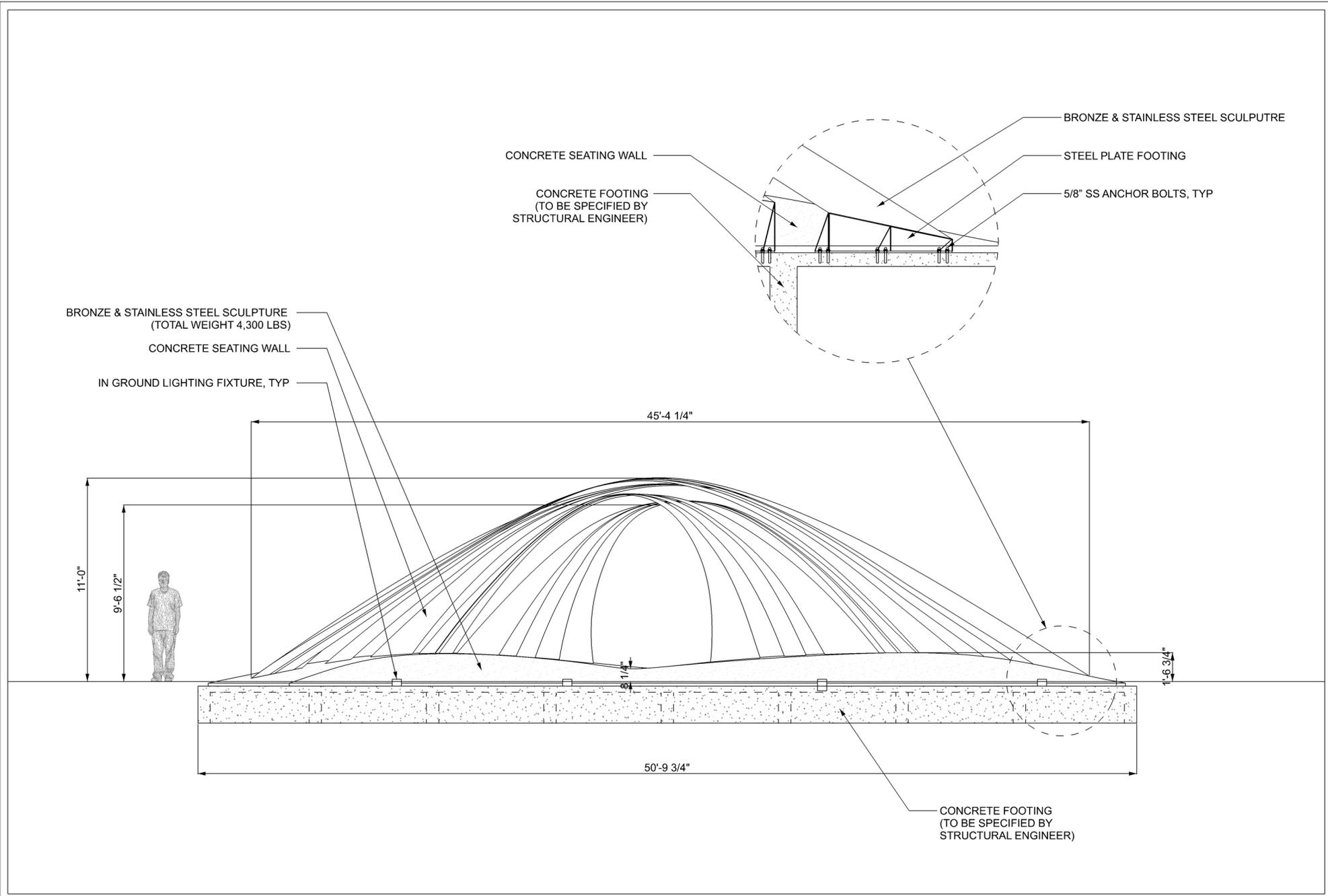
\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath

**ADD ADDITIONAL PAGES AS NECESSARY**



MICHAELSZABO STUDIO

1433 YOSEMITE AVE. SAN FRANCISCO, CA 94124  
 415.671.2267 INFO@SZABOWORKS.COM  
 WWW.SZABOWORKS.COM

*Prairie Crossing*  
 Site 2 - W Brown St Trail Entrance  
 City of Wylie, TX

ELEVATION  
 (PRELIMINARY, NOT  
 FOR CONSTRUCTION)

Designed By: M. SZABO

Date: 9/12/2016

Scale: N.T.S

IN GROUND LIGHTING FIXTURE, TYP  
 CONCRETE SEATING WALL  
 BRONZE & STAINLESS STEEL SCULPTURE  
 (TOTAL WEIGHT 4,300 LBS)

PAVED WALKING PATH  
 CONNECTS TO PARKING LOT  
 CONCRETE FOOTING  
 (SPECIFIED BY STRUCTURAL  
 ENGINEER)

8'-0"

16'-0 3/4"

3'-3 3/4"

13'-0"

45'-8"

48'-9 1/4"

PAVED WALKING PATH  
 CONNECTS TO EXISTING PATH

MICHAELSZABO STUDIO  
 1433 YOSEMITE AVE. SAN FRANCISCO, CA 94124  
 415.671.2267 INFO@SZABOWORKS.COM  
 WWW.SZABOWORKS.COM

*Prairie Crossing*  
 Site 2 - W Brown St Trail Entrance  
 City of Wylie, TX

PLAN  
 (PRELIMINARY, NOT  
 FOR CONSTRUCTION)

Designed By: M. SZABO  
 Date: 9/12/2016  
 Scale: N.T.S



# Wylie City Council

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## AGENDA REPORT

Meeting Date:	<u>October 11, 2016</u>	Item Number:	<u>5</u> <i>(City Secretary's Use Only)</i>
Department:	<u>City Secretary</u>	Account Code:	<u>175-5175-54060</u>
Prepared By:	<u>C. Ehrlich</u>	Budgeted Amount:	<u>\$52,000</u>
Date Prepared:	<u>September 26, 2016</u>	Exhibits:	<u>Contract/Design</u>

### Subject

Consider, and act upon, the final artist and art design by John Davis for the 2016 CIP Thoroughfare Public Art Project, Site #3 and authorize the City Manager to execute a contract, not to exceed \$52,000 to commission the art.

### Recommendation

Motion to approve the final artist and art design by John Davis for the 2016 CIP Thoroughfare Public Art Project, Site #3 and authorize the City Manager to execute a contract, not to exceed \$52,000 to commission the art.

### Discussion

The Public Arts Advisory Board issued a Call for Artists for three public art projects funded by the 2005 Thoroughfare Bond projects. Site #1 and Site#2, located near each end of the Municipal Complex Walking Trails (Country Club Road/ FM 544 and West Brown) were funded at \$130,000 per site, and Site #3 located at the Disc Golf Park on West Brown was funded at \$52,000.

The board received 57 submissions for these projects and appointed a pare-down committee to review the submissions, including previous work of each artist. The committee narrowed the submissions to 34 artists to move to the next selection process. Committee members included: Lynn Grimes (PAAB Chair), Mindy Manson, and Margaret Robinette (Public Art Administrator-Dallas Cultural Arts, retired).

The Public Arts Advisory Board appointed a selection committee to review the remaining submissions and choose 2-3 semi-finalists for each of the three projects. The semi-final artists were asked to come to the City to view the sites and tour the City. They also attended a Public Art Input meeting to hear from the public regarding art for the sites. On August 25, 2016 the artists completed their proposals and presented them to both the Selection Panel and the Public Arts Board. Committee members included: John Pototschnik, Lynn Grimes, Shirley Burnett, Margaret Robinette, Shohn Rogers, Mindy Manson, and Kathy Spillyards.

John Davis was unanimously chosen as the final artist for Site #3. The committee and board felt his proposal, "*Lift-Off*" best suited site specific needs and the intent of the park.

The proposed artwork uses the vocabulary of the circle and the spiral in forming a colorful and gestural celebration of the essence of the park. The spiral (ribbon design) suggests energy and propulsion of the disc at its end. At the opposite end, a wind vane in the shape of a disc connects to the airborne aspect of the golfing activity and can also give golfers an indication of wind direction as it may affect the path of long throws. The disc stands above the spiral design and is lit from below the disc. The spiral is fabricated from Cor-Ten Steel and has a fluoropolymer coating for superior durability, color and, gloss retention. The design stands 11 feet tall at the highest point and 15.6 feet long.

Artist John Davis is not present but has included a PowerPoint presentation for Council review.

The contract to commission the art has been reviewed by the City Attorney and is attached to this item.

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF WYLIE, TEXAS**  
**AND**  
**JOHN DAVIS**  
**FOR**  
**THE FABRICATION AND INSTALLATION OF THE PROPOSED**  
**2016 THOROUGHFARE CIP PUBLIC ART PROJECT**  
**SITE #3 – LAVON/ONCOR PARK (GOLF DISC PARK)**  
**961 EAST BROWN STREET**  
**WYLIE, TEXAS 75098**

Made as of the 11<sup>th</sup> day of October, 2016

**BETWEEN** City: City of Wylie, Texas  
300 Country Club Road, Bldg. 100  
Wylie, Texas 75098  
Telephone: (972) 442-8100  
Facsimile: (972) 516-6025

and Artist(s): John Davis  
8816 La Barranca Avenue NE  
Albuquerque, NM 87111  
Telephone: (520) 471-1904

For the following Project: **Fabrication and Installation of the proposed corten steel sculpture at the Disc Golf Park**

**THIS AGREEMENT** (“Agreement”) is made and entered by and between the **City of Wylie, Texas**, a home-rule municipality, (“City”), and **John Davis**, individually (“Artist”), to be effective from and after the date as provided herein. City and Artist are at times each referred to herein as the “parties” or collectively as a “party.”

WHEREAS, City desires to engage the services of Artist to fabricate and install a corten steel sculpture (“Artwork”) in connection with the Public Art Project at City’s Lavon/Oncor Park-Disc Golf Park (“Project”), which shall be installed in the location designated by City in its sole discretion on property located at Wylie, Texas 75098 (“Disc Golf Park”); and

WHEREAS, Artist desires to render fabrication and installation services for City on the terms and conditions provided herein.

**NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:**

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1  
ARTIST'S SERVICES**

1.1 **Employment of Artist** - City hereby agrees to retain Artist to provide the Services hereinafter defined) set forth herein in connection with the Project. Artist agrees to perform such Services in accordance with the terms and conditions of this Agreement.

1.2 **Scope of Services** - The parties agree that Artist shall provide the Services and deliverables that are set forth and described in the Scope of Services, attached hereto as **Exhibit A** and incorporated herein by reference for all purposes ("Scope of Services"), and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide all of the Services and deliverables as specified by the terms and conditions of this Agreement (collectively, "Services"). The parties understand and agree that deviations or modifications to the Scope of Services, in the form of written change orders, may be authorized from time to time by City ("Change Orders"). Artist shall not perform any "extra" work and/or additional services without a duly executed, written change order issued by the Wylie City Manager or authorized designee.

1.3 **Schedule of Work** - The Artist agrees to commence work immediately upon execution of this Agreement and receipt of first payment, and to proceed diligently with said work to completion as described in the Completion Schedule/Project Billing/Project Budget, attached hereto as **Exhibit B** and incorporated herein by reference for all purposes. **Exhibit B** can be amended only upon the agreement of both Parties. Any delays caused by foundry or transportation of the Artwork that are not caused by Artist shall be good cause of amendment of the project schedule as set forth in **Exhibit B**. Notwithstanding anything herein to the contrary, fabrication of the Artwork shall be completed no later than July 15, 2017. The Artwork shall be delivered on July 30, 2017 or reasonably promptly thereafter, as determined by City in its sole discretion. The Artwork shall not be delivered to the Disc Golf Park before City sends a written request to Artist for the delivery ("Request for Delivery") and after all portions of the base construction have been completed by the artist. Delivery and full installation of the Artwork shall be completed within thirty (30) days of the City's Request for Delivery.

**ARTICLE 2  
CITY' S RESPONSIBILITIES**

City shall use reasonable efforts to not delay the Services of Artist as follows:

2.1 **Project Data** - City shall furnish required information that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Artist shall be entitled to rely upon the accuracy and completeness of the information furnished by City under this Article 2.1.

2.2 **City Project Manager** - City shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project ("**Project Manager**"). City or the Project Manager shall examine the documents submitted by Artist and shall render any required decisions pertaining thereto as soon as practical so as to avoid unreasonable delay in the progress of the Services.

### **ARTICLE 3 ARTIST'S COMPENSATION**

3.1 **Compensation for Artist's Services** - As described in "Article 1, Artist's Services" of this Agreement, compensation for this Project shall be on a lump sum basis, in an amount not to exceed **Fifty Two Thousand and No/100 Dollars (\$52,000.00)** ("**Artist's Fee**"), and will cover all Services to be rendered and materials to be provided in accordance with this Agreement. Artist's Fee shall be paid in accordance with this Article 3 and the Completion Schedule/Project Billing/Project Budget as set forth in **Exhibit B**. The final fifteen (15) percent of the Artist's Fee, or **Seven Thousand Eight Hundred and No/100 Dollars (\$7,800.00)** ("**Final Payment**") shall not be paid to Artist until Artist has completed, delivered and installed, as applicable, all of the Artwork, Services and tasks described in **Exhibits A and B** to City's satisfaction.

3.2 **Invoices** - No payment to Artist shall be made until Artist tenders an invoice to the City. Payments are payable to the Artist within thirty (30) days from the date of invoice as long as the invoice is mailed to City within three (3) days of the date of the invoice. Invoices are to be mailed to City immediately upon completion of each individual task listed in **Exhibit A**. If any invoice remains outstanding and unpaid for more than sixty (60) days from the date of invoice, and Artist has fully performed its obligations as set forth herein, Artist has the option upon written notice to City, to suspend all work specified under this Agreement until the account is brought current. Continued performance and/or completion of work by Artist under this Agreement shall resume upon the payment of the earned fees by City.

3.3 **Failure to Pay** - Failure of City to pay an invoice, for a reason other than cause, to Artist within sixty (60) days from the date of the invoice shall grant Artist the right, in addition to any and all other rights provided, to, upon written notice to City, refuse to render further Services to City and such act or acts shall not be deemed a breach of this Agreement. City shall not be required to pay any invoice submitted by Artist if Artist breached any provision(s) herein.

3.4 **Adjusted Compensation** - If the Scope of Services for the Project or if the Services are materially changed by written change order, the Artist's Fee shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist as a

result of any material change to the Scope of Services for the Project shall be agreed upon in writing by both parties before the Services are performed.

3.5 **Project Suspension** - If the Project is suspended or abandoned, in whole or in part, by City for more than three (3) months, Artist shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Artist shall deliver to City all finished or unfinished Artwork, documents, data, studies, surveys, drawings, maps, models, reports, photographs and /or any other items prepared by Artist in connection with this Agreement prior to Artist receiving final payment. If the Project is resumed after being suspended for more than three (3) months, the Artist's compensation shall be equitably adjusted as approved by City in its sole discretion. Any additional amounts paid to Artist after the Project is resumed shall be agreed upon in writing by both parties before the Services are performed.

#### **ARTICLE 4 OWNERSHIP AND COPYRIGHT**

4.1 **Ownership of Work** - Upon completion, the Artwork and the Project shall be the sole property of City, and Artist shall not make any duplicate work of the same or substantially similar size, nor shall Artist grant permission to others to do so except with the written permission of City. City shall be entitled to copies of the plans and the maquette which are prepared by Artist in connection with the development and fabrication of the Projects under this Agreement. The ownership of the Artwork shall be transferred to City upon full payment of the Artist's Fee as set forth in Article 3.1 of this Agreement.

4.2 **Ownership of Copyright** - Artist shall retain the copyright to the Artwork. Artist shall take all steps, at his own expense, to protect the copyright of the Artwork.

4.3 **License to City** - Artist irrevocably grants a license to City, its employees, representatives, officers and agents, the right to make photographs, two dimensional reproductions, and adaptations of the work for educational, public relations, arts promotional and other non - commercial purposes. For the purposes of this Agreement, the following, among others, are deemed to be reproductions and /or adaptations for noncommercial purposes: reproduction in exhibition catalogues, websites, books, slides, photographs, postcards, posters, and calendars; in magazines, books, art and news sections of newspapers; in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; slides, videos and film strips not intended for a mass audience, and television from stations operated for educational purposes or on programs for educational and news purposes from all stations.

4.4 **Copyright Notice** - City undertakes to use its reasonable efforts to include in any reproductions which it makes of the Artwork a copyright notice in the following form:

Copyright John Davis, "Artist"

4.5 **Representations and Warranties Regarding Copyright** - Artist represents and warrants that the Artwork is an original creation of Artist and will not infringe the copyright, trademark or other intangible rights of any third party.

## **ARTICLE 5 FABRICATION**

5.1 **Specifications** - Artist will fabricate the Artwork, or cause it to be fabricated, in substantial conformity with the design approved by City as set forth in **Exhibit A**.

5.2 **Changes** - Any significant changes to the Artwork by either Artist or as requested by City must be approved in writing by the other party. For purposes of this Agreement, a significant “change” will mean any change, including but not limited to, a change in the scope, design, color, size or material of the Artwork, which affects cost, installation, site preparation, maintenance and concept as represented in the design described in **Exhibit A**. If Artist wishes to make a significant change to the Artwork, he must request written approval from City of the change in writing at the address provided in Section 14. City will provide a written response within thirty (30) calendar days. Timelines under Section 1.3 will be extended by the number of days missed while awaiting said response.

5.3 **Review of the Artwork** - City will be given access to the Artwork during reasonable business hours at Artist's or fabricator's studio in order to review the Artwork and Artist's or fabricator's progress with fabrication of the Artwork. Alternatively, City may request and shall be given photographic documentation of Artist's progress.

5.4 **Notification of Fabrication Completion** - Artist will notify City in writing pursuant to Section 14 when the Artwork is completed and ready for delivery. Designated representatives of City will have the opportunity to inspect the Artwork under Section 5.3 for conformity with the design and structural requirements prior to delivery and to give written approval or disapproval of the Artwork for thirty (30) business days following notice from the Artist. As an alternative to the studio inspection, photographic documentation may be submitted to City upon completion of the Artwork.

5.5 **Preparation of Site** - Due to the nature of the Project's site and installation of the Artwork, cooperation from Artist is required. Artist will provide City with the specifications and drawings for the specific area at the site where base of the Artwork is to be installed. Artist is responsible for obtaining and forwarding to City design drawings and calculations for the installation of the Artwork. The drawings will illustrate the Artwork's design and weight and its connection to the base. City will then use those drawings for review by the City Engineer. Completion of the base designs is the sole responsibility of the artist.

5.6 **Warranty of Craftsmanship** - Artist warrants that the Artwork will be free of defects in workmanship and materials. In the event that any defects become apparent in the workmanship or materials within three (3) years of the execution of this Agreement, Artist will remedy any defects at Artist's sole cost and expense provided that City has followed and documented the maintenance procedures detailed in **Exhibit A**.

## **ARTICLE 6 STORAGE**

6.1 **Storage** - Artist shall be solely responsible for any and all necessary storage and transportation costs associated with this Agreement as provided by the mutually agreed delivery and installation timetable. If, for reasons outside the control of Artist, there is a delay in installation, City will store the Artwork at a secure City facility. If the delay in installation is caused by Artist, Artist will be responsible for the costs of storage. Artist will be on site at time of delivery of the Artwork.

## **ARTICLE 7 FINAL APPROVAL OF ARTWORK**

7.1 **Final Approval** - Within ten (10) business days after the permanent installation of the Artwork, City will inspect the Artwork to determine whether it conforms to all of the requirements of this Agreement. If City finds that any aspect of the Artwork is not in conformance with this Agreement, City will notify Artist in writing within seven (7) business days of the inspection. Artist will have an opportunity to address and cure any defects, requests or concerns of City within fifteen (15) days of the date of City's notice provided, pursuant to this Article 7.

## **ARTICLE 8 INTEGRITY OF THE WORK**

8.1 **Repairs and Maintenance** - The City undertakes to exercise reasonable care to protect, repair, and maintain the work. Artist agrees to cooperate with and advise the City in connection with any such non-routine maintenance, including, without limitation, damage by acts of God, vandalism, conservation and/or replacement of any portion of the Artwork to the extent that he or she is able to do so. During Artist's lifetime, the City will not undertake any non-routine maintenance on the Artwork without attempting to consult with the Artist or his or her authorized representative unless an emergency requires the City to do so.

8.2 **Relocation of the Work** - To the extent that the Artwork is capable of being relocated, the City shall have the right to do so. If feasible, the City shall attempt to consult with the Artist concerning the relocation of the Artwork prior to any such relocation; however, the Artist's approval is not required for the relocation, if any. If the Artist is not pleased with such relocation, he or she shall have the right to renounce credit for the Artwork. If Artist renounces credit for his Artwork, this would include, among other things, relinquishment and abandonment of the copyrights described herein.

8.3 **Credit** - The City agrees, at its own expense, to prepare and install at or near the Project a public notice, the form and exact location of which shall be solely determined by City, giving Artist credit for the creation of the Artwork.

## **ARTICLE 9**

## INSURANCE COVERAGE

9.1 **Required Insurance** - Artist shall provide and maintain the types and amounts of insurance set forth herein for and during all aspects and phases of this Project. Artist shall be required to provide and maintain general liability insurance with a minimum of One Million and No/100 Dollars (\$1,000,000.00) per occurrence and Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate. In addition, Artist shall provide and maintain insurance for loss (including theft, fire and damage) and employee health and disability insurance, as well as any statutorily required workers' compensation insurance. All insurance and certificate(s) of insurance shall contain the following provisions:

1. Name City, its officers, agents, representatives and employees as additional insureds as to all applicable coverage with the exception of workers' compensation insurance.
2. Provide for at least thirty (30) days prior written notice to City for cancellation, non - renewal or material change of the insurance.
3. Provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

9.2 **Insurance company qualification** - All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

9.3 **Certificate of insurance** - A certificate of insurance and endorsement(s) evidencing the required insurance shall be submitted no later than the date of the execution of this Agreement. If this Agreement is renewed or extended by the City, a certificate of insurance shall also be provided to the City prior to the date the Agreement is renewed or extended.

## ARTICLE 10

### AUDITS AND RECORDS/PROHIBITED INTEREST/VENDOR DISCLOSURE

Artist agrees that at any time during normal business hours and as often as City may deem necessary, Artist shall make available to representatives of City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

Artist agrees that he is aware of the prohibited interest requirement of the City Charter, which is repeated on the Affidavit attached hereto as **Exhibit C** and incorporated herein by reference for all purposes, and will abide by the same. Further, Artist shall execute the Affidavit attached

hereto as **Exhibit C**. Artist understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Artist agrees that he is further aware of the vendor disclosure requirements set forth in Chapter 176, LOC. GOV'T CODE, as amended, and will abide by the same. In this connection, Artist shall execute the Conflict of Interest Questionnaire, Form C1Q, attached hereto as **Exhibit D** and incorporated herein for all purposes.

## **ARTICLE 11 TERMINATION OF AGREEMENT/REMEDIES**

11.1 **Artist Default** - Failure or refusal of Artist to perform any act herein required, unless mutually agreed to in writing by City and Artist, shall constitute a default under this Agreement. In the event of a default, in addition to any other remedy available to City, this Agreement may be terminated by City upon ten (10) days' written notice. Such notice does not waive any other legal remedies available to City.

11.2 **Conditions for Termination of Agreement Other than Artist's Default** - If City deems, in its sole discretion, the Project design is inappropriate or unworkable for the site, or if the deadlines specified herein are not met due, in whole or in part, to the Artist's actions and/or omissions, or if cost estimates indicate that the Project cannot be completed within the Project budget, City retains the right to terminate this Agreement and is released from the obligation to enter into fabrication and installation of Artist's design concept for the Project.

In the event of any termination under this Section 11.2, Artist shall deliver to City all work, entirely or partially completed. Artist shall receive as compensation, full payment for Services satisfactorily performed, as solely determined by City, as outlined in **Exhibit B**, as applicable, to the date of the termination notice received. City shall make this final payment within thirty (30) days of notifying the Artist. Any payment not timely made under this Section 11.2 is subject to interest charges as described in Section 3.1.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

## **ARTICLE 12 DISPUTE RESOLUTION/MEDIATION**

In addition to all remedies at law, the parties may agree to attempt to resolve any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator. However, if both parties do not agree to voluntarily mediate any such controversy, claim or dispute, mediation shall not be required.

## **ARTICLE 13**

## INDEMNITY

ARTIST SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITYCOUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES ( INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES INCLUDING LOSS OF USE), CLAIMS FOR PATENT, TRADEMARK AND/OR COPYRIGHT INFRINGEMENT AND /OR ANY OTHER INTELLECTUAL PROPERTY AND/OR PROPRIETARY CLAIM, LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF ARTIST, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FROM WHOM ARTIST IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND /OR ARISING OUT OF GOODS AND/OR SERVICES PROVIDED BY ARTIST PURSUANT TO THIS AGREEMENT HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL. IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN ARTIST AND HIS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH ARTIST, INCLUDING BUT NOT LIMITED TO, ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. ARTIST IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY ARTIST IN FULFILLING HIS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT

**TO BE CONSTRUED AS A WAIVER OF ARTIST'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ARTIST'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ARTIST SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ARTIST FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND ARTIST SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

**ARTICLE 14  
NOTICES**

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre -paid and registered or certified with return receipt requested; by facsimile; by electronic mail, with documentation evidencing the addressee' s receipt thereof; or by delivering the sane in person to such party a via hand - delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

**If to City, addressed to it at:**

Mindy Manson, City Manager  
Carole Ehrlich, Public Arts Coordinator  
City of Wylie  
300 Country Club Road, Bldg. 100  
Wylie, Texas 75098

**With a copy to:**

Abernathy, Roeder, Boyd & Hullett, P.C.  
Attention: Ryan D. Pittman  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
Telephone: (214) 544-4000  
Facsimile: (214) 544 -4054

**If to Artist, addressed to at:**

John Davis  
8816 La BARRANCA Avenue NE  
Albuquerque, NM 87111  
Telephone: (520) 471-1904

**ARTICLE 15  
MISCELLANEOUS**

15.1 **Complete Agreement** - This Agreement, including the exhibits hereto labeled “A” through “D”, all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement may not be amended, supplemented and/or modified except by written agreement, duly executed by both parties. The following exhibits are attached and made part of this Agreement:

**Exhibit A**, Scope of Services.

**Exhibit B**, Compensation Schedule/ Project Billing/ Project Budget.

**Exhibit C**, Affidavit.

**Exhibit D**, Conflict of Interest CIQ.

15.2 **Assignment and Subletting** - Artist agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City, except for transportation, delivery and foundry services. Artist further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Artist of its full obligations to the City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Artist, and there shall be no third party billing.

15.3 **Attorney's Fees** - If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Artist, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable and necessary attorneys' and experts' fees and litigation expenses to be fixed by the court both at trial and on appeal, subject to the limitations set forth in TEX. LOC. GOV'T CODE §271.153, as it exists or may be amended, if applicable.

15.4 **Successors and Assigns** - City and Artist, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

15.5 **Savings/Severability** - In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then that term condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained in this Agreement.

15.6 **Venue** - This entire Agreement is performable in Collin County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas,

without regard to Texas' choice of law provisions. The exclusive venue for any action arising out of the parties' performance under this Agreement shall be a court of appropriate jurisdiction in Collin County, Texas.

15.7 **Execution/Consideration** - This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.

15.8 **Authority** - The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date thereof.

15.9 **Waiver** — Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party' s right thereafter to enforce and compel strict compliance.

15.10 **Headings** - The headings of the various sections of this Agreement are included solely for the convenience of reference and are not to be full or accurate descriptions of the content thereof.

15.11 **Multiple Counterparts** - This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

15.12 **Immunity** - The parties acknowledge and agree that, in executing this Agreement, City has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

15.13 **Representations** - Each signatory represents his Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.

15.14 **Miscellaneous Drafting Provisions** - This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.

15.15 **Death of Artist** - In the event the Artist dies or becomes incapacitated during the term of this Agreement, the fabrication, delivery and installation of the Artwork shall be completed pursuant to the Artist's design, conception and plans by: Name: Siobhan Room Phone: 520-471-2016; E-mail: roomedesign@hotmail.com.

15.16 **No Third Party Beneficiaries** - Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

15.17 **Reference to Artist** - When referring to "Artist," this Agreement shall refer to and be binding upon Artist, and his partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Artist is legally responsible.

15.18 **Reference to City** - When referring to "City," this Agreement shall refer to and be binding upon City, its Council members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

15.19 **No Joint Enterprise** - The parties do not intend that this Agreement be construed as finding that the parties have formed a joint enterprise. The purposes for which each party has entered into this Agreement are separate and distinct. It is not the intent of either of the parties that a joint enterprise relationship is being entered into and the parties hereto specifically disclaim such relationship. This Agreement does not constitute a joint enterprise, as there are no common pecuniary interests, no common purpose and no equal right of control among the parties hereto.

*(Signature pages follow.)*

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date set forth in the introductory clause of this Agreement.

**CITY:**

**City of Wylie, Texas,**  
a home-rule municipality

**ARTIST:**

**John Davis, Artist**

By: \_\_\_\_\_  
Mindy Manson, City Manager

By: \_\_\_\_\_  
John Davis, Artist

**APPROVED AS TO FORM:**

By:  \_\_\_\_\_  
Abernathy, Roeder, Boyd & Hullett, P.C.  
Ryan Pittman, City Attorneys

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of Texas, on this day personally appeared **MINDY MANSON**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of Texas

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

**BEFORE ME**, the undersigned authority, a Notary Public in and for this State of \_\_\_\_\_, on this day personally appeared **John Davis**, Artist, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and For the State of \_\_\_\_\_

**EXHIBIT “A”  
SCOPE OF SERVICES**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS  
AND JOHN DAVIS**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED  
2016 THOROUGHFARE CIP ART PROJECT, SITES #3  
LAVON/ONCOR PARK – 961 EAST BROWN STREET,  
WYLIE, TEXAS 75098**

---

Project Description

**2016 Thoroughfare Public Art Project – Site #3 sculpture at 961 East Brown Street, Wylie Texas entitled “Lift-Off” to be placed in the Disc Golf Park located in the Lavon/Oncor Park. Sculpture will be eleven (11) feet tall and consist of two spiral rings constructed of cor-ten steel with a fluoropolymer coating for superior durability, color and gloss retention. It will include a disc to be placed at one end of the sculpture and a wind vane at the opposite connecting the airborne aspect of the sculpture. Backlit lighting will behind the disc and flush mounted lights at the base, will be installed for additional illumination.**

To fabricate and install the proposed 2016 Thoroughfare CIP Public Art Project Sculptures, artist John Davis will perform the following tasks:

- A) Following a site visit, submit final schematic drawings of the proposal, based upon submitted maquette to City staff and the Public Arts Advisory Board for their review and approval within sixty (60) days of the receipt of this agreement. These drawings will include:
- Detailed information of every physical feature of the construction of the Artwork and its integration with the site with any proposed changes to the previously submitted concept highlighted. (Final Design).
  - A description of any issues involved in the construction, integration and maintenance of the Artwork, as well as any third party subcontractors needed to work on the project.
  - A final project budget breakdown not to exceed \$52,000.00.
  - An installation timeline.
- B) Following formal approval by the Public Arts Advisory Board, and the Wylie City Council, the Artist shall submit drawings stamped by an engineer, licensed by the State of Texas and paid for by the Artist, for certification that the Artworks, foundations, and its connection will be structurally sound.
- C) The Artist shall fabricate and install the Artwork in substantial conformity with the approved design. Any significant changes in the concept, as defined in Article 5.2, must be approved by the City. It is the responsibility of the Artist to coordinate with the City, the Project Landscape Architect, and Contractor to ensure that the site is prepared to receive the Artwork. The Artist will be responsible for preparation of the site, including installation of

Artwork. The Artist will be responsible for preparation of the site, including installation of the foundation base, risers, sculptures and lighting. The City will be responsible for landscaping around the space and electrical power to the site.

- D) Upon completion of the permanent installation and clean-up of the site, the City Project Manager will inspect the work and give notice of acceptance, as provided in this Agreement. The Artist will complete the City's maintenance worksheet and submit it to the City within ten (10) days of City's final acceptance of the Artwork.

## MAINTENANCE PROCEDURES

Materials and Care Information Sheet (to be filled out by the artist and submitted upon completion of the project prior to final payment.)

**Artist:** John Davis    **Date:** \_\_\_\_\_

**Title of Work:**

---

**Media:**

---

Specific materials used (Brand name and type of all materials, i.e. type of paper and fiber content, metal alloy, chemical composition of patina, etc.)

Specific techniques used in the fabrication of the Artwork. (Airbrush painting, lost wax casting, TIG welding, etc.):

Fabricator name and address (if other than artist):

Installation materials and techniques (Attach as-built drawings as appropriate):

Recommended Maintenance procedures. (Be as specific as possible about techniques and materials):

Cautions regarding maintenance, handling, etc:

**EXHIBIT “B”  
COMPLETION SCHEDULE/PROJECT BILLING/PROJECT BUDGET**

**AGREEMENT BETWEEN THE CITY OF WYLIE, TEXAS  
AND “JOHN DAVIS”**

**FOR THE FABRICATION AND INSTALLATION OF THE PROPOSED 2016  
THOROUGHFARE PUBLIC ART PROJECT – SITE #3, LOCATED AT  
LAVON/ONCOR PARK 961 EAST BROWN STREET, WYLIE TEXAS 75098**

Completion Schedule and Project Billing

<b>TASK</b>	<b>DESCRIPTION</b>	<b>PAYMENT</b>	<b>TIMELINE</b>
1	Execution of Agreement and Notice to Proceed. Insurance documentation sent to City.	\$6,375.00	10-15-2016
2	Submit final design and budget breakdown for approval to city staff. Stamped engineered drawings submitted.	\$6,375.00	12-15-2016
3	Artist begins work upon issuance of city permit.	\$8,500.00	1-5-2017
4	Artist fabrication (half complete) confirmed with staff. (pictures or examination)	\$8,500.00	3-30-2017
5	Artist ships work from studio to site	\$6,375.00	7-15-2017
6	Artist installs work at site	\$8,075.00	7-30-2017
7	City inspection and approval-final signoff	\$7,800.00	8-15-2017
<b>TOTAL</b>		\$52,000.00	



**EXHIBIT "D"**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b> For vendor doing business with local governmental entity		<b>FORM CIQ</b>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	Date Received   	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p> <p style="margin-left: 40px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 80px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                 </p>		
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p><b>7</b></p> <p align="center">                     _____                      Signature of vendor doing business with the governmental entity                 </p> <p align="right">                     _____                      Date                 </p>		

# CERTIFICATE OF INTERESTED PARTIES

# FORM 1295

### OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

**5 Check only if there is NO Interested Party.**

**6 AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

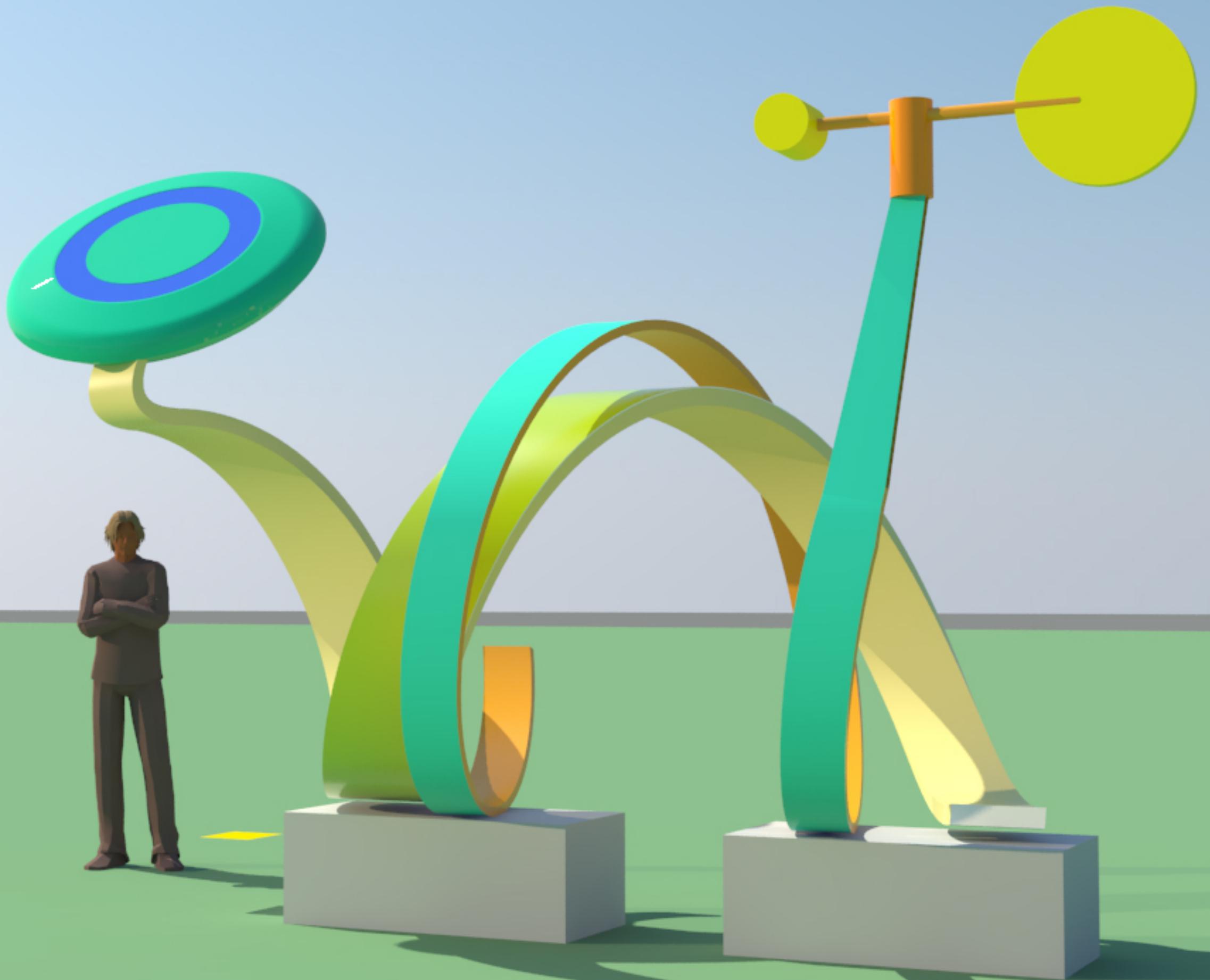
\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

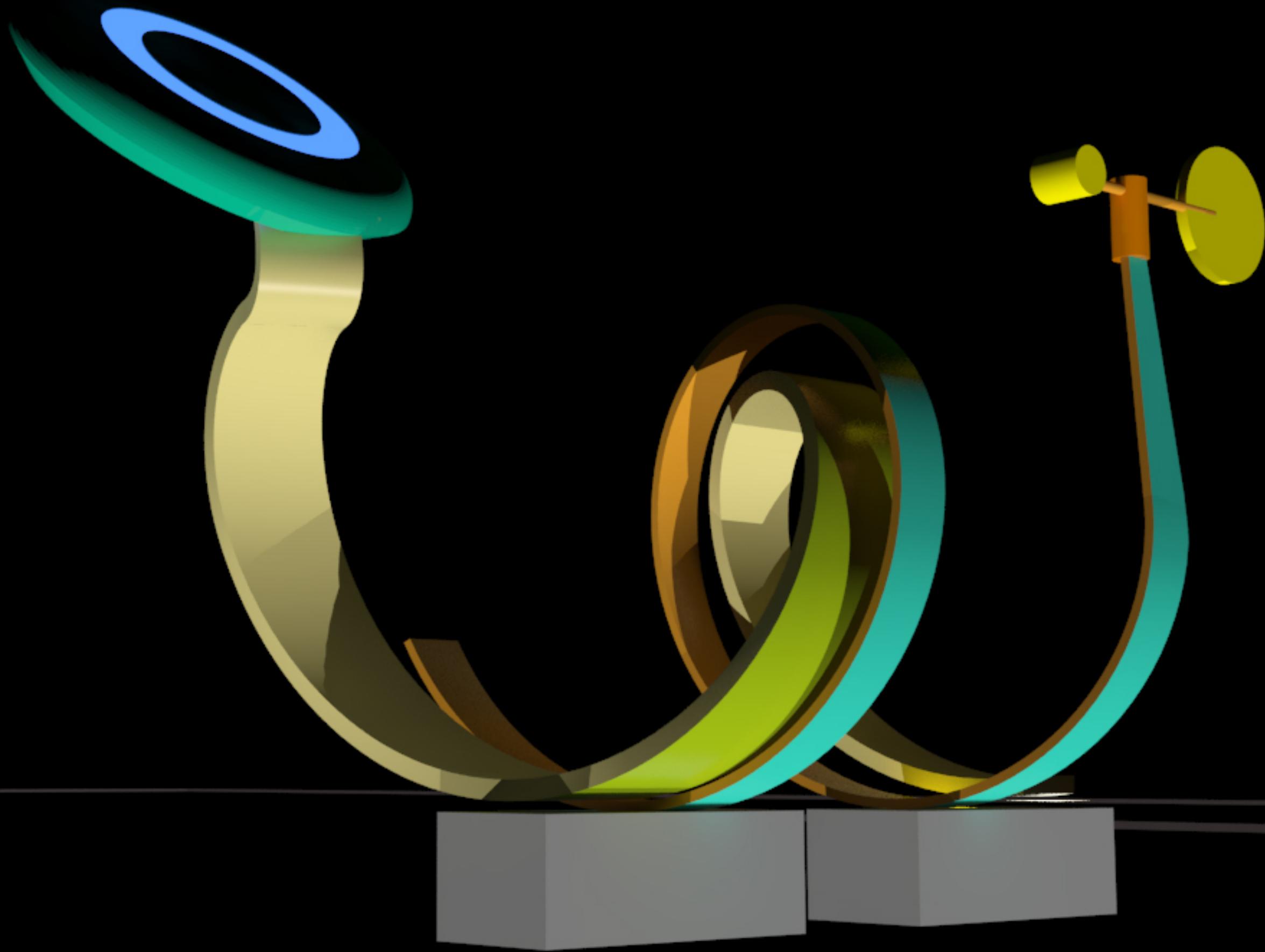
AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath

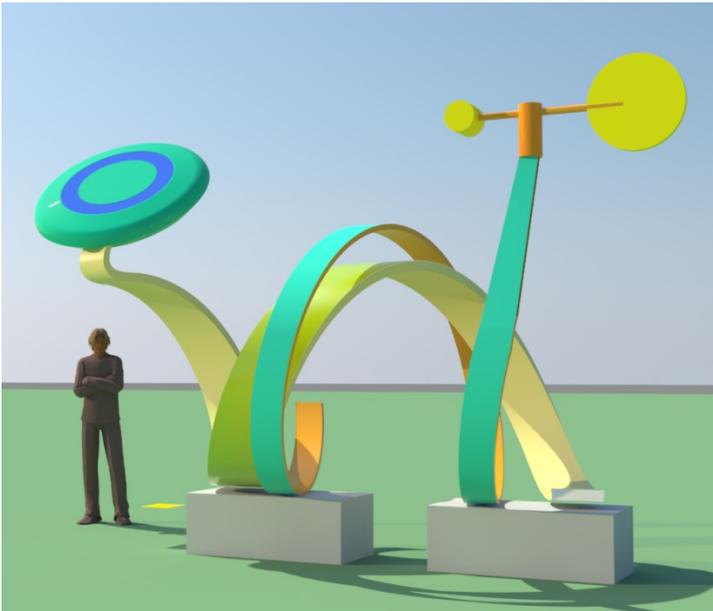
**ADD ADDITIONAL PAGES AS NECESSARY**



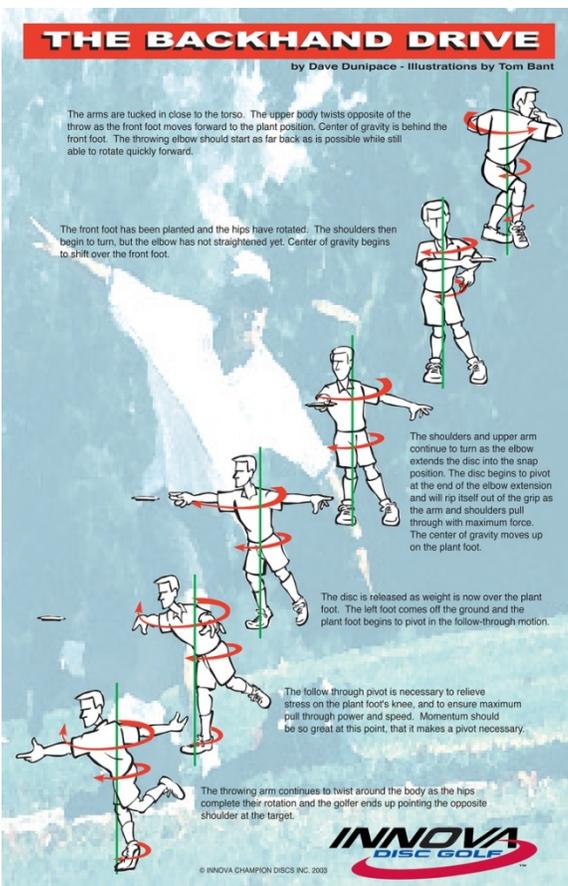


# John Davis

## Public Art for Wylie Disc Golf Course

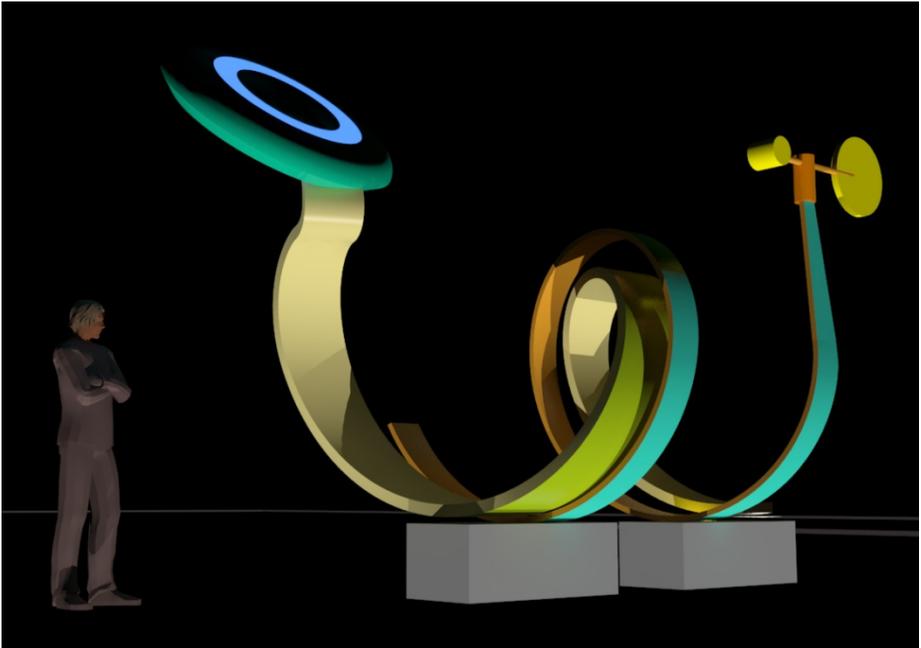


My guiding philosophy for designing public art is to celebrate the function, setting, and context of the site, incorporate input from the community, and communicate this sculpturally. There is an aesthetic of function in my work, thus I am attracted to the functions, activities of the site.



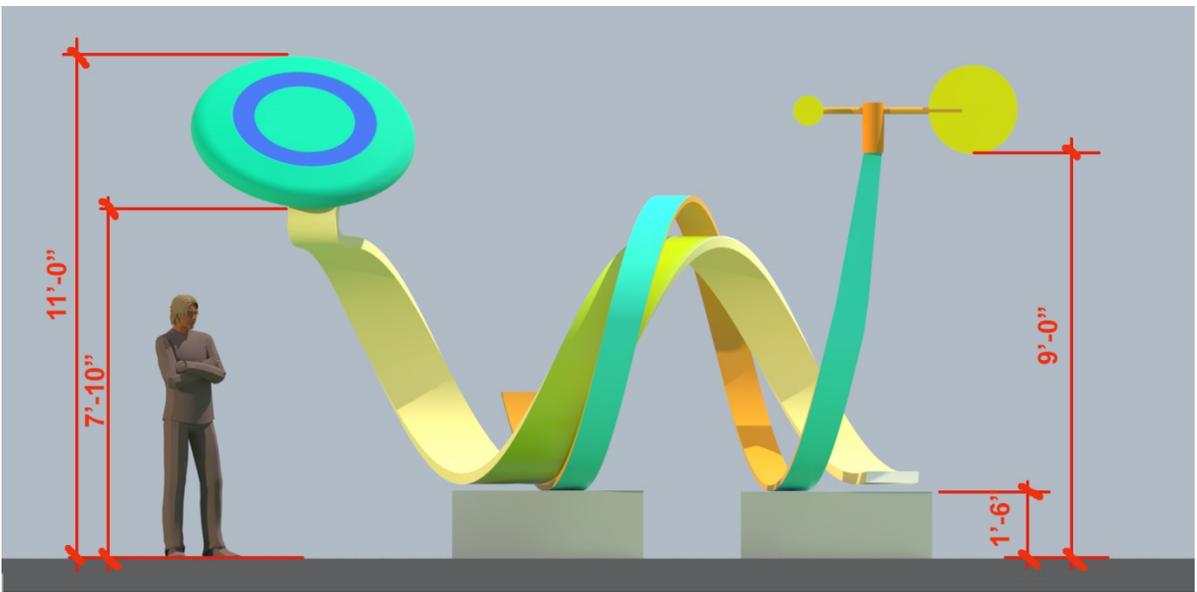
*At the heart of the purpose of the park are the disc and the gesture of sending it on its trajectory. The act of throwing the disc is a **spiraling** motion of the body. The disc itself is a **circle**. It has physical properties of a wing and **spins** to maintain a stable path.*

The proposed artwork uses the vocabulary of the circle and the spiral in forming a colorful and gestural celebration of the essence of the park. The spiral suggests energy and propulsion of the disc at its end. At the opposite end, a wind vane in the shape of a disc connects to the airborne aspect of the golfing activity and can also give golfers an indication of wind direction as it may affect the path of long throws.



The disc will glow from top and bottom surfaces via backlit 3form rings. Flush mounted lights in the artwork pedestals will provide additional illumination. The artwork will be fabricated from corten steel and have a fluoropolymer coating for superior durability, color and gloss retention.

The following themes were suggested by the community for this artwork and I believe they apply to this proposed artwork: Kinetic, Fun, Whimsical, Colorful, Lighting, Joyful, Flight, Lift, Graceful, Airy.





Public Art for Wylie Disc Golf Park

John T. Davis

## Public Art Philosophy:

Celebrate the function, setting, context of the site; incorporate input from community; communicate this sculpturally

Aesthetic of function

Attracted to the activity on the site





At the heart of the purpose of the park is the disc and the gesture of sending it on its trajectory.

The act of throwing the disc is a *spiraling* motion of the body

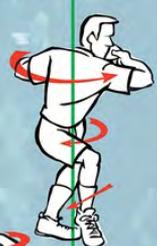
The disc itself is a *circle*. It has physical properties of a wing and *spins* to maintain a stable flight path.



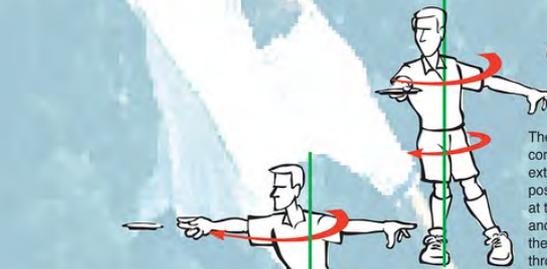
## THE BACKHAND DRIVE

by Dave Dunipace - Illustrations by Tom Bant

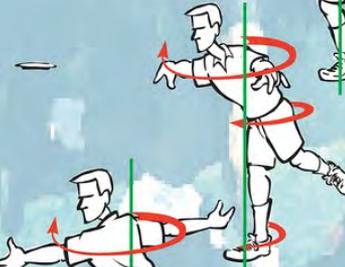
The arms are tucked in close to the torso. The upper body twists opposite of the throw as the front foot moves forward to the plant position. Center of gravity is behind the front foot. The throwing elbow should start as far back as is possible while still able to rotate quickly forward.



The front foot has been planted and the hips have rotated. The shoulders then begin to turn, but the elbow has not straightened yet. Center of gravity begins to shift over the front foot.



The shoulders and upper arm continue to turn as the elbow extends the disc into the snap position. The disc begins to pivot at the end of the elbow extension and will rip itself out of the grip as the arm and shoulders pull through with maximum force. The center of gravity moves up on the plant foot.



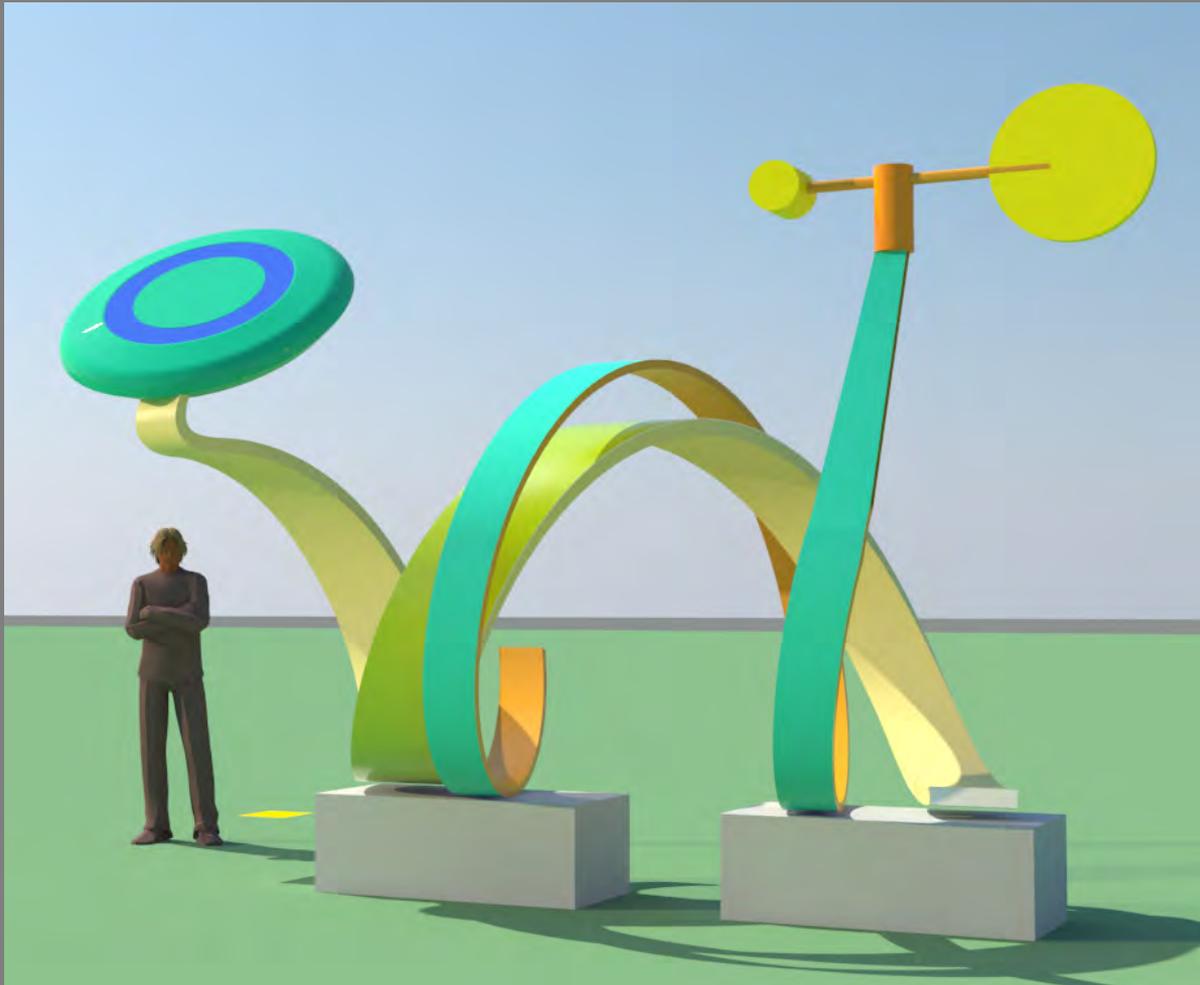
The disc is released as weight is now over the plant foot. The left foot comes off the ground and the plant foot begins to pivot in the follow-through motion.

The follow through pivot is necessary to relieve stress on the plant foot's knee, and to ensure maximum pull through power and speed. Momentum should be so great at this point, that it makes a pivot necessary.

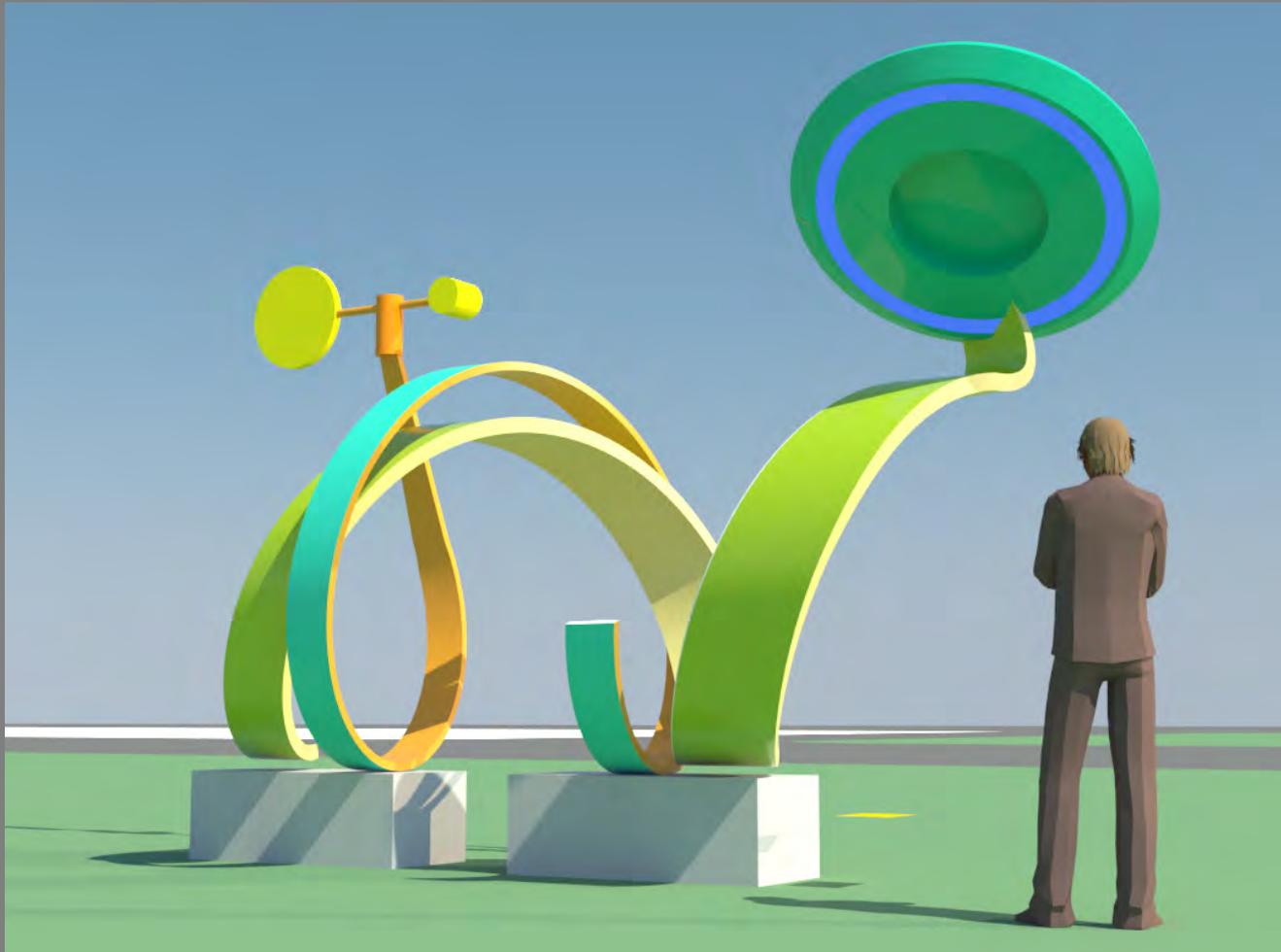
The throwing arm continues to twist around the body as the hips complete their rotation and the golfer ends up pointing the opposite shoulder at the target.

**INNOVA**  
DISC GOLF

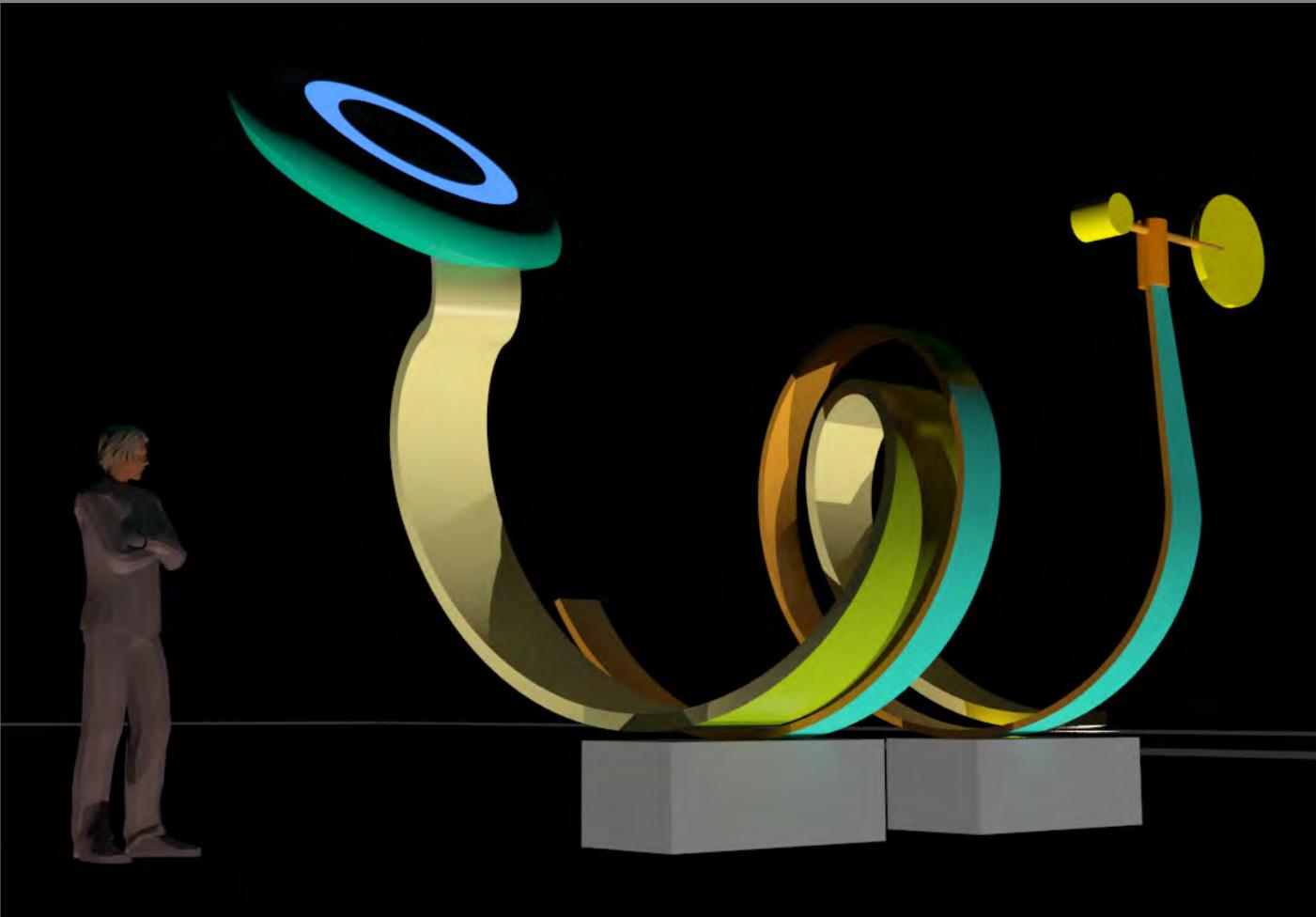
© INNOVA CHAMPION DISCS INC. 2003



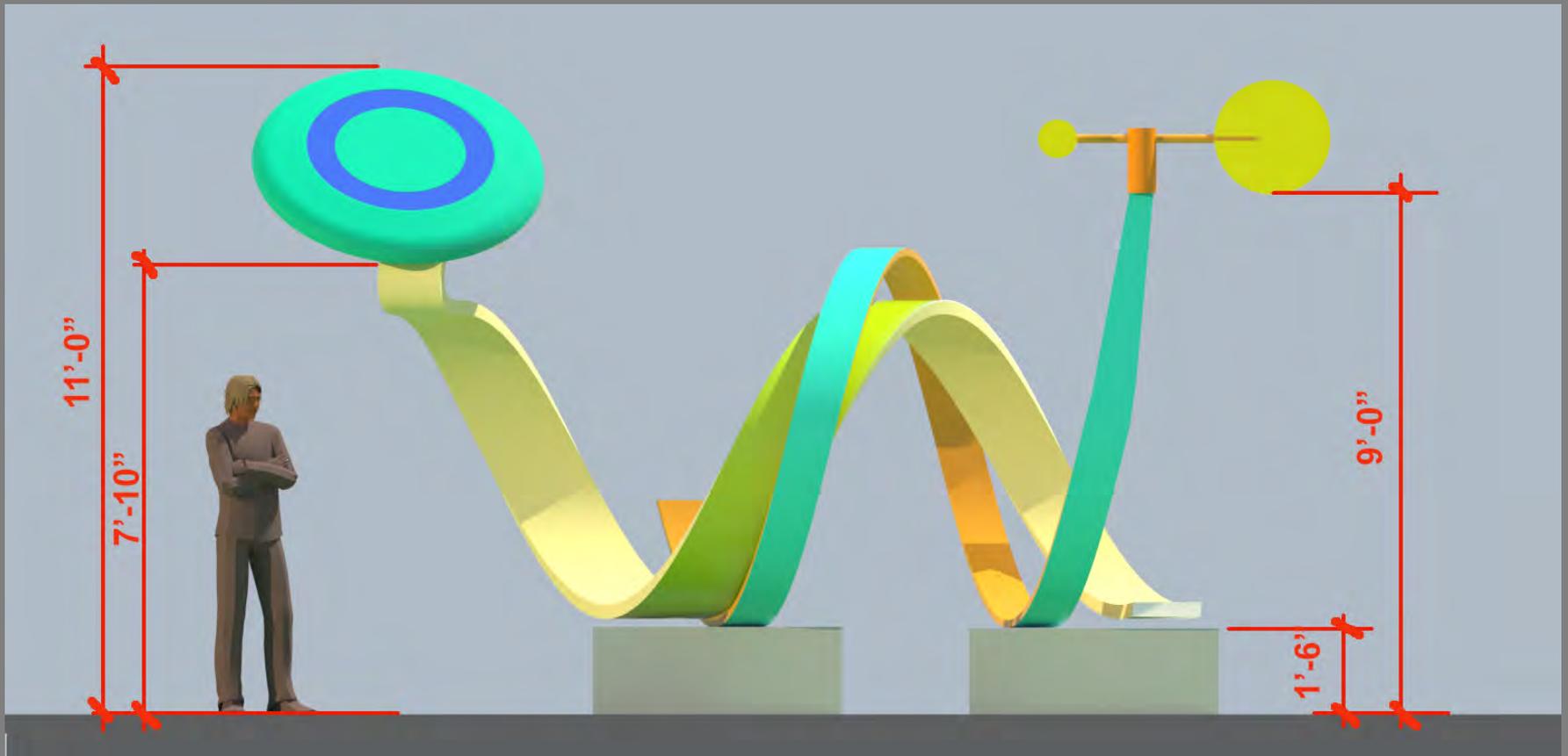
The proposed artwork uses the vocabulary of the circle and the spiral in forming a colorful and gestural celebration of the essence of the park.



The spiral suggests energy and propulsion of the disc at its end. At the opposite end, a wind vane in the shape of a disc connects to the airborne aspect of the golfing activity and can also give golfers an indication of wind direction as it may affect the path of long throws.



The disc will glow from top and bottom surfaces via backlit 3form rings. Flush mounted lights in artwork pedestals will provide additional illumination.



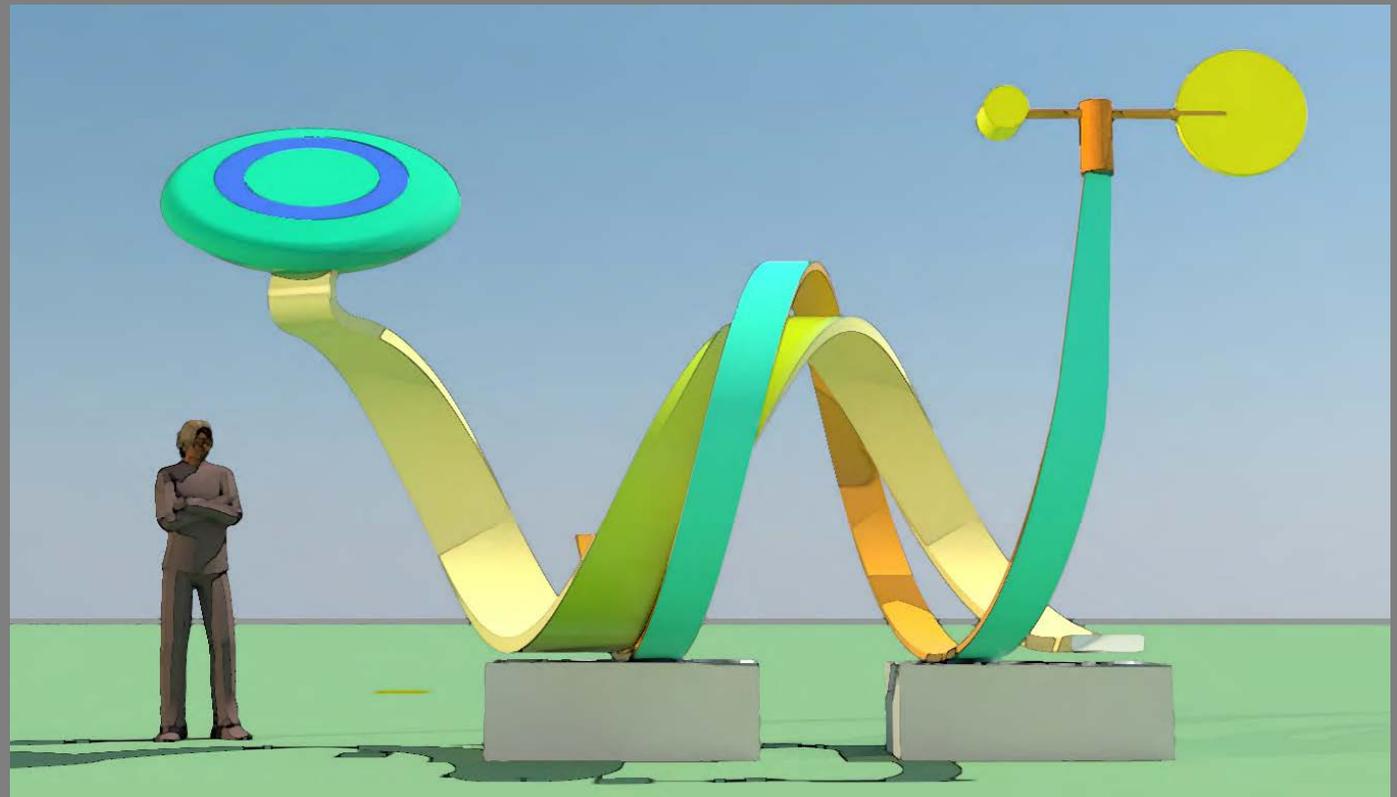
Corten steel construction with Fluoropolymer coating for superior durability, color and gloss retention.



Plan view of artwork on site

## Community Input - Themes for disc golf artwork:

Kinetic  
Fun  
Whimsical  
Colorful  
Lighting  
Joyful  
Flight  
Lift  
Graceful  
Airy





# Wylie City Council

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## AGENDA REPORT

**Meeting Date:** October 11, 2016  
**Department:** City Manager  
**Prepared By:** Chris Holsted  
**Date Prepared:** October 3, 2016

**Item Number:** Work Session  
*(City Secretary's Use Only)*  
**Account Code:** N/A  
**Budgeted Amount:** N/A  
**Exhibits:** Report

### Subject

Hold a work session to discuss the Public Safety Building and the Building Condition Assessment, Program, and Preliminary Project Estimate.

### Recommendation

Direction for the Public Safety Building reconstruction

### Discussion

In April 2016, the Public Safety Building was extensively damaged by a hail storm. Since that time, the building has been unoccupied and the staff has been relocated to other city buildings. Due to the hail penetrating the roof and the resulting water damage, many components of the existing PSB will have to be restored. Insurance has estimated the total damage to the building at \$1,215,000. To date, the city has received \$753,000 and the recoverable depreciation is \$462,000. Staff is still working with insurance and the consultant on the estimated total damage.

The City contracted with McCarthy Architecture to provide a Building Condition Assessment along with the development of the programmed space requirements for the police department, fire department and the court functions that previously occupied the building. Significant updates will be required to bring the current facility up to date and into a usable condition. The updates provide a unique opportunity to reconfigure the existing building so that it can both accommodate future growth and create more efficiency within and between departments.

Staff has identified three options for the public safety building. The first option is to repair the building with the current layout and make some minor improvements and additional repairs to the building. The second is to rebuild the building and add square footage to meet the suggested program for police, fire and courts. The third option would be to build a new building at the municipal complex on Country Club Drive. Additional detail for each option is given below.

#### Option 1 – Repair/rebuild existing building (no expansion) – 33,358 sf

- Projected construction cost - \$2,700,000 (\$80.94/sf)
- Projected design and FF&E - \$600,000
- Projected debt service payment – \$0 (Use of fund balance to cover additional cost)
- Includes some improvements to the building such as foundation work and minor interior upgrades.
- Does not address future growth of the departments or the inefficient current layout.

Option 2 – Repair, reconfigure, and expand existing building – approx. 50,000 sf

- Projected construction cost - \$7,600,000 (\$160.61/sf)
- Projected design and FF&E - \$1,000,000
- Projected debt service payment - \$425,000 (Use of \$2.5m fund balance, finance \$5m/15 year)
- Includes complete remodel and expansion of existing building to meet future growth needs and increase functionality.
- Includes exterior improvements to update the facade of the building.
- Designed to meet departmental needs for the next 15 years.

Option 3 – Construct new facility at municipal complex – approx. 50,000 sf

- Projected construction cost - \$20,000,000 (\$400/sf)
- Projected design and FF&E - \$5,000,000
- Projected debt service payment - \$1,600,000/year (Use of \$2.5m fund balance, finance \$23m/20 year)
- Departments would be centrally located at municipal complex.
- Meets future growth needs of the departments.

The projected cost numbers presented above are preliminary estimates and both the construction cost and financing cost will adjust as we proceed through the process.



Building Condition Assessment, Program and Preliminary Project Estimate  
for the existing Public Safety Building in Wylie, Texas.

## McCARTHY ARCHITECTURE

1000 North First St.  
Garland, Texas 75040  
(972) 272-2500

September 30, 2016

Mr. Chris Holsted  
Assistant City Manager  
City Hall  
Wylie, Texas 75096

Re: Building Condition Assessment, Program and Preliminary Project  
Estimate for the existing Public Safety Building in Wylie, Texas.

Mr. Holsted,

Thank you for giving McCarthy Architecture the opportunity to work with you on the building condition assessment for the existing Public Safety Building.

This report is based on the building condition assessment as a result of an April 20 hail storm. The report reviews an approximate 33,000 square foot existing one story, concrete tilt panel structure. The report also includes the development of the programed space requirements for the police department, fire department and the court functions that previously occupied the building. The program includes additional square footage to accommodate ten years of expansion for those groups. Finally, a preliminary construction estimate of the program is included.

If you have any questions please do not hesitate to call. I am looking forward to the opportunity to work with you on your project.

Sincerely,



Kelly McCarthy

Principal  
McCARTHY ARCHITECTURE

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Police Department	28
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Overall Tabulation	38
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Architectural Condition Assessment

## Architectural Condition Assessment

Thank you for giving McCarthy Architecture the opportunity to work with you on developing this assessment. Following an April 2016 hail storm, the City of Wylie Public Safety Building was extensively damaged and was deemed unfit for city use until repairs were made. Provided in this report is our analysis of the current building condition, current and projected departmental space requirements, and suggested opportunities for renovation and expansion.

Due to the impact of hail penetrating the building's roof and resulting water damage, many components of the existing Public Safety Building will have to be restored to bring the facility into a useable state. The existing roof and rooftop-mounted HVAC equipment is considered a total loss, and will require complete replacement. In addition, most interior insulation, ceiling and wall surfaces will need to be replaced due to water damage. The electrical and mechanical systems have also been extensively affected. On the other hand, the existing structure and shell of the Public Safety Building is mostly in good condition, and could be retained with repairs and updates as needed if the building is reused. More information regarding the structural and MEP conditions of the building are provided in the consultant reports later in this assessment.

As a result of the extensive water damage from the hail storm, almost all interior surfaces and finishes will need to be replaced. In addition, many existing spaces will need to be reconfigured to comply with current ADA and other code requirements. As a result, significant updates will be required to bring the current facility up to date and into a useable condition. This provides a unique opportunity to reconfigure the existing building so that it can both accommodate future growth and create more efficiency within and between departments.

Structural Condition Assessment



July 12, 2016

Kelly McCarthy AIA  
MCCARTHY ARCHITECTURE  
1000 N. First Street  
Garland, Texas 75040

Regarding: Wylie Public Safety Building Assessment                      SS #3957.01  
                  Structural Report

Dear Mr. McCarthy:

On May 20, 2016 I visited the Wylie Public Safety Building facility at 2000 Texas Highway 78 South in Wylie, Texas. The purpose of my visit was to observe the condition of the building structure.

The building experienced damage during a recent hail storm. As a result, the City has moved out of the building and the facility is presently vacant. In addition, the floor has experienced movement and cracking that predates the hail storm. We understand that the City of Wylie will use this structural report to help decide whether to restore this building or replace it.

#### EXISTING BUILDING

The facility is a single-story building with an open courtyard at the center of the floorplan. The front of the building faces south, toward Texas Highway 78.

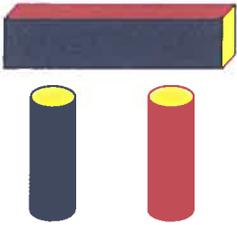
Drawings from construction of the building were not available for our reference.

The roof is framed in steel, with steel joists and joist girders supporting a metal roof deck. At the interior of the building, the roof is supported by steel columns. At the perimeter of the building and at the courtyard, the roof is supported by precast concrete panels.

The floor is a cast-in-place concrete slab-on-grade. The foundations could not be observed. Based on local practice we expect that the exterior walls of the building are supported by cast-in-place concrete grade beams. We expect that the grade beams and the interior columns are supported by drilled pier foundations.

There are jail cells in the northwest corner of the building. The perimeter walls, interior walls and ceiling of the cells are constructed of concrete.

The interior courtyard is uncovered and is landscaped.



## OBSERVATIONS

The roof structure was exposed to view in most of the building, as the ceiling tiles had been removed. The roof framing appears to be in good condition.

The exterior walls of the building also appear to be in good condition. The joints between panels are straight and I observed no significant cracking in the concrete. The connections between the roof structure and the wall panels showed no signs of distress.

The floor slab was exposed to view in most of the building, as the floor finishes had been removed. The slab was constructed without joints to control cracking. I observed cracks in several areas of the floor, and in particular on the west side of the building. The cracks generally extend from the courtyard toward the perimeter of the building. At the northeast corner of the building there is more extensive cracking at the restrooms.

An area of floor in the southwest portion of the building has heaved relative to the surrounding floor. This movement is evidenced by vertical cracks in the interior partition walls.

The floor in the northeast portion of the building has settled relative to the surrounding floor. This can be perceived in walking adjacent to the courtyard wall toward the north and toward the east.

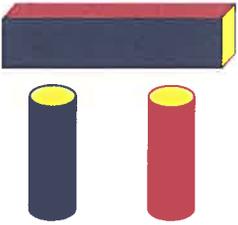
## CONCLUSIONS

The structure of the building is generally in good condition. The roof framing, the exterior concrete walls and the framing at the jail cells all appear to be sound. The foundations appear to be performing well.

Most of the cracks in the floor slab appear to be caused by shrinkage in the concrete. This shrinkage is normal as concrete cures, and the cracks probably developed shortly after the slab was constructed. Joints are often cut in slabs to control the locations of shrinkage cracks. Since joints were not cut in this slab, the cracks developed in a more random pattern.

The floor heave at the southwest corner of the building is caused by swelling of the subgrade soils. The most common cause of swelling in our local clay soils is water entering the subgrade from an outside source. This floor movement occurred after the building was constructed, as evidenced by the vertical cracks in partition walls. See Photos 1 and 2.

The floor settlement at the northeast corner of the building is caused by shrinkage of the subgrade soils. The apparent cause is that roots from a tree



in the courtyard are absorbing water from the soil beneath the floor. Under-floor plumbing in the adjacent restrooms might also be a contributing factor. See Photo 3.

## RECOMMENDATIONS

The shrinkage cracks in the floor slab do not require structural repair. They should be addressed as appropriate to suit new floor finishes.

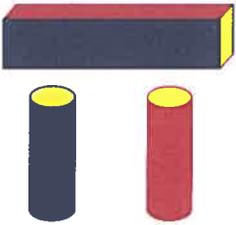
The floor heave at the southwest corner of the building should be investigated and the source of water should be identified and repaired. Once the soil moisture stabilizes, the slab can remain in its present condition or it can be removed and replaced to create a more level floor.

The floor at the northeast corner will continue to settle so long as the tree is present. Therefore, the tree should be removed. Once the soil moisture stabilizes, the settled slab can be removed and replaced to create a level floor. Alternatively, the floor can be lifted by injecting grout or urethane foam beneath the slab. Care should be taken not to disturb the under-floor plumbing in the adjacent restrooms.

## COURTYARD DISCUSSION

The City has asked about the feasibility of converting the center courtyard into interior space. From a structural perspective, that conversion is feasible. Following are some considerations.

1. The roof could be framed in steel, similar to the existing building.
2. Since details of the existing foundations are unknown, loads from the addition should be carried on new foundations.
3. A geotechnical report would be required as a basis for designing new foundations.
4. It might be feasible to remove the concrete walls at the courtyard. This would require determining the layout of the existing foundations and arranging new columns appropriately. It would also require installing new steel beams to support the existing roof framing that presently bears on the walls.
5. New openings can be cut through the existing concrete walls. The walls might have to be reinforced, depending on the sizes and locations of the openings.
6. It might not be feasible to prepare the subgrade soils to support a slab-on-grade, due to the risk of disturbing the existing floor. In such case the new floor could be constructed as a suspended structure, isolated from the ground and supported on foundations.



Kelly McCarthy AIA  
Wylie Public Safety Building Assessment  
July 12, 2016

### LIMITATIONS

This report is based on a limited investigation of the existing facility. I did not disturb any finishes or perform any testing of building materials as part of this investigation. The conditions described in this report are as observed at the time of my visit, and the conditions might change over time. I have not performed calculations to validate the original structural design of the building. The original Engineer of Record remains responsible for the structural design of the building.

Sincerely,  
STRUCTURAL STUDIO Consulting Engineers

Texas License F-11469

  
Nigel M.H.O. Brown, P.E.  
President



9/29/16

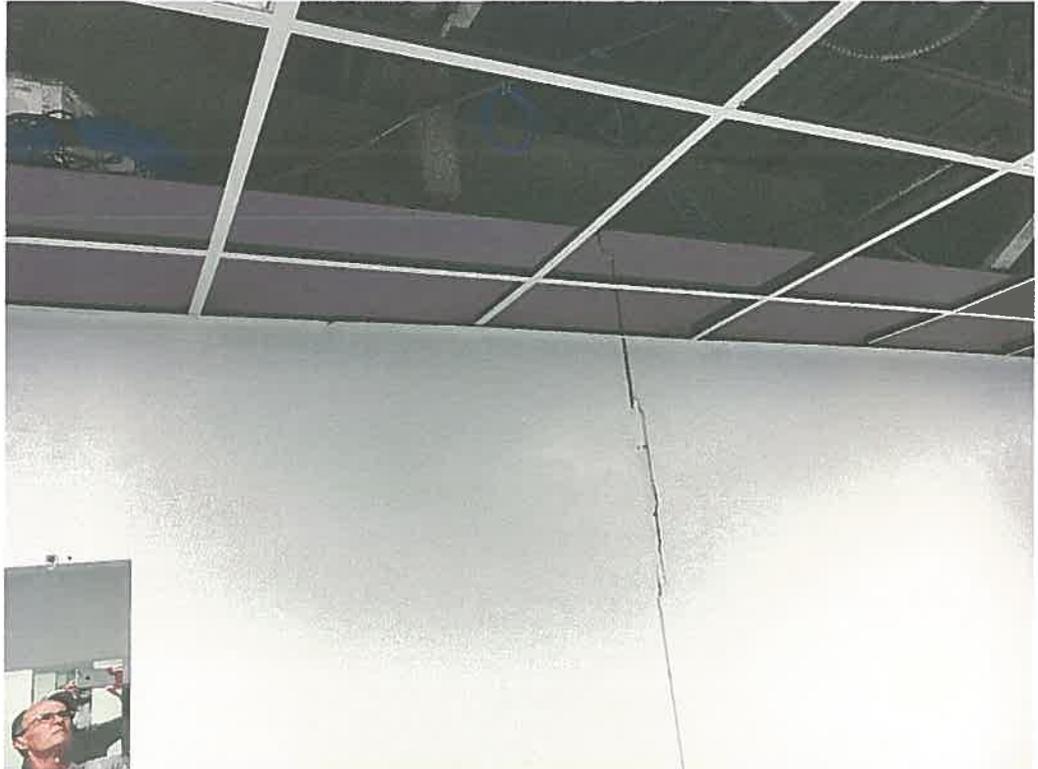
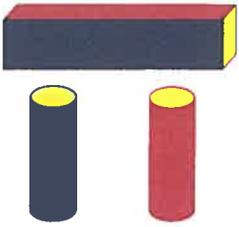


Photo 1 – crack in partition wall

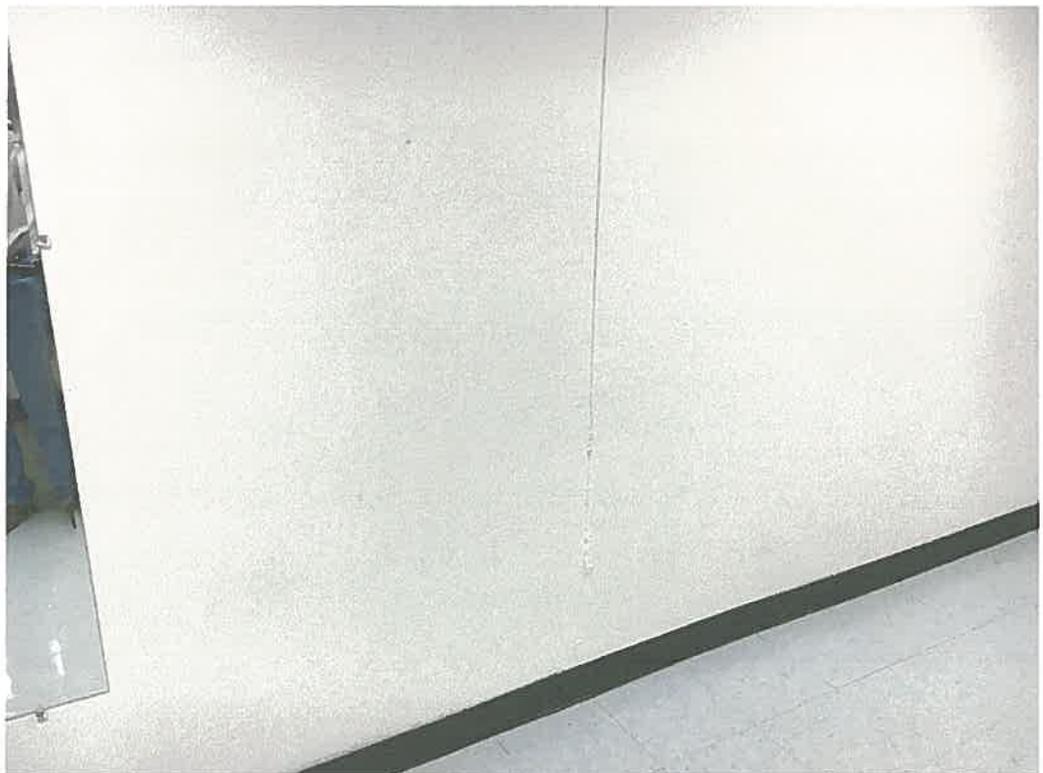


Photo 2 – crack in partition wall

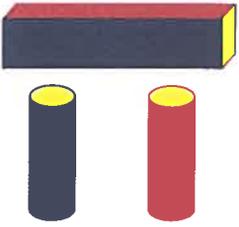


Photo 3 – tree adjacent to settled floor slab

Mechanical, Electrical & Plumbing Condition Assessment

Wylie Public Safety Building Assessment

By

Mark Portnoy, PE, LEED AP  
MEP Systems Design and Engineering  
918 Dragon Street  
Dallas, TX 75207

This is a damage assessment of the building due to a recent hail storm. The building is approximately 33,358 square feet and was built in 1985. There was a large amount of damage to the building due to the storm. The rooftop mechanical equipment and the lighting received most of the damage. The following assessment will document the damage.

## HVAC Systems

### **Rooftop Units:**

All but a few of the existing rooftop units are original and are 30 years old. All but two have received massive hail damage to the condensing coils. The undamaged unit coils were facing away from the hail. Due to the extent of damage and age of the units, they should all be replaced.

Much of the condensate piping was also damaged from the hail and needs replacing.

Also, the exhaust fans on the roof received substantial damage from the hail and need to be replaced. (See photos)









### **Ductwork:**

Due to water penetrating the roof structure, the ceiling collapsed in many areas. The ceiling collapsing and water intrusion into the ducts caused the ducts to rip apart where the ceilings fell. In places where the ducts ripped apart, insulation was also damaged. All damaged ducts should be removed, including any ducts which experienced water entry as the damaged insulation cannot be repaired. It appears that approximately 90% of the ductwork needs replacing.

### **Plumbing**

All piping damaged by the ceiling dropping and pulling the piping with it should be replaced. It is hard to determine the exact amount of piping damaged as the water is turned off and the extent of pipe leaks could not be determined.

### **Electrical**

#### **Lighting and Power:**

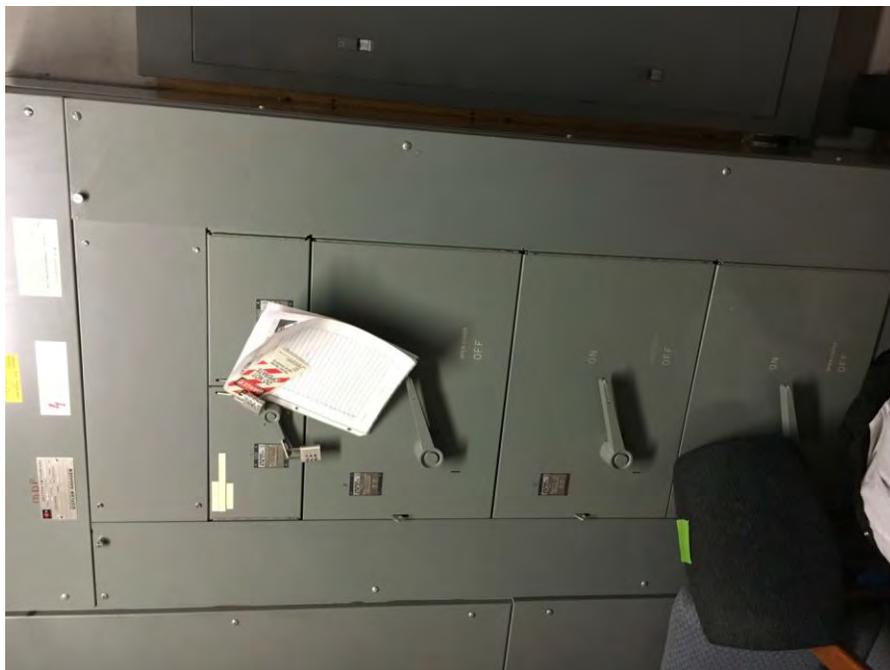
90% of the light fixtures have water damage or were damaged when ceilings dropped. All of these fixtures need replacing. Also, all wiring and conduit that was connected to

ceiling areas that dropped or where water entered conduit should be replaced. This includes conduit and wiring in walls.



**Panels:**

All panels should be checked and tested for water damage. Any panels or breakers that were shorted due to water should be replaced. Any panels which show signs of water entering the panel and running into the breakers should be replaced.



## **Conclusion**

The building Mechanical and Electrical systems suffered major damage due to the hail storm. All of the rooftop units and exhaust fans should be replaced. Inside, most of the ductwork and lighting fixtures were damaged and need to be replaced. Electrical panels should be opened and tested to determine if they are damaged. If any water entry or damage is present, panel should be replaced. Finally all conduit damaged due to ceilings dropping or water entry needs to be replaced.

Preliminary Program

## Preliminary Program

Based on our analysis of the program requirements provided to us by the Police Department, Fire Department, and Municipal Courts, the current facility square footage of 33,358 sq ft. is inadequate to accommodate the current and projected needs of all three departments. Projected needs are based on a 10-year period. To accommodate all program requirements, an additional 14,027 sq ft. of space will be required. In addition to inadequate departmental space, the current Public Safety Building features a large amount of square footage dedicated to circulation and auxiliary spaces; a condition exacerbated by the existing central courtyard. If the current facility is retained, this inefficient use of space could be addressed as a part of a comprehensive plan reconfiguration.

In its current condition, the exterior of the building appears dated, and does not accurately reflect an outward image of the departments contained within. **Inadequate signage on the building's exterior and parking lot**, along with the lack of a singular defined entrance, make the site difficult to identify and navigate. In response, a series of exterior renovations could be developed which would better define the public entrance and better present the building as a modern municipal facility which represents the best of the City of Wylie.

Since the current facility was constructed in 1985, standard security procedures for municipal facilities have changed drastically, making the current design of three public entrances both insecure and inefficient. In response to this, the Police Department suggests maintaining and enhancing the public entry at the south side of the property, while converting the existing east and west entry points into secured staff entrances. This change would improve circulation and security throughout the facility, while also creating the opportunity for a better-defined public entrance along the south façade of the building.

Presently, a public courtyard located in the center of the facility is of limited use. This courtyard provides unchecked access to the public. The current window configuration around the courtyard along with public access create less than secure conditions for the various departments. Storm water drainage in the courtyard has also been a recurring problem as storm water lines and grading are inadequate. This space could be enclosed to allow for additional useable square footage within the existing building footprint. If the existing courtyard is retained, the Police Department recommends limiting access to this area to staff members only, in order to better protect the secured areas of the building.

After examining the current and projected space requirements for each department, it has been determined that additional square footage will be required by each department to make the current facility suitable for long-term use. For the Fire Department, additional space is required for both fire administration and dispatch operations. In addition, the existing emergency operations center (EOC) needs to be

reconfigured to accommodate future growth, while also improving operational efficiency for both the Police and Fire Departments. For the Police Department, additional space is required for administration, criminal investigations, evidence collection, police records, storage and locker rooms, along with a dedicated SWAT room. In addition, the department recommends the addition of a Sally Port and book-in area to more securely transport detainees into the existing jail facility, along with an evidence bay to process vehicles for evidence. For the Municipal Courts, additional office space is required, and access paths into the courtroom need to be reconfigured. For each department, we have provided a more in-depth analysis of spatial and functional requirements later in this report.

In addition to departmental space requests, numerous common requests have been made for the building as a whole. Chief amongst these requests is a common lobby area with hardened service windows for each department. This common lobby could be accommodated at the existing south entrance, and would provide a singular point of entry for the public. In addition, this lobby would allow the employees for each department to better monitor the flow of visitors into secured/private areas. Near this lobby, the existing public restrooms could be relocated so that they are easily accessible to the public.

In addition to a common lobby, all departments have requested a shared conference room (25x20) which could accommodate meetings and training sessions. Security improvements requested by all departments include expanded camera coverage (on the same system as the City Hall) along with a lockdown capability for the building, which would allow all entrances to be sealed off from a central control point in the case of an emergency. Across the board, the departments also requested additional acoustical treatment throughout the building to provide improved sound attenuation, for secured environments.

On the exterior of the building, all three departments have requested that the existing fencing surrounding the staff parking area be extended to provide secured parking for all employees. Along the front side of the building, this fencing should be upgraded to a more substantial masonry/metal fence, both for security and aesthetic reasons. In addition, the Police Department and Fire Department have requested covered parking for their city vehicles, to provide better protection and to minimize losses in the case of extreme weather events. Lastly, better lighting and security are needed around the perimeter of the building and within the parking area.

Provided on the next page is a tabulation of the common spaces requested by all departments. Later in this assessment, tabulations will be provided for the Fire Department, Police Department and Municipal Courts spatial requirements, along with a summary of needs for each department.

COMMON SPACES

Public Lobby	1,750 sq ft.
Reception Desk	
Police Department (3 service windows)	
Fire Department (2 service windows)	
Municipal Courts (3 service windows)	
Public Restrooms	600 sq ft.
Shared Conference Room	500 sq ft.
	COMMON SPACES TOTAL: 2,850 sq ft.
	+30% FOR CIRCULATION: 3,705 sq ft.

Fire Department

## Fire Department

Within a redeveloped Public Safety Building, the Fire Department has requested two distinct areas for the department, to be used by fire administration and dispatch, respectively. By separating their accommodations in this manner, the department can improve operational efficiencies by concentrating related functions into particular areas of the building.

Within the fire administration space, eight private offices are needed to accommodate department leadership. These offices will house the fire marshal, fire chief and two assistant chiefs, along with other officials. In addition, two open work stations are needed with service window access for the public, to accommodate the alarm coordinator and prevention administration assistant. Supplementing these offices is a range of support spaces, including a small conference room, a breakroom/kitchen, a work center and storage closets.

In addition to accommodating department leadership, the fire administration space is also responsible for housing the city's emergency operations center (EOC). To accommodate the EOC, a 30x50 open area is required, in addition to a 25x20 operations room and 12x14 EMC office located adjacent to the EOC. The EOC can also be shared by the Police Department, and should be located so that it is easily accessible by both departments.

For the dispatch center, the department anticipates the need for 7 dispatch workstations in the future, which could be accommodated through a 32x42 open dispatch area. In addition, the department recommends that this area be provided with six private offices for supervisors and training staff, along with a storage closet and a small training/meeting room. Since the dispatch facility is used on a constant basis and employees may be forced to operate in place for extended periods in the case of an emergency, the department suggests that the dispatch center be equipped with a dedicated breakroom/kitchen, restrooms and a locker room area. Lastly, the department recommends that the ceiling in the dispatch area be hardened, to provide better safety and functionality for the center in the case of an extreme weather event which damages the Public Safety Building in some way.

Functionally, many spaces utilized by the Fire Department are closely connected with each other, and with the Police Department. In response, the department recommends that the EOC and dispatch center be located in close proximity to one-another so that the two departments can easily share information and staff during an emergency situation. Since both of these spaces are also shared by the Police Department, they should be located in close proximity to any emergency/dispatch spaces used by the police. Lastly, the department recommends that all of these spaces be located in close proximity to the server room in the northeast corner of the building, in order to minimize the distance in which data lines must be run.

Within a public lobby, the department has requested two service windows to accommodate public-facing staff. The staff at these service windows will primarily be responsible for processing fire alarm permits and construction plan reviews, along with other public inquiries to the department.

Based on our analysis of the current and projected space requirements provided by the Fire Department, overall tabulations have been prepared of the total square footage required to accommodate all program requirements:

FIRE DEPARTMENT

ADMINISTRATION

4 - 12X12 offices	576 sq ft.
2 - 12X12 offices or open work stations (including service window)	288 sq ft.
4 - 12X16 offices	768 sq ft.
Storage closets (2 - 12x10)	240 sq ft.
Storage/file closet for plans (12x10)	120 sq ft.
Small conference room (14x16)	224 sq ft.
Breakroom/kitchen with closet, sink, range (20x20)	400 sq ft.
Work center with central copier, printer, office supplies, etc.	400 sq ft.
EOC (30x50)	1,500 sq ft.
EOC operations room	500 sq ft.
EMC office (located adjacent to EOC)	168 sq ft.
ADMINISTRATION TOTAL:	5,184 sq ft.

FIRE DISPATCH

5 - 12x12 offices	720 sq ft.
1 - 12x16 office	192 sq ft.
Storage closet for miscellaneous supplies (12x14)	168 sq ft.
Small training/meeting room (14x24)	336 sq ft.
Breakroom/kitchen with closet, sink, range, dishwasher (20x20)	400 sq ft.
Restrooms (2 - 10x17, male/female)	340 sq ft.
Locker room area (10x15)	150 sq ft.
Open dispatch area housing 7 workstations near EOC (32x42)	1,344 sq ft.
Server/telco room (14x13)	182 sq ft.
FIRE DISPATCH TOTAL:	3,832 sq ft.

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FIRE DEPARTMENT TOTAL:	9,016 sq ft.
+30% FOR CIRCULATION:	11,721 sq ft.

Currently, the existing Fire Department facilities satisfy the immediate needs of the department, and could be retained with renovation. However, the current space offers little room to accommodate future growth, and is also operationally inefficient. As a result, it is anticipated that the Fire Department would be best served by a revamped facility which is designed for future growth and improved operational efficiency.

Police Department

## Police Department

In addressing the holistic needs of the Public Safety Building, the Police Department has proposed several changes which would improve the security and functionality of the facility. In its current design, the building has three public entrances, which create a confusing traffic flow while also being difficult to monitor. In response, the department suggests creating a single public entrance at the existing south entry. The existing east and west entry points would be converted into secured staff entrances. In addition to providing improved security, this change would allow the fencing around the facility to be expanded to the south, creating additional secured parking space for staff. In the existing north parking area, the Police Department has requested covered parking for department vehicles.

With regard to overall security in the current Public Safety Building, many windows around the perimeter of the building and within the courtyard are placed at a low height, providing line of sight access for a suspect in an active shooter situation. In response, the department recommends increasing the sill height on these windows. For interior walls, the department recommends the use of ballistic sheetrock in areas which are public-facing. In addition, bollards are recommended at the exterior of the south public entrance to prevent vehicular intrusion. These measures will aid in protecting the building occupants if an attack on the facility was to take place.

Within the interior spaces of the facility, the department strongly suggests installing a keycard access system for all secured/staff areas, in order to limit access by the general public. This keycard system would improve the efficiency of adding and revoking employee access to secured areas, while also eliminating many of the security risks associated with traditional keys. If the existing courtyard is retained, access should be limited to staff only, in order to better protect the secured areas of the building. In addition, camera coverage needs to be improved throughout both the interior and exterior areas of the facility.

For the existing jail, improvements are needed to ensure better safety and security for officers and staff working in this area. Since the jail is primarily used for short-term holding, detainees are moved in and out of the facility on a frequent basis. In the facility's current condition, detainees are transported into the jail through unsecured areas, creating opportunities for both escape and interaction with non-jail staff. In response to this, the department has proposed the addition of a Sally Port and expanded book-in area to be located in the existing northwest parking lot. The Sally Port would feature a drive-through bay secured with overhead doors, along with parking space for vehicles. This secured area would allow suspects to be transported directly into the book-in station and then into the jail itself, minimizing interaction with the rest of the facility. Adjacent to this Sally Port would be an evidence bay, which would allow investigators to securely screen vehicles for evidence. In addition to the improved protection provided by the Sally Port, an expanded perimeter with a solid

masonry wall and stronger barrier fencing would provide for additional security and privacy in this area.

Within the jail itself, much of the existing plumbing is non-functional, and will need to be reconfigured or replaced for more reliable operation. In addition, the camera system throughout the jail will need to be expanded to provide adequate coverage, especially in the Sally Port and book-in area. In the current police facility, the intox room is of a suitable size, but could be relocated to be adjacent to the jail.

Within the Police Department offices, additional administration space is needed to accommodate both a current and projected growth in staff. Presently, the department employs 71 people, with a projected growth to 91 staff members over the next 10 years. This growth includes the addition of 8 additional secured offices, and 5 employees in open office cubicles. In particular, dedicated traffic and patrol spaces are needed. Within the new patrol space, a dedicated briefing room should be provided, equipped with a retractable divider to create a separate area for five workstations.

For the Criminal Investigation Department (CID), additional space is required to accommodate growth in investigative work. In the current Public Safety Building, many detectives and other CID employees are forced to double up within offices, creating an environment which is not conducive for investigations. To alleviate this situation, individual private offices need to be provided for the detectives and other CID staff working in this area. In addition to offices, a dedicated CID briefing area will provide space for department-wide meetings and other functions. The CID space also needs to be equipped with improved interview rooms, constructed with sound-attenuating materials for privacy.

In addition to managing investigations, the CID staff is also responsible for supervising and processing juvenile detainees. Currently, juveniles are held in a converted office which offers little security for the officers supervising them. In a redesigned facility, a dedicated space should be provided which ensures that juveniles can be securely supervised by CID staff, while not being left alone in a locked room or cell in accordance with regulatory requirements.

For evidence processing, dedicated space is required for evidence logging, preservation and storage. This space will consist of an evidence processing room equipped with two workstations, a drying chamber, and an officer processing area with pass-through lockers, along with an office for the Quartermaster. In addition, a 1,000 square foot evidence storage area is needed, with dedicated rooms for the holding of drugs, firearms and money.

For the Special Investigations Unit (SIU), space is needed to accommodate an SIU Sergeant and SIU Detectives, along with an SIU Secretary.

For police records, additional office and cubicle space is needed to accommodate a projected growth in records staff and processing. This space should also include three service windows which will facilitate interaction between records staff and the public,

to be accessed from a redesigned public lobby. In addition, a dedicated records room will allow files to be stored securely and efficiently. The records space also needs to be provided with a supply room, breakroom and work/copy area.

Along with office and work space, the Police Department is in need of additional storage space to accommodate their growing needs. In particular, the department has requested dedicated storage rooms for crime scene investigation, patrol, accident investigation, traffic, school resource officers (SRO) and miscellaneous supplies. The current firearms/ammo vault is also undersized, and needs to be expanded. Due to the nature of the weapons and ammunition stored in this area, this vault must contain a dedicated ventilation system and must be hardened for safety reasons.

In a renovated facility, additional locker room space is needed for both male and female officers. In the current facility, the male locker room contains 63 lockers, 3 showers, 2 bathroom stalls, 2 urinals and a triple vanity sink, while the female locker room contains 14 lockers, 2 showers, 2 bathroom stalls, and a triple vanity sink. Ultimately, the department anticipates the need for 85 lockers in the male locker room and 20 lockers in the female locker room. The department recommends the use of Southwest Solutions 24"x24" metal lockers with a 12" integrated bench in front (for a total footprint of 24"x36"), which would provide ample space to accommodate gear and uniforms. These lockers can also be equipped with sloped tops, in order to accommodate electrical and data runs above the lockers. In addition to increased locker space, the existing shower facilities within the locker rooms are also in need of renovation or replacement, as they do not meet current code requirements, are short in height, and offer little privacy. For replacement showers, the department recommends using a tile finish for increased durability.

For the SWAT team, dedicated space is needed for both lockers and tactical storage. Currently, SWAT equipment is held in a small storage room which is undersized and inefficient. Ultimately, the SWAT team seeks a room with 20 lockers to accommodate future growth, along with storage for large gear bags and cabinets for tactical equipment.

In conjunction with the Fire Department, the Police Department has requested several additional spaces to accommodate specific situations which have come up in the past. Near the emergency operations center (EOC) and dispatch center, both departments have requested a lounge which could be used by staff in the event of an emergency. In addition, both departments have requested a room which could be used for cross-department training. Potentially, this training could be accommodated through the shared conference room which has been requested by all departments.

As mentioned in the general architectural report, a common request of all departments is a centralized lobby area with service windows for all departments. For the Police Department, two service windows are needed in this area to accommodate records staff. The department recommends that the service windows for all departments in this area feature bulletproof glass for security purposes. In addition, the department suggests providing a reception desk, which should be protected by bulletproof glass and would function as a control point into the facility.

Based on our analysis of the current and projected space requirements provided by the Police Department, we have prepared an overall tabulation of the total square footage required to accommodate all departmental requirements:

POLICE DEPARTMENT OFFICES/SUPPORT SPACES

ADMINISTRATION

Chief (12x18 office)	216 sq ft.
Assistant Chief (12x18 office)	216 sq ft.
Lieutenants (3 - 12x16 offices)	576 sq ft.
Sergeants (6 - 10x14 offices)	840 sq ft.
Prf. Stnds. (12x16 office)	192 sq ft.
Communications/Relations (10x14 office)	140 sq ft.
Closet (8x8)	64 sq ft.
Administrative Assistant (10x14 office)	140 sq ft.
Closet (8x8)	64 sq ft.
CPL's (2 - 10x12 offices)	240 sq ft.
Traffic (15x21 office)	315 sq ft.
Closet (8x8)	64 sq ft.
Patrol Briefing (50x20)	1,000 sq ft.
Patrol (2 - 10x10 copying and equipment rooms)	200 sq ft.
Patrol Interview (2 – 10x10 offices)	200 sq ft.
ADMINISTRATION TOTAL:	4,467 sq ft.

CID

Support Services Lieutenant (14x10 office)	140 sq ft.
CID briefing area (12x16)	192 sq ft.
CID Sergeant (14x10 office)	140 sq ft.
CAPERS Detectives (2 - 11x10 offices)	220 sq ft.
Property Crimes Detectives (3 – 11x10 offices)	330 sq ft.
Computer forensics (18x12)	216 sq ft.
Fraud/White Collar Crimes Detective (2 – 11x10 offices)	220 sq ft.
Juvenile Detective (11x10 office)	110 sq ft.
CID Secretary	250 sq ft.
CAC Detective (2 – 11x10 offices)	220 sq ft.
Interview rooms	220 sq ft.
Observation room	110 sq ft.
Juvenile processing/holding	110 sq ft.
Juvenile interview room	110 sq ft.
CID storage room (12x10)	120 sq ft.
Waiting room (12x12)	144 sq ft.
CID TOTAL:	2,852 sq ft.

EVIDENCE

Crime Scene Tech (21x13 work area)	273 sq ft.
Quartermaster (18x12)	216 sq ft.
Evidence room (25x40)	1,000 sq ft.
EVIDENCE TOTAL:	1,489 sq ft.

SIU

SIU Sergeant (10x14 office)	140 sq ft.
SIU Detective (18x12)	216 sq ft.
SIU Secretary (11x10)	110 sq ft.
SIU TOTAL:	466 sq ft.

RECORDS

Records Administrator (12x14 office)	168 sq ft.
Records Supervisor (12x14 office)	168 sq ft.
Senior Records Specialist (2 - 12x10 offices)	240 sq ft.
Senior Records Techs (4 - 10x10 cubicles)	400 sq ft.
Records (3 - 8x10 service windows, 3 staff projected)	240 sq ft.
Supply room (12x12)	144 sq ft.
Breakroom/Kitchen (16x16)	256 sq ft.
Work/copy room (16x16)	256 sq ft.
Records room for offense and arrest files (16x20)	320 sq ft.
RECORDS TOTAL:	2,192 sq ft.

AUXILLARY SPACES

Men's locker room	2,400 sq ft.
Women's locker room	800 sq ft.
Intox room (10x20)	200 sq ft.
Exercise room (15x21)	315 sq ft.
SWAT room	1,050 sq ft.
Firearms vault (12x14)	168 sq ft.
Storage rooms (5 - 10x10)	600 sq ft.
Crime scene	
Patrol	
Accident investigation	
Traffic	
Miscellaneous supplies	
SRO supply room	
AUXILLARY SPACES TOTAL:	5,533 sq ft.

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POLICE DEPARTMENT OFFICES/SUPPORT SPACES TOTAL:	16,999 sq ft.
+25% FOR CIRCULATION:	21,249 sq ft.

JAIL/SALLY PORT/BOOK-IN

Jail (existing)	1,638 sq ft.
Book-in station	660 sq ft.
Sally Port	1,600 sq ft.
Evidence bay	1,000 sq ft.
JAIL TOTAL:	4,898 sq ft.

POLICE DEPARTMENT TOTAL

Police Department Offices/Support Spaces Total	21,249 sq ft.
Jail/Sally Port/Book-In Total	4,898 sq ft.
-----	
POLICE DEPARTMENT TOTAL:	26,147 sq ft.

Overall, the current Public Safety Building does not adequately meet the needs of the Police Department, taking into account the security concerns and functional challenges which exist in the building. However, with the addition of increased office space, additional storage and improved jail facilities, the department could be well-accommodated in an expanded facility, both now and in the future.

Municipal Courts

## Municipal Courts

Within the current Municipal Courts facility, the courtroom generally functions well and could be retained in its existing location. However, the present access paths into the courtroom create security risks since there is no control point at the west courtroom entrance. As a result, visitors are currently forced to travel through a hallway and enter into the courtroom from the side, which ultimately prevents the courtroom from being utilized as originally designed. With the development of a centralized lobby area, circulation into the courtroom could be altered to provide more direct access while also improving security. In addition to these circulation challenges, the courtroom is in need of an additional prosecutor conference area, along with improved sound attenuation in all conference rooms to facilitate private conversations.

Along with updates to the courtroom, the department is in need of expanded office space to accommodate a projected growth in staff for the next 10 years. In particular, expanded space is required for an additional judge, the juvenile case manager, and the warrant officer staff. In addition, the department anticipates hiring an additional deputy clerk, which would require an additional service window (for a total of three) in a reconfigured lobby area.

Based on our analysis of the current and projected space requirements provided by the Municipal Courts, overall tabulations have been prepared of the total square footage required to accommodate all program requirements:

### MUNICIPAL COURTS

#### COURT OFFICES

Court Administrator (12x14 office)	168 sq ft.
Judge (2 - 12x14 offices)	336 sq ft.
Prosecutor (12x10 office)	120 sq ft.
Juvenile Case Manager (12x10 office)	120 sq ft.
Warrant Officer, Bailiff (large office, 3 staff projected)	384 sq ft.
Deputy Clerk (3 - 8x10 service windows, 3 staff projected)	240 sq ft.
Senior Deputy Clerk (10x10 cubicle)	100 sq ft.
Court Supervisor/Senior Clerk (10x10 office)	100 sq ft.
Supply room (12x12)	144 sq ft.
Breakroom/kitchen (16x16)	256 sq ft.
Records/work/copy room (16x16)	256 sq ft.
COURT OFFICES TOTAL:	2,224 sq ft.

COURTROOM

Courtroom	2,500 sq ft.
Judge's Bench/Clerk/Baliff/Witness	
Defense Desk	
Prosecution Desk	
Jury Box	
Spectator/Defendant Seating/Gallery	
Vestibule/Security Entrance (10x12)	120 sq ft.
Jury Deliberation Room (10x12)	120 sq ft.
Prosecutor Conference in Courtroom (8x10)	160 sq ft.
COURTROOM TOTAL:	2,900 sq ft.

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MUNICIPAL COURTS TOTAL:	5,124 sq ft.
+30% FOR CIRCULATION:	6,661 sq ft.

In general, many portions of the existing Municipal Courts space could be retained with slight floor plan modifications and the replacement of damaged materials and finishes. However, if desired, the courts could be relocated within the facility in conjunction with an overall renovation of the Public Safety Building, especially if such a relocation would create improved spatial efficiencies throughout the building as a whole. If this were to take place, adjacencies and efficiencies within the court offices could likely be improved, while a new and modern courtroom could also be created.

Overall Tabulation

Overall Tabulation

Provided below is an overall tabulation of the square footage required for the Fire Department, Police Department and Municipal Courts, along with common spaces.

FIRE DEPARTMENT

ADMINISTRATION

4 - 12X12 offices	576 sq ft.
2 - 12X12 offices or open work stations (including service window)	288 sq ft.
4 - 12X16 offices	768 sq ft.
Storage closets (2 - 12x10)	240 sq ft.
Storage/file closet for plans (12x10)	120 sq ft.
Small conference room (14x16)	224 sq ft.
Breakroom/kitchen with closet, sink, range (20x20)	400 sq ft.
Work center with central copier, printer, office supplies, etc.	400 sq ft.
EOC (30x50)	1,500 sq ft.
EOC operations room	500 sq ft.
EMC office (located adjacent to EOC)	168 sq ft.
ADMINISTRATION TOTAL:	5,184 sq ft.

FIRE DISPATCH

5 - 12x12 offices	720 sq ft.
1 - 12x16 office	192 sq ft.
Storage closet for miscellaneous supplies (12x14)	168 sq ft.
Small training/meeting room (14x24)	336 sq ft.
Breakroom/kitchen with closet, sink, range, dishwasher (20x20)	400 sq ft.
Restrooms (2 - 10x17, male/female)	340 sq ft.
Locker room area (10x15)	150 sq ft.
Open dispatch area housing 7 workstations near EOC (32x42)	1,344 sq ft.
Server/telco room (14x13)	182 sq ft.
FIRE DISPATCH TOTAL:	3,832 sq ft.

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FIRE DEPARTMENT TOTAL:	9,016 sq ft.
+25% FOR CIRCULATION:	11,270 sq ft.

POLICE DEPARTMENT OFFICES/SUPPORT SPACES

ADMINISTRATION

Chief (12x18 office)	216 sq ft.
Assistant Chief (12x18 office)	216 sq ft.
Lieutenants (3 - 12x16 offices)	576 sq ft.
Sergeants (6 - 10x14 offices)	840 sq ft.

Prf. Stnds. (12x16 office)	192 sq ft.
Communications/Relations (10x14 office)	140 sq ft.
Closet (8x8)	64 sq ft.
Administrative Assistant (10x14 office)	140 sq ft.
Closet (8x8)	64 sq ft.
CPL's (2 - 10x12 offices)	240 sq ft.
Traffic (15x21 office)	315 sq ft.
Closet (8x8)	64 sq ft.
Patrol Briefing (50x20)	1,000 sq ft.
Patrol (2 - 10x10 copying and equipment rooms)	200 sq ft.
Patrol Interview (2 – 10x10 offices)	200 sq ft.
ADMINISTRATION TOTAL:	4,467 sq ft.

CID

Support Services Lieutenant (14x10 office)	140 sq ft.
CID briefing area (12x16)	192 sq ft.
CID Sergeant (14x10 office)	140 sq ft.
CAPERS Detectives (2 - 11x10 offices)	220 sq ft.
Property Crimes Detectives (3 – 11x10 offices)	330 sq ft.
Computer forensics (18x12)	216 sq ft.
Fraud/White Collar Crimes Detective (2 – 11x10 offices)	220 sq ft.
Juvenile Detective (11x10 office)	110 sq ft.
CID Secretary	250 sq ft.
CAC Detective (2 – 11x10 offices)	220 sq ft.
Interview rooms	220 sq ft.
Observation room	110 sq ft.
Juvenile processing/holding	110 sq ft.
Juvenile interview room	110 sq ft.
CID storage room (12x10)	120 sq ft.
Waiting room (12x12)	144 sq ft.
CID TOTAL:	2,852 sq ft.

EVIDENCE

Crime Scene Tech (21x13 work area)	273 sq ft.
Quartermaster (18x12)	216 sq ft.
Evidence room (25x40)	1,000 sq ft.
EVIDENCE TOTAL:	1,489 sq ft.

SIU

SIU Sergeant (10x14 office)	140 sq ft.
SIU Detective (18x12)	216 sq ft.
SIU Secretary (11x10)	110 sq ft.
SIU TOTAL:	466 sq ft.

RECORDS

Records Administrator (12x14 office)	168 sq ft.
Records Supervisor (12x14 office)	168 sq ft.
Senior Records Specialist (2 - 12x10 offices)	240 sq ft.
Senior Records Techs (4 - 10x10 cubicles)	400 sq ft.
Records (3 - 8x10 service windows, 3 staff projected)	240 sq ft.
Supply room (12x12)	144 sq ft.
Breakroom/Kitchen (16x16)	256 sq ft.
Work/copy room (16x16)	256 sq ft.
Records room for offense and arrest files (16x20)	320 sq ft.
RECORDS TOTAL:	2,192 sq ft.

AUXILLARY SPACES

Men's locker room	2,400 sq ft.
Women's locker room	800 sq ft.
Intox room (10x20)	200 sq ft.
Exercise room (15x21)	315 sq ft.
SWAT room	1,050 sq ft.
Firearms vault (12x14)	168 sq ft.
Storage rooms (5 - 10x10)	600 sq ft.
Crime scene	
Patrol	
Accident investigation	
Traffic	
Miscellaneous supplies	
SRO supply room	
AUXILLARY SPACES TOTAL:	5,533 sq ft.

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POLICE DEPARTMENT OFFICES/SUPPORT SPACES TOTAL:	16,999 sq ft.
+25% FOR CIRCULATION:	21,249 sq ft.

JAIL/SALLY PORT/BOOK-IN

Jail (existing)	1,638 sq ft.
Book-in station	660 sq ft.
Sally Port	1,600 sq ft.
Evidence bay	1,000 sq ft.
JAIL/SALLY PORT/BOOK-IN TOTAL:	4,898 sq ft.

POLICE DEPARTMENT TOTAL

Police Department Offices/Support Spaces Total	21,249 sq ft.
Jail/Sally Port/Book-In Total	4,898 sq ft.
POLICE DEPARTMENT TOTAL:	26,147 sq ft.

MUNICIPAL COURTS

COURT OFFICES

Court Administrator (12x14 office)	168 sq ft.
Judge (2 - 12x14 offices)	336 sq ft.
Prosecutor (12x10 office)	120 sq ft.
Juvenile Case Manager (12x10 office)	120 sq ft.
Warrant Officer, Bailiff (large office, 3 staff projected)	384 sq ft.
Deputy Clerk (3 - 8x10 service windows, 3 staff projected)	240 sq ft.
Senior Deputy Clerk (10x10 cubicle)	100 sq ft.
Court Supervisor/Senior Clerk (10x10 office)	100 sq ft.
Supply room (12x12)	144 sq ft.
Breakroom/kitchen (16x16)	256 sq ft.
Records/work/copy room (16x16)	256 sq ft.
COURT OFFICES TOTAL:	2,224 sq ft.

COURTROOM

Courtroom	2,500 sq ft.
Judge's Bench/Clerk/Baliff/Witness	
Defense Desk	
Prosecution Desk	
Jury Box	
Spectator/Defendant Seating/Gallery	
Vestibule/Security Entrance (10x12)	120 sq ft.
Jury Deliberation Room (10x12)	120 sq ft.
Prosecutor Conference in Courtroom (8x10)	160 sq ft.
COURTROOM TOTAL:	2,900 sq ft.

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MUNICIPAL COURTS TOTAL:	5,124 sq ft.
+25% FOR CIRCULATION:	6,405 sq ft.

COMMON SPACES

Public Lobby	1,750 sq ft.
Reception Desk	
Police Department (2 service windows)	
Fire Department (2 service windows)	
Municipal Courts (3 service windows)	
Public Restrooms	600 sq ft.
Shared Conference Room	500 sq ft.
COMMON SPACES TOTAL:	2,850 sq ft.
+25% FOR CIRCULATION:	3,563 sq ft.

OVERALL TABULATION

Fire Department Total	11,270 sq ft.
Police Department Total	26,147 sq ft.
Municipal Courts Total	6,405 sq ft.
Common Spaces Total	3,563 sq ft.
TOTAL AREA REQUIRED:	47,385 sq ft.
EXISTING PUBLIC SAFETY BUILDING AREA:	33,358 sq ft.
ADDITIONAL AREA REQUIRED:	14,027 sq ft.

Preliminary Construction Cost Estimate

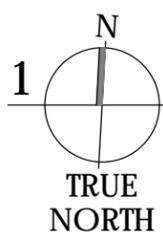
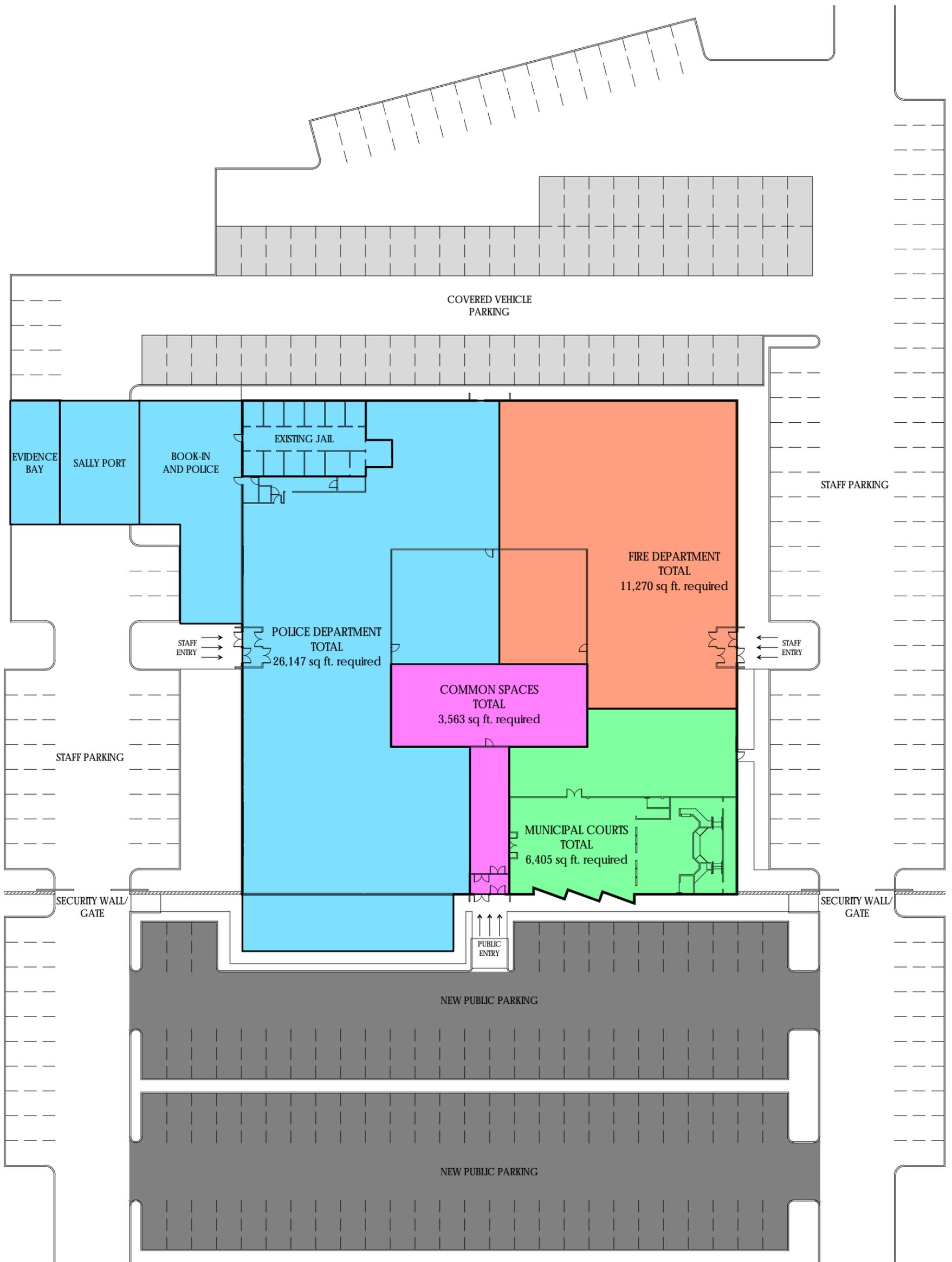
Division	Total	Comments
<b>1 - General Requirements</b>		
General Conditions	\$255,889.80	4% of \$6,397,245
Demolition	\$125,000.00	Allowance
Insurance	\$63,972.45	1% of \$6,397,245
<b>Subtotal</b>	<b>\$444,862.25</b>	
<b>2 - Site Construction</b>		
Grading / excavation / soil prep	\$22,500.00	Allowance (Sally Port + Add.)
Grading / excavation / soil prep	\$40,000.00	Allowance (courtyard)
Grading / excavation / soil prep	\$25,000.00	Allowance (public parking)
Metal fence 8 ft. tall	\$40,000.00	\$50.00 l.f. x 800 l.f.
New monument entry sign	\$55,000.00	Allowance
Entry plaza	\$25,000.00	Allowance
Flag poles	\$12,000.00	Allowance
Landscape & Irrigation	\$95,000.00	Allowance
<b>Subtotal</b>	<b>\$314,500.00</b>	
<b>3 - Concrete</b>		
2' x 1' perimeter grade beam	\$15,750.00	\$45.00 / l.f. x 350 ft. (Sally Port + Add.)
Piers - 25' x 16" dia.	\$67,500.00	\$1,500 ea x (45 @ Sally Port + Add.)
5" conc. slab / interior grade beams	\$55,200.00	\$7.50 / s.f. x 7,360 s.f. (Sally Port + Add.)
Piers - 25' x 16" dia.	\$30,000.00	\$1,500 ea. x (20 @ parking security walls)
Light pole piers	\$21,000.00	\$1,500 ea x (14)
5" conc parking paving for public	\$110,000.00	\$5.50 / s.f. x 20,000 s.f. (90 stalls)
5" conc. slab replace @ exist. bldg.	\$19,500.00	\$6.50 / s.f. x 3,000 s.f.
Conc. Ceiling deck @ EOC	\$7,500.00	Allowance
5" conc. slab on 8" void cartons	\$62,500.00	\$10.00 / s.f. x 6,250 s.f. (courtyard)
Piers - 25' x 16" dia.	\$36,000.00	\$1,500 ea. x (24 @ courtyard)
<b>Subtotal</b>	<b>\$424,950.00</b>	
<b>4 - Masonry</b>		
Masonry wall, 8 ft. high	\$131,250.00	\$125.00 s.f. x 1,050 s.f. @ secured parking
Masonry walls @ EOC	\$18,700.00	\$17.00 / s.f. x 1,100 s.f.
Masonry veneer, existing bldg.	\$93,750.00	\$15.00 / s.f. x 6,250 s.f.
Stucco veneer, existing bldg.	\$89,050.00	\$13.00 / s.f. x 6,800 s.f.
Masonry veneer, Sally Port + addition	\$48,750.00	\$15.00 / s.f. x 3,250 s.f.
Stucco veneer, Sally Port + addition	\$35,750.00	\$13.00 / s.f. x 2,750 s.f.
<b>Subtotal</b>	<b>\$417,250.00</b>	
<b>5 - Metals</b>		
Covered parking for dept. vehicles	\$150,000.00	Allowance (60 stalls)
Steel frame	\$100,000.00	Allowance (Sally Port + Add.)
Steel frame	\$130,000.00	Allowance (courtyard)
Misc. metals	\$25,000.00	Allowance
<b>Subtotal</b>	<b>\$405,000.00</b>	

<b>6 - Wood &amp; Plastics</b>		
Rough carpentry	\$60,000.00	Allowance
Millwork	\$150,000.00	Allowance
<b>Subtotal</b>	<b>\$210,000.00</b>	
<b>7 - Thermal &amp; Moisture Protection</b>		
Existing roof demolition	\$63,384.00	\$1.90 / s.f. x 33,360 s.f.
R 30 rigid insul., TPO, 60 mil, heat weld	\$40,272.50	\$8.50 / s.f. x 47,385 s.f.
Misc. flashings	\$30,000.00	Allowance
Treated wood nailers	\$10,175.00	\$5.50 / l.f. x 1,850 l.f.
<b>Subtotal</b>	<b>\$143,831.50</b>	
<b>8 - Doors &amp; Windows</b>		
Interior solid core wood doors + hdwr.	\$115,000.00	\$1000 ea. x (115 est.)
Ext. hollow metal doors + hdwr.	\$18,000.00	\$1,500 ea. x (12)
Specialty entry doors	\$45,000.00	\$7,500 ea. x (6)
1" insul.glazing w/ 4 1/2" alum. fr.	\$120,000.00	Allowance
<b>Subtotal</b>	<b>\$298,000.00</b>	
<b>9 - Finishes</b>		
Carpet	\$86,700.00	\$2.89 / s.f. x 30,000 s.f.
Porcelain tile	\$80,000.00	\$8.00 / s.f. x 10,000 s.f.
Vinyl Tile	\$22,155.00	\$3.00 / s.f. x 7,385 s.f.
Exterior paint	\$65,000.00	Allowance
Partition walls to deck	\$300,000.00	\$50.00 l.f. x 6,000 l.f. (interior, includes insul.)
Perimeter walls	\$20,000.00	\$20.00 l.f. x 1000 l.f.
Perimtere wall insulation, R 19	\$30,000.00	Allowance - perimeter
Glass partition walls	\$50,000.00	Allowance
2 x 2 lay in suspended ceiling	\$95,070.00	\$3.00 / s.f. x 31,690 s.f.
Gyp. Bd. Ceiling	\$34,000.00	\$4.00 / s.f. x 8,500 s.f.
Specialty Ceiling	\$57,560.00	\$8.00 / s.f. x 7,195 s.f.
Interior paint	\$125,000.00	Allowance
<b>Subtotal</b>	<b>\$965,485.00</b>	
<b>10 - Specialties</b>		
Toilet partitions	\$49,500.00	Estimate 22 stalls @ \$2,250 ea.
Toilet accessories	\$30,000.00	Allowance
Interior signage	\$15,000.00	Allowance
Fire extinguishers	\$2,500.00	\$100 ea. x (25)
<b>Subtotal</b>	<b>\$97,000.00</b>	
<b>11 - Equipment</b>		
Security camera system	\$150,000.00	Allowance
A/V	\$125,000.00	Allowance
<b>Subtotal</b>	<b>\$275,000.00</b>	
<b>12 - Furnishings</b>		
		NA
<b>Subtotal</b>	<b>\$0.00</b>	

<b>13 - Special Construction</b>		NA
Bullet resistant doors	\$12,500.00	\$2,500 ea. x (5 @ level 3)
Bullet resistant partition walls	\$70,000.00	Allowance (level 1)
Bullet resistant glazing	\$50,000.00	Allowance (level 3)
<b>Subtotal</b>	<b>\$132,500.00</b>	
<b>14 - Conveying Systems</b>		NA
<b>Subtotal</b>	<b>\$0.00</b>	
<b>15 - Plumbing &amp; Mechanical</b>		
Fire sprinkler modification	\$33,362.00	\$2.00 / s.f. x 33,360 s.f.
Fire sprinkler	\$53,996.25	\$3.85 / s.f. x 14,025 s.f.
Plumbing rough and trim	\$473,850.00	\$10.00 / s.f. x 47,385 s.f.
Plumbing repair - jail	\$50,000.00	Allowance
Sawcutting ext. slab	\$20,000.00	Allowance
Plumbing misc.	\$30,000.00	Allowance
Mechanical units + duct work	\$542,500.00	\$3,500 / ton x 155 tons
<b>Subtotal</b>	<b>\$1,203,708.25</b>	
<b>16 - Electrical</b>		
Electrical rough and trim	\$663,390.00	\$14.00 / s.f. x 47,385 s.f.
Misc. electrical	\$40,000.00	Allowance
Generator gear	\$50,000.00	Allowance
Specialty lighting	\$25,000.00	Allowance
Exterior LED 4 head light pole lighting	\$77,000.00	\$5,500 ea x (14) 20 ft. poles
Fire alarm	\$55,000.00	Allowance
Data and IT	\$170,000.00	Allowance
<b>Subtotal</b>	<b>\$1,080,390.00</b>	
<b>Contingency</b>		
	\$304,630.74	5% of \$6,092,614.75
<b>Subtotal</b>	<b>\$304,630.74</b>	
<b>General Contractor</b>		
Escalation	\$221,664.56	3% of \$7,388,818.52 (1 year)
Profit / Overhead	\$671,710.78	10% of \$6,717,107.74
Permit		Waived
<b>Subtotal</b>	<b>\$893,375.34</b>	

<b>Total for Project</b>	<b>\$7,610,483.08</b>	<b>\$160.61 / sq ft</b>
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Programmatic Plan



SCALE: 1:40

Programmatic Plan  
plan

## Conclusion

Following our analysis of the Public Safety Building's current condition and functionality, we have determined that the existing facility is inadequate to serve the City of Wylie in its present state. However, since the building's structure and envelope are mostly in good condition, the existing facility could be refurbished and expanded to well accommodate the city's needs, both now and into the future.

If the current facility is renovated, additional space will need to be added to accommodate all departmental requirements. In particular, the Police Department facilities will need to be expanded to accommodate both growth in this department and changes in standard security procedures since the Public Safety Building was originally constructed. In addition, the current jail facility will need to be reconfigured to provide for better security. For the Fire Department, a renovation of the existing facility would allow for space adjacencies to be improved, and for state of the art EOC and dispatch areas to be created. For the Municipal Courts, additional office space and an improved courtroom layout would make the current facility more secure and generally well-suited for long term use. Lastly, overall building functionality and appearance can be improved, especially in public-facing areas.