

AGENDA ITEM 23**Discuss RMA appointment.**

The Court discussed the appointment of a person to the board of the Regional Mobility Authority, the deadline for which was moved to Friday, February 6, 2004.

AGENDA ITEM 24**Discuss and take appropriate action on the administration of the HUD community development block grant.**

David Flores addressed the Court in his capacity as the County Auditor to discuss the administration of the HUD community development block grant with the Court. He also spoke on the matter of other grants which are currently being received by the County and on the feasibility and need of a county-employee position to work with grants.

AGENDA ITEM 25**Consider entering into Interlocal Agreement with the City of Georgetown for the proposed Sports and Recreation Facility Complex.**

Moved: **Commissioner Boatright**

Seconded: **Commissioner Curlee**

Motion: To enter into an Interlocal Agreement with the City of Georgetown for a feasibility study for the proposed Sports and Recreation Facility Complex for a cost to the County of \$5,000.

Vote: 4 – 0. **Commissioner Hays** was absent from the dais.

< Attachment >



January 14, 2004

Dr. Jim Gunn
Superintendent
Georgetown Independent School District
603 Lakeway Drive
Georgetown, Texas 78628

The Honorable John C. Doerfler, County Judge
Williamson County Commissioners' Court
710 Main Street
Georgetown, Texas 78626

Re: Sports and Recreation Facility Complex

Dear Judge Doerfler and Dr. Gunn:

Please find enclosed the Interlocal Agreement for the proposed Sports and Recreation Facility Complex and the subsequent \$15,000 required for the Feasibility Study and Land Plan. Each participating member will be responsible for \$5,000.

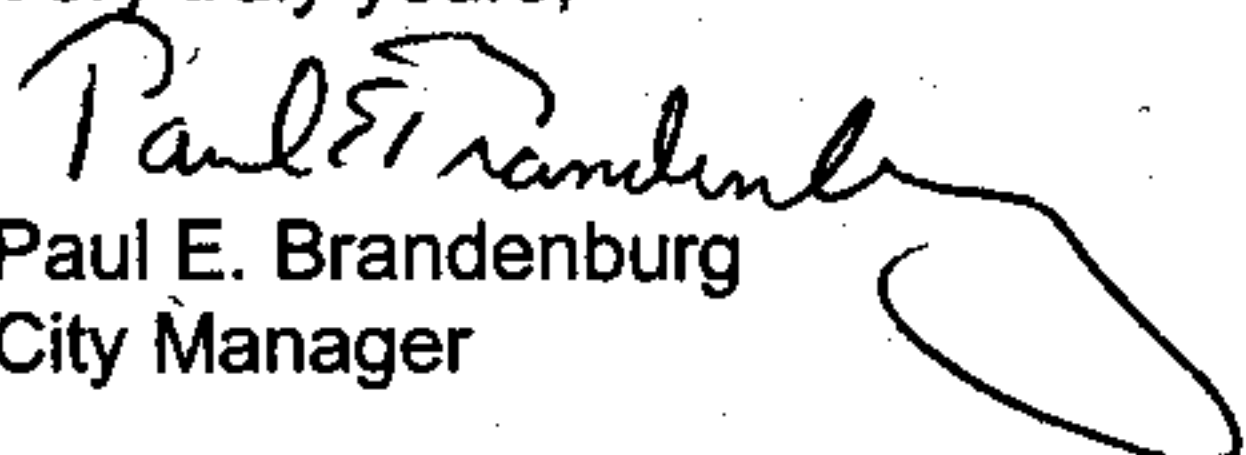
Exhibit "A" is not included since we are still discussing with RVI what the scope of their services will be.

As discussed at our meeting last week, please process this accordingly with your Board/Commission as soon as possible; at your next meeting if possible.

If you have any questions, please feel free to contact me.

Thank you.

Very truly yours,


Paul E. Brandenburg
City Manager

cc: Mr. Russell Peterman
1301 FM 3405
Georgetown, TX 78628

Mr. Tom Crawford
103 Egret Cove
Georgetown, TX 78628

01/20/2004

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Dr. Jim Gunn
The Honorable John Doerfler
January 14, 2004
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Mr. Brad Smith
Board of Trustees
Georgetown Independent School District
603 Lakeway Drive
Georgetown, Texas 78628

Mr. Mark Bobinger
President
Board of Trustees
Georgetown Independent School District
603 Lakeway Drive
Georgetown, Texas 78628

Mr. Randy Morrow
Parks & Recreation Director
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627

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|----------------------|---|-----------------------------|
| THE STATE OF TEXAS | § | AGREEMENT FOR PROFESSIONAL |
| | § | SERVICES WITH |
| COUNTY OF WILLIAMSON | § | BROADDUS & ASSOCIATES, INC. |

AGREEMENT

This is an agreement ("Agreement") by and between by Williamson County ("County"), the City of Georgetown ("City"), the Georgetown Independent School District ("GISD") (collectively referred to as the "PUBLIC ENTITIES") and Broaddus & Associates, Inc., a Texas Corporation, ("CONSULTANT") for preparation of a feasibility study and preliminary land plan for a Sports and Recreation Complex to be used jointly by the PUBLIC ENTITIES. The PUBLIC ENTITIES understand and agree that CONSULTANT intends to retain RVi Planning, Inc. as a sub-contractor to accomplish a portion of the Scope of Work contemplated by this Agreement.

1. AGREEMENT

The PUBLIC ENTITIES agree to retain CONSULTANT to prepare a feasibility study and preliminary land plan for a Sports and Recreation Complex to be used jointly by the PUBLIC ENTITIES pursuant to the terms and conditions of this Agreement. CONSULTANT agree to perform these services in a professional manner and in compliance with all applicable laws.

2. SCOPE OF WORK AND SCHEDULE

CONSULTANT shall perform the specific services that are described on *Exhibit "A"* to this Agreement entitled "Scope of Work and Schedule," which is attached hereto and incorporated herein for all purposes as if set forth in full. The CITY agrees to make available to CONSULTANT the digital lot and block base map to facilitate commencement of the Scope of Work and Schedule.

3. COMPENSATION

The PUBLIC ENTITIES agree to pay CONSULTANT a total of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000) for the services described in *Exhibit "A."* Each PUBLIC ENTITY agrees to pay FIVE THOUSAND (\$5,000) towards the total sum of \$15,000. Non-payment by one of the PUBLIC ENTITIES does not increase the responsibility of any of the other PUBLIC ENTITIES to pay more than their \$5,000 share. A final lump-sum payment shall be made upon final approval of the feasibility study and preliminary land plan for a Sports and Recreation Complex by the governing bodies of each of the PUBLIC ENTITIES, and of an itemized invoice for services performed. CONSULTANT understands and agrees that the PUBLIC ENTITIES cannot contract for services in excess of a cumulative total of \$15,000.00 without the express written approval of the governing bodies of each of the PUBLIC ENTITIES.

4. TERM OF AGREEMENT

This Agreement shall become effective on the latest date accompanying the signature lines below (the "Effective Date"), and shall remain in effect until each of the PUBLIC ENTITIES finally approves the feasibility study and preliminary land plan for a Sports and Recreation Complex, unless it is terminated prior to that event accordance with the terms set forth herein.

5. TERMINATION

This Agreement may be terminated by any party upon ten (10) days written notice, delivered in accordance with the terms of this Agreement. If any of the PUBLIC ENTITIES should terminate the Agreement, CONSULTANT shall cease all work in connection with the performance of this contract and all orders chargeable to this contract immediately. CONSULTANT shall submit an invoice and the PUBLIC ENTITIES shall pay CONSULTANT the fees for all work actually performed under this Agreement, less all payments that have been previously made. If CONSULTANT should terminate the Agreement, CONSULTANT shall remain responsible for performing the services requested by the PUBLIC ENTITIES until the expiration of the ten (10)-day period, or until some earlier date upon written agreement of the PUBLIC ENTITIES.

6. OWNERSHIP OF WORK PRODUCTS

PUBLIC ENTITIES shall have title and ownership of all work products, including but not limited to all plans, maps, documents, publications, brochures, reports, data, in any form or media, produced by CONSULTANT pursuant to this Agreement. All such works shall be deemed works-for-hire. PUBLIC ENTITIES shall have sole ownership of all copyright interest in any works produced by CONSULTANT pursuant to this Agreement, to the extent that any such works may be copyrighted. All works produced under this Agreement shall be delivered to the PUBLIC ENTITIES prior to the termination of the Agreement.

7. INDEPENDENT CONTRACTOR¹

CONSULTANT shall be independent contractors and shall not be an agent or employee of the PUBLIC ENTITIES with respect to their acts or omissions hereunder. The parties agree that the services and activities performed under this Agreement are not and shall not be construed as a joint venture between the parties.

8. SAFETY

The work to be performed under this contract shall be performed entirely at CONSULTANT' risk. CONSULTANT shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work to be performed under this contract. CONSULTANT shall take all reasonable precautions for the safety of and shall provide all reasonable protection to prevent damage, injury, or loss to employees, the work, the endangered

species, or the property affected by this contract. All damage or loss to any property, caused in whole or in part by CONSULTANT, any subcontractor, or anyone directly or indirectly employed by any of them shall be remedied by CONSULTANT.

9. INDEMNITY

CONSULTANT covenant and agree to FULLY INDEMNIFY and HOLD HARMLESS, the PUBLIC ENTITIES and their elected officials, employees, officers, directors, volunteers, and representatives of the PUBLIC ENTITIES, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the PUBLIC ENTITIES directly or indirectly arising out of, resulting from or related to CONSULTANT' activities under this contract, including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant, or subcontractor of CONSULTANT, and their respective officers, agents, employees, directors, and representatives while in the exercise of performance of the rights or duties under this contract, all without, however, waiving any governmental immunity available to the City under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF THE PUBLIC ENTITIES, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF THE PUBLIC ENTITIES, UNDER THIS CONTRACT. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any person or entity. CONSULTANT shall promptly advise the PUBLIC ENTITIES in writing of any claim or demand against the PUBLIC ENTITIES or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT'S activities under this contract and shall see to the investigation and defense of such claim or demand at CONSULTANT'S cost. The PUBLIC ENTITIES shall have the right, at their option and at their own expense, to participate in such defense without relieving CONSULTANT of any of their obligations under this paragraph.

It is the EXPRESS INTENT of the parties to this CONTRACT that the INDEMNITY provided for in this section is an INDEMNITY extended by CONSULTANT to INDEMNIFY, PROTECT and HOLD HARMLESS the PUBLIC ENTITIES from the consequences of the PUBLIC ENTITIES' OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the PUBLIC ENTITIES is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the PUBLIC ENTITIES is the sole cause of the resultant injury, death, or damage. CONSULTANT further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE PUBLIC ENTITIES AND IN THE

NAME OF THE PUBLIC ENTITIES, any claim or litigation brought against the PUBLIC ENTITIES and their elected officials, employees, officers, directors, volunteers, and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

10. OVERSIGHT

Oversight and management responsibility for the professional services conducted under this contract will reside in a Joint Task Force appointed by the PUBLIC ENTITIES. CONSULTANT will coordinate all meetings and delivery of work products with this Joint Task Force.

11. NOTICE

Notice as required by this contract shall be delivered in writing to the parties at the following locations:

PUBLIC ENTITIES:

To County:
County of Williamson
c/o Williamson County Attorney
405 Martin Luther King Drive, Box 7
Georgetown, Texas 78626

To City:
City of Georgetown
Attn: City Manager
P.O. Box 409
Georgetown, Texas 78627-0409

To GISD:
Georgetown Independent School District
603 Lakeway Drive
Georgetown, TX 78628
Attn: Mark Bobinger

CONSULTANT:

Broadus & Associates, Inc.
Jim Broadus
1301 S Capitol of Texas
Austin, TX 78746

12. PERFORMANCE OF CONTRACT

This contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Williamson County, Texas.

13. ASSIGNMENT

CONSULTANT shall not assign or transfer any rights or interests in this Agreement without the written consent of the PUBLIC ENTITIES. Unless specifically stated to the contrary, in any written consent to an assignment, no agreement will release or discharge the assignor from any duty or responsibility under this Agreement.

14. WAIVER

No waiver by either party hereto of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

15. CAPTIONS

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provisions of this Agreement.

16. BINDS, HEIRS, SUCCESSORS AND ASSIGNS

The PUBLIC ENTITIES and CONSULTANT, their partners, successors, executors, administrators, are hereby bound to the terms and conditions of this Agreement.

17. CONFIDENTIAL WORK

Any documents, maps, plans, reports, information, project evaluation, project designs, data, or other information developed by CONSULTANT hereunder given to or prepared by or assembled by CONSULTANT will not be made available to any individual or organization by CONSULTANT without prior written approval of the PUBLIC ENTITIES.

18. ENTIRETY

This Agreement represents the understanding between the parties in their entirety and no other agreements either oral or written exist between the PUBLIC ENTITIES and CONSULTANT.

19. ATTORNEY'S FEES

Should the PUBLIC ENTITIES find it necessary to file suit to enforce the terms of this contract, CONSULTANT agrees to pay PUBLIC ENTITIES, upon judgment rendered against CONSULTANT, such sums as the court may deem reasonable as attorney's fees for that action.

20. RIGHTS OF REVIEW AND AUDIT

The PUBLIC ENTITIES may review any and all of the services performed by CONSULTANT under this contract. The PUBLIC ENTITIES reserves the right to audit all of CONSULTANT billings related to the performance of this contract. CONSULTANT agrees to retain such records for a minimum of one (1) year following completion of this contract.

21. SEVERABILITY

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

22. FORCE MAJEURE

PUBLIC ENTITIES shall not be required to perform any term, condition or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of the PUBLIC ENTITIES or CONSULTANT.

23. COMPLIANCE

CONSULTANT agrees to give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of this work.

24. REMEDIES

The rights and remedies of the PUBLIC ENTITIES provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law and under this Agreement, including the right of specific performance and offset. Payment made to CONSULTANT by the PUBLIC ENTITIES shall not denote acceptance of the work.

25. TAXES

CONSULTANT shall not include Federal taxes or State of Texas limited sales excise and use taxes in their invoices or vouchers and statement of costs. The PUBLIC ENTITIES are exempt from payment of such taxes and an exemption certification will be furnished to CONSULTANT if requested.

26. RIGHT OF ASSURANCE

Whenever one party to this Agreement in good faith has reason to question the other party's intent to perform, he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

27. WARRANTY

CONSULTANT warrants that it will exercise diligence and due care and perform in a good and workable manner in the preparation of plans and maps, designs and drawings, the designation or selection of materials and equipment, the selection and supervision of personnel and the performance of other services by CONSULTANT pursuant to this contract. Approval of the PUBLIC ENTITIES should not constitute or be deemed a release of the responsibility and liability of CONSULTANT, their employees, agents, or associates, for the exercise of skill and diligence to promote the accuracy and competency of their designs, information, plans specifications or any other document, nor shall approval be deemed to be the assumption of such responsibility by the PUBLIC ENTITIES with respect to any defect or error in the documents prepare or work done by CONSULTANT, their employees and associates. CONSULTANT warrants that the services and work provided under this Agreement shall be of the highest standard of performance in the industry for the type of services provided under this contract.

28. BREACH OF CONTRACT

The PUBLIC ENTITIES shall have the right to declare CONSULTANT in breach of this Agreement for cause when the PUBLIC ENTITIES determines that this Agreement is not being performed according to their understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate or terminate CONSULTANT's obligations under this Agreement.

29. DELAY

CONSULTANT in undertaking to complete the work within the time herein fixed in *Exhibit "A"*, has taken into consideration and made allowance for all hindrances and delays incident to such work, whether growing out of delays in securing material or workmen or weather or otherwise.

No charge shall be made by CONSULTANT for hindrance or delays from any cause whatever during the progress of any portion of the work contemplated by the specifications, but the PUBLIC ENTITIES may grant an extension of time for the completion of the work, provided it has satisfied that such delays or hindrances were due to extraordinary causes or to the acts of omission or commission by the PUBLIC ENTITIES.

It is agreed that the granting of such extensions of time shall in no instance exceed the time actually lost by CONSULTANT for reason of such causes, provided that the CONSULTANT shall give the PUBLIC ENTITIES immediate notice in writing of the cause of the detention or delay.

ACCEPTED AND AGREED TO and made to be effective on this 13 day of Feb., 2004

BROADDUS & ASSOCIATES, INC.
A Texas Corporation

By: [Signature]

Printed Name: JAMES A. BROADDUS

Title: PRESIDENT

Date: 2/18/04

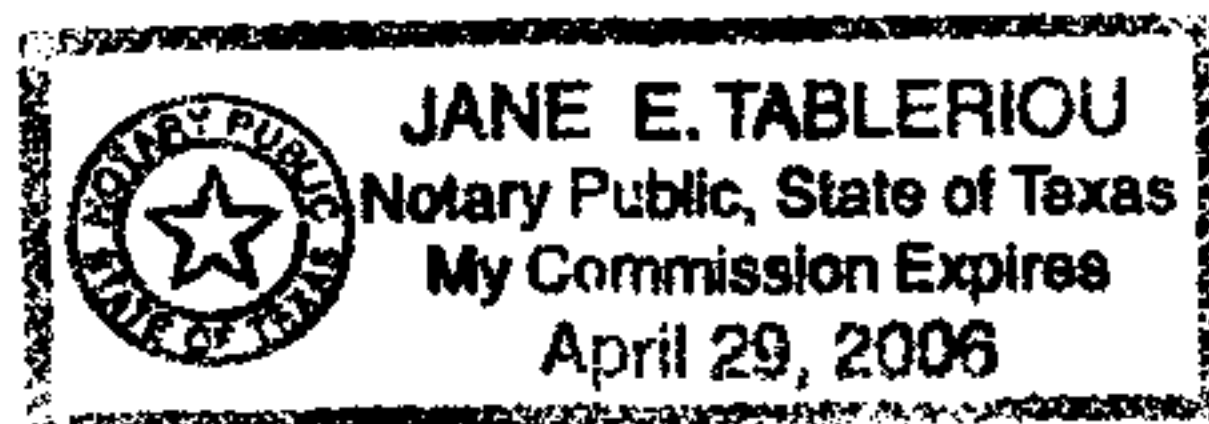
WILLIAMSON COUNTY

By: [Signature]

Printed Name: Honorable John C. Doerfler

Title: Williamson County Judge

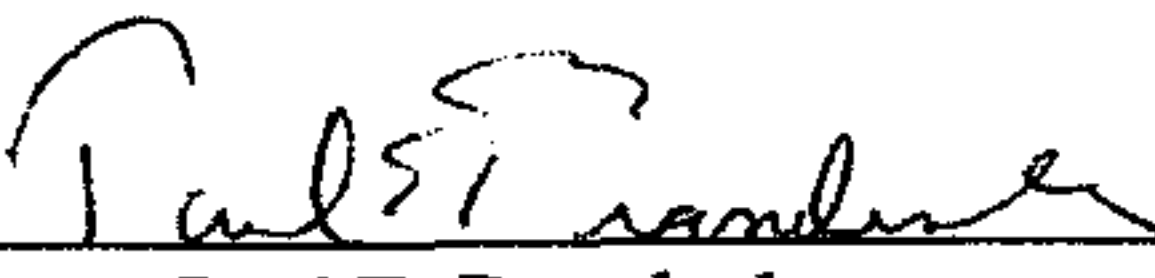
ATTEST:




By: [Signature]

Name & Title: NOTARY


CITY OF GEORGETOWN

By: 
Printed Name: Paul E. Brandenburg
Title: City Manager

ATTEST:

By: 
Sandra D. Lee, City Secretary

APPROVED AS TO FORM:


Patricia E. Carls
Brown & Carls, LLP
City Attorney

GEORGETOWN INDEPENDENT SCHOOL DISTRICT

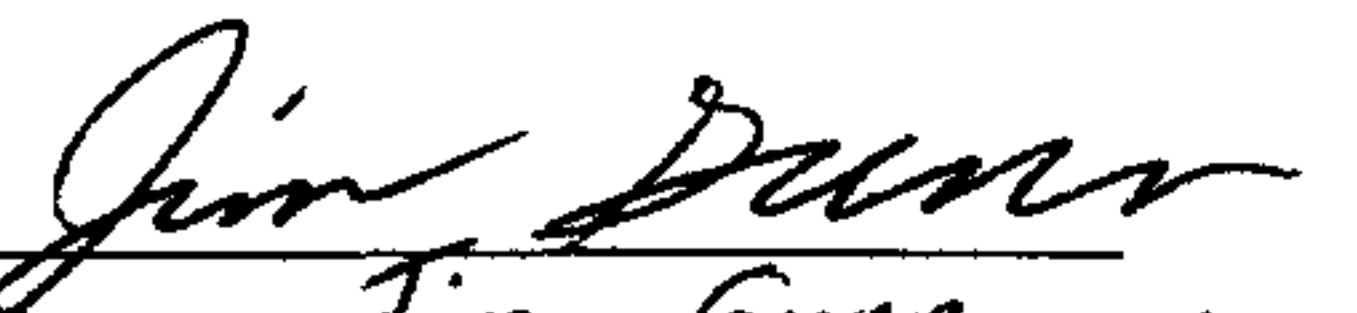
By: 
Printed Name: Jim Gunn
Title: GISD Superintendent

EXHIBIT A**1. SCOPE OF WORK**

The Owner, a Joint Task Force of Public Entities comprised of representatives from the City of Georgetown, Williamson County, and the Georgetown Independent School District, has identified the need for a Sports and Recreation Complex to serve its constituent Public Entities. A Feasibility Study and Preliminary Land Plan are needed to identify and coordinate the overall project objectives. The scope of this planning effort is intended to:

- Identify major program elements;
- Provide a preliminary site master plan;
- Identify additional land requirements and immediately communicate that to the Owner;
- Establish preliminary project budget parameters;
- Present organizational options for creating a managing entity;
- Consider financing and delivery method options;
- Provide a shared-use benefit analysis; and
- Provide a final document of findings to assist in garnering project support; and
- Present final findings to the Owner and their constituents.

The focus of the deliverable will be on validation of proposed requirements, based on direct forecasts and input from the Owner's participating entities. The objective of this Scope of Work is to identify critical issues for the Owner, including issues which may be further resolved at a later date in a more thorough Pre-Bond Program Execution Plan not included in this Scope of Work. The Owner reserves the right to negotiate a modification to this Agreement or a separate Agreement wherein the Consultant be retained to prepare the Pre-Bond Program Execution Plan.

The Consultant will facilitate the following general process:

TASK 1**PROJECT INITIATION****DURATION: 1 day**

Facilitate a half-day planning/kick-off session with the Owner participants to include:

- Set the "Big Picture" direction and goals for the project.
- Present a project schedule.
- Uncover significant issues related to the project.
- Outline the activities to be coordinated during the project.
- Discuss the business relationships within the participating entities and identify all stakeholder participants.
- Discuss other issues that will control the development of the study.
- Define single point-of-contact from the Owner and other primary contacts for the planning interface from each stakeholder group.
- Receive from the Owner copies of all existing data and information relevant to the project to assist the Consultant team (i.e., existing studies, reports, surveys, County roadway plan, TXDOT provide documents, City/County utility plans, detailed description of facilities, etc.)

TASK 2**PREPARATION & ANALYSIS****DURATION: 2 weeks**

Analyze baseline data and prepare for planned project work sessions, including:

- Prepare base map of the proposed site.

- Prepare a site analysis that identifies the opportunities and constraints of the site, including:
 - Physical boundary and topography;
 - Drainage conditions and floodplains;
 - Views, slopes, tree coverage;
 - Availability of utilities;
 - Development requirements, including applicable City, County and State regulations; and
 - Roadway improvements that may affect the site.
- Based on detailed description of facilities requirements provided by the Owner in Task 1, prepare comparable program benchmark data for use in future work sessions.
- Prepare preliminary organizational options for creating a managing entity for the Sports & Recreation Complex.
- Prepare for two-day work session with Owner representatives to accomplish Task 3 items.

TASK 3**WORK SESSIONS****DURATION: 2 days**

Conduct 2-day work session including program refinement and collection, design "charrette", and operational/finance discussion.

Work Session 1 (1/2 day)

- Conduct half-day interviews work session with key stakeholder participants identified in Task 1 to refine preliminary facilities space program, functions, activities, adjacency/separation requirements, and phasing priority for the project.
[This half-day (4 hour) session will include three to four 1-hour workshops with the primary stakeholder groups identified in Task 1, as well as participation by the Owner's primary point-of-contact.]

Work Session 2 (1/2 day)

- Conduct half-day conceptual master plan design "charrette", to include:
 - Review of site analysis and program information prepared to date in diagram form.
 - Illustration of function relationships of the proposed sports and recreational uses.
 - Discuss feasibility of additional land to accommodate proposed uses.
 - Prepare a draft site diagram illustrating all agreed upon sports and recreational uses (bubble diagram format).
- [4-hour afternoon design charrette will include the Consultant's key design personnel as well as all available Owner stakeholders.]*

Work Session 3 (2-hours)

- Conduct work session to present the draft site diagram to the Owner
[2-hour work session will include review of draft concepts with the Owner stakeholders.]

Work Session 4 (2-hours)

- Conduct work session with Owner stakeholders to:
 - Present organizational models/options for creation of a managing entity for the Sports and Recreation Complex.
 - Consider financing options as it relates to organizational structure.

- Discuss and identify shared use benefits demonstrating to the community the benefit/value of developing a joint-use, packaged complex versus independent projects.

[2-hour workshop will include participation by Owner stakeholders, as well as financial consultant.]

TASK 4**DOCUMENT SYNTHESIS & PREPARATON****DURATION: 6 weeks**

Prepare and compile documentation for final report.

- Based on program information received from the Owner and the approved site diagram, prepare an initial conceptual master plan that will define and illustrate the overall layout, including:
 - All proposed sports and recreational facilities
 - Offices
 - Performing Arts
 - Exposition Center
 - Assembly Hall
 - Rodeo Facility
 - Other Facilities
 - Roads and Parking (shared)
 - Greenbelts and Trails
 - Water Quality / Stormwater Considerations
 - Impervious Cover Calculations
 - Land Use Summary
- Prepare an illustrative conceptual master plan illustrating (in a site plan graphic) all of the proposed facilities and improvements. Delineate property boundaries including any additional land that may be under consideration.
- Develop preliminary project budget of costs.
- Prepare and compile documentation outcomes from Task 3, Work Session 4.
- Identify "next steps" to be including as "path forward" in final report.
- Prepare a draft presentation report (MS Power Point format) and submit digitally to the Owner for review and comment.
- Receive and compile the comments to the draft.
- Refine and finalize the report document.

TASK 5**PRESENTATION****DURATION: 1/2 day**

Present final report findings to the Owner stakeholder group.

- Attend one Owner stakeholder meeting and one public rollout event to present the final report including:
 - Conceptual site master plan;
 - Potential land requirements;
 - Preliminary project budget parameters and delivery methods options;
 - Organizational models/options for creating a managing entity;
 - Financing considerations; and

- Benefits of developing a shared use complex;
- Incorporation of an LCRA economic impact analysis of the project; and
- Next steps in the project.
- Meet with the Public Entities after the public presentation and summarize the input and possible revision or update to the proposed facilities and concept plan for future scope of work.

2. SCHEDULE OF PERFORMANCE:

The Scope of Work described in this Exhibit A will begin upon authorization of a final agreement by the Joint Task Force. The project duration will be ten (10) weeks.

3. MISCELLANEOUS PROVISION:

Project Fee Notation

The Consultant, Broaddus & Associates, Inc., in association with the Sub-Consultant, RVi, have anticipated the fee value for the Scope of Work described herein to be *in excess* of thirty thousand dollars (\$30,000.00), *plus* additional cost for reimbursable expenses. However in consideration of the Consultant's and Sub-Consultant's corporate commitment, participation, and support of the Williamson County community, the Consultant proposes a lump sum fee of fifteen thousand dollars (\$15,000.00), as indicated elsewhere in this Agreement.

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