

**RESOLUTION NO. 2015-03-19B**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF OVERTON (“CITY”) AND THE OVERTON ECONOMIC DEVELOPMENT CORPORATION (“OEDC”) FOR THE CITY TO PROVIDE MANAGEMENT SERVICES FOR PROJECTS APPROVED BY VOTERS IN A MAY 9<sup>th</sup>, 2015 ELECTION.**

**AGREEMENT BETWEEN  
OVERTON ECONOMIC DEVELOPMENT CORPORATION AND CITY OF OVERTON**

This agreement, made and entered into, by and between, OVERTON ECONOMIC DEVELOPMENT CORPORATION, hereinafter referred to as “OEDC”, acting herein by and through its Board, and the City of Overton hereinafter referred to as “City”, acting herein by and through its City Council.

**WITNESSETH:**

**WHEREAS**, the OEDC was established to promote, assist, and enhance economic development in accordance with the Articles of Incorporation; and

**WHEREAS**, The Board has determined that part of the program to enhance economic development is to assist in infrastructure improvement projects that will allow the City to attract new businesses and be in a position to absorb their demands on the infrastructure; and

**WHEREAS**, the City Council of the City of Overton must approve proposed expenditures of OEDC revenue collected to fund such projects; and

**WHEREAS**, the City Council of the City of Overton has ordered an election on May 9<sup>th</sup> to seek approval from the voters to use funds collected by the OEDC which is a Type A organization, on Type B projects as described in and the amounts specified on the Ballot measure; and

**WHEREAS**, the OEDC desires to maintain strict control over the expenditure of funds on projects authorized by virtue of the May 9<sup>th</sup>, Special Election;

***NOW, THEREFORE, BE IT AGREED BY THE OVERTON ECONOMIC DEVELOPMENT BOARD AND THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS THAT:***

**SECTION 1: Project Scope**- that both parties agree to the expenditure of funds for the projects approved by the voters as described on the Ballot for the May 9<sup>th</sup> Special Election in the City of Overton, in amounts not to exceed those shown on the Ballot and as defined herein as shown in Exhibit's A and B; and

**SECTION 2: Contracting for Services** - that the City Manager of the City of Overton shall be responsible for performing the preliminary tasks, including preparing bid specifications, soliciting and evaluating bids and drawing up contract documents necessary to contract with a suitable engineer or construction contractor to perform the work, before submitting the contract for approval by the OEDC Board and the City Council.

**SECTION 3: Notice to Proceed**- that once the OEDC Board and the City Council have approved contract documents and awarded the contracts for each project, the City Manager is authorized to issue a "Notice to Proceed" to the approved Contractor; and

**SECTION 4: Monthly Progress Reports** – that beginning July 1<sup>st</sup>, the City Manager shall submit a monthly progress report to the OEDC and Council with respect to progress being made in work quantity and costs on each project undertaken; and

**SECTION 5: Payment of Invoices** – that invoices submitted by the Contractor for payment as work proceeds, shall be approved for payment by the consulting engineer on the project as needed or the City Manager and submitted to the OEDC Board for payment; and

**SECTION 6: Completion of Project** – that once a project is completed and the Contractor makes its request for final payment, OEDC will take whatever steps it deems necessary to assure itself that the project has been completed per the contract document before the final payment is made; and

**SECTION 7: Indemnification** – that to the fullest extent allowed by law, the City agrees to defend, indemnify and hold harmless OEDC against all claims, damages, losses, liabilities, and

expenses, including without limitation, attorneys' fees, arising out of the City's use of OEDC funds; and

**SECTION 8: Miscellaneous**; that this Agreement contains all of the understandings and agreements between the parties with respect to the subject matter hereof, and the terms and conditions of the agreement may be changed only by written amendments agreed to by both parties and shall be construed in accordance with and governed by the laws of the State of Texas; and

**SECTION 9: Entire Agreement** - that the Agreement documents contain the entire Agreement between OEDC and the City and any other agreements or representations between the parties hereto not expressly set forth in said Agreement documents are null and void and of no force and effect.


**IN WITNESS WHEREOF THIS AGREEMENT IS ENTERED INTO ON THIS 19<sup>th</sup> DAY OF MARCH, 2015.**

FOR OEDC  
BY: 

Philip Cox, Chairman of Overton Economic Development Corporation

FOR CITY  
BY: 

C.R. Evans Jr., Mayor

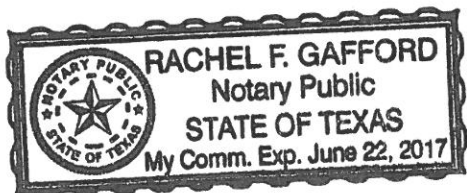
ATTEST:  
  
Charles L. Cunningham, City Manager

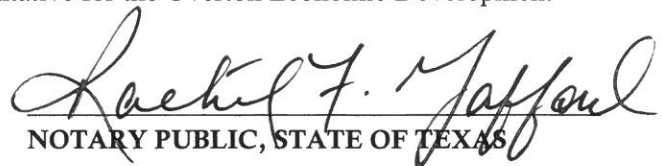
THE STATE OF TEXAS §

COUNTY OF RUSK §

This instrument was acknowledged before me on the 19<sup>th</sup> day of March, 20 15, by CR Evans, Mayor, Charles L. Cunningham, City Manager, authorized representatives for the City of Overton and

Philip Cox, Chairman of the Board, authorized representative for the Overton Economic Development Corporation.



  
NOTARY PUBLIC, STATE OF TEXAS

Rachel F Gafford  
Printed Name

My Commission Expires: 06/22/2017

## **EXHIBIT A**

### **Planned Schedule of Projects Implementation**

**City of Overton- 2015-16 Improvement Program**  
**Itemized List of Improvement Actions and Proposed Schedule for Completion**

Issue	Description of Action to be taken:	2015												2016						
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
FY 2014-15																				
FY 2015-16																				
<b>I. Proposition # 1 Replace water/sewer lines and repave alleyways in downtown business district.</b>	1. Request and approve Task Order from Engineer to prepare specs and bid documents.																			
	2. Solicit and evaluate bids on line replacement and pavement work.																			
	3. Award Contract- Issue Notice to Proceed																			
	4. Contractor replace lines and repave designated alleyways phased program to minimize disruption of businesses.																			
	5. Engineer supervises construction and approves progress payments.																			
<b>II. Proposition # 2 Reconstruct and re-pave certain inter-sections and improve storm drains.</b>	1. Request and approve Task Order from Engineer to prepare specs and bid documents.																			
	2. Solicit and evaluate bids on reconstruction and repaving work.																			
	3. Award Contract- Issue Notice to Proceed																			
	4. Contractor reconstruct intersections, install storm drains and repave road sections.																			
	5. Engineer supervises construction and approves progress payments.																			

**NOTE: ALTHOUGH THESE TWO PROPOSITIONS ARE SHOWN SEPARATELY, THEY WILL BE BID AS ONE PROJECT TO GET THE BEST PRICE.**

2016																							
Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep					
FY 2014-15												FY 2015-16											
Election Month																							
III. Proposition # 3 Repair Slide Area on west side of dam.																							
A. Preparatory Activities - Pre-election																							
1. Locate and backfill animal burrows with erosion resistant material.																							
2. Control rodent population.																							
3. Measure and mark slide area to be treated.																							
4. Contract to have brush and small trees (less than 4" in diameter) removed. Execute contract.																							
B. Post election Activities if approved by voters																							
1. Issue Task Order for remediation program for slide area.																							
2. Contract performance of Hydrological & Hydraulic study																							
3. Complete Plan																							
4. Submit proposed plan to TCEQ Dam Safety for review/app.																							
5. Solicit and evaluate bids.																							
6. Award bid.																							
7. Contract for construction services to correct slide area.																							

2016																							
Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep					
FY 2014-15												FY 2015-16											
Election Month																							
IV. Proposition # 4 Design, demo existing and reconstruct new service spillway and employ erosion control methods in drainage channel.																							
A. Service Spillway redesign and construction																							
1. Issue Task Order to Develop Corrective Plan A&B																							
2. Prepare Plans A&B																							
3. Submit Plans to TCEQ for approval																							
4. Solicit and Evaluate bids																							
5. Award contract																							
6. Implement Corrective Action Plan- Construction of new Spillway																							
B. Correction of Erosion Issues in Downstream Channel																							
1. Solicit and Evaluate bids																							
2. Obtain fill material and put in place																							
3. Install rip rap to establish small catch basins along channel to slow down run off down stream.																							

2015																							
Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep					
FY 2014-15												FY 2015-16											
Election Month																							
V. Proposition # V Upgrade Clarifiers and weirs and reconstruct Chlorine Contact Chamber.																							
1. Request and approve Task Order from Engineer to prepare specs and bid documents.																							
2. Submit Plans to TCEQ for approval																							
3. Solicit and evaluate bids.																							
4. Award Contract																							
5. Issue Notice to proceed and supervise project.																							

## **EXHIBIT B**

### **Estimated Costs and Cash Flow Projection of Projects**

## **EXHIBIT B**

### **Estimated Costs and Cash Flow Projection of Projects**



City of Overton- 2015-16 Improvement Program  
 OEDC Cash Flow Estimate for Funding Ballot Proposition Projects

Propositions	2015												2016															
	FY 2014-15						FY 2015-16						FY 2015-16						FY 2015-16									
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Total
# 1 Replace water/sewer lines & repave alleyways DBD.	40,000	70,000	50,000	50,000	42,000	28,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	280,000
# 2 Reconstruct /re-pave intersections	-	25,000	50,000	25,000	30,000	42,000	55,000	23,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	250,000
# 3 Repair Slide Area on west side of dam.	25,000	20,000	10,000	-	-	-	52,000	55,000	44,000	23,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	229,000
# 4 New service spillway & erosion control	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
A. Service Spillway redesign and construction	-	-	-	20,000	-	-	-	-	16,000	24,000	8,000	-	-	-	-	-	-	-	-	-	-	-	8,000	-	-	-	-	80,000
B. Correction of Erosion Issues in Downstream Channel	-	-	-	-	-	30,000	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	36,000	50,000	60,000	18,000	-	184,000
# 5 Upgrade Clarifiers/weirs. Re-construct Chlorine Contact Pool	-	20,000	-	-	-	30,000	30,000	30,000	15,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	125,000
Estimated Requirements by Month	65,000	135,000	110,000	95,000	72,000	100,000	157,000	108,000	75,000	47,000	44,000	50,000	50,000	60,000	18,000	-	-	-	-	-	-	-	44,000	50,000	60,000	18,000	-	1,148,000
Funds Available	1,112,900	1,057,153	931,406	830,659	744,913	682,168	591,424	443,681	344,939	279,198	241,458	238,719	203,981	163,244	112,508	-	-	-	-	-	-	-	238,719	203,981	163,244	112,508	-	1,112,900
Less Monthly Requirement	(65,000)	(135,000)	(110,000)	(95,000)	(72,000)	(100,000)	(157,000)	(108,000)	(75,000)	(47,000)	(44,000)	(50,000)	(50,000)	(60,000)	(18,000)	-	-	-	-	-	-	-	(44,000)	(50,000)	(60,000)	(18,000)	-	(1,148,000)
Plus Monthly Collections (Avg. Sales Tax)	9,253	9,253	9,253	9,254	9,255	9,256	9,257	9,258	9,259	9,260	9,261	9,262	9,263	9,264	9,265	-	-	-	-	-	-	-	9,262	9,263	9,264	9,265	-	138,873
Balance Forward	1,057,153	931,406	830,659	744,913	682,168	591,424	443,681	344,939	279,198	241,458	238,719	203,981	163,244	112,508	103,773	-	-	-	-	-	-	-	203,981	163,244	112,508	103,773	-	103,773