



TOWN OF TROPHY CLUB

1 Trophy Wood Drive
Trophy Club, Texas 76262

MEETING AGENDA

ECONOMIC DEVELOPMENT CORPORATION 4B

May 16, 2024

6:30 PM

Council Chambers

CALL TO ORDER AND ANNOUNCE A QUORUM

PUBLIC COMMENT(S)

This is an opportunity for citizens to address the Board/Commission on any matter pursuant to Texas Government Code Sec. 551.007. The Board/Commission is not permitted to discuss or take action on any presentations made concerning matters that are not listed on the agenda. Presentations are limited to matters over which the Board/Commission has authority. Speakers have up to four (4) minutes or the time limit determined by the Presiding Officer. Each speaker must have submitted their request to speak by completing the Speaker's Form or may email tsmith@trophyclub.org

REGULAR ITEMS

1. Consider approval of the April 18, 2024, Economic Development Corporation Regular Meeting Minutes.
2. Consider approval of a professional consulting services agreement between the Town of Trophy Club and Economic Development Corporation and The John R. MacAdams Company, Inc. DBA McAdams for a Small Area Plan in a not-to-exceed amount of \$89,437; and authorization for the Town Manager to execute same on behalf of the Corporation.

ADJOURN

The Board/Commission may convene into executive session to discuss posted items as allowed by Texas Government Code Sections 551.071 through 551.076 and Section 551.087.

Notice is hereby given that a quorum of the Town of Trophy Club Town Council may be in attendance at this meeting. The Town Council will not deliberate or take any action.

CERTIFICATION

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Trophy Club, Texas, in a place convenient and readily accessible to the general public at all times on the following date and time: May 10, 2024, at 6:00 p.m., and said Notice of Meeting was also posted concurrently on the Town's website in accordance with Texas Government Code Ch. 551 at least 72 hours prior to the scheduled time of said meeting.

/s/ Tammy Dixon
Tammy Dixon, Town Secretary

If you plan to attend this public meeting and have a disability that requires special needs, please contact the Town Secretary's Office at 6822372900, 48 hours in advance, and reasonable accommodations will be made to assist you.



ECONOMIC DEVELOPMENT CORPORATION 4B COMMUNICATION

MEETING DATE: May 16, 2024

FROM: Tamara Smith, MSL, Assistant to the Town Manager

AGENDA ITEM: Consider approval of a professional consulting services agreement between the Town of Trophy Club and Economic Development Corporation and The John R. MacAdams Company, Inc. DBA McAdams for a Small Area Plan in a not-to-exceed amount of \$89,437; and authorization for the Town Manager to execute same on behalf of the Corporation.

BACKGROUND/SUMMARY: The Town of Trophy Club issued a request for proposals on March 25, 2024, seeking a comprehensive small area plan for properties adjacent to State Highway 114 Frontage Road and Trophy Wood Drive. The aim is to redefine the property layout with a focus on various priorities, including enhancing economic resilience, fostering service-based employment, improving overall quality of life, promoting sustainability, enhancing pedestrian safety and walkability, facilitating future development, and addressing area parking needs.

The proposal submission period closed on April 15, 2024. An update on the process was presented to the Economic Development Corporation (EDC) Board Members on April 18, 2024. Following a thorough review of bid packets by three EDC Board members and four staff members, it was determined that McAdams emerged as the top contender among the submissions. This conclusion was reached after considering McAdams' demonstrated skill set, extensive experience with similar projects, and profound understanding of the desired outcomes outlined in the small area plan.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: The total amount for the Small Area Plan is \$89,437, which will be expended from the Economic Development Corporation Fund.

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Prof. Consult. Services Agmt - Town of Trophy Club_McAdams - FINAL

ACTIONS/OPTIONS:

Staff recommends that the Economic Development Corporation move to approve the professional consulting services agreement with McAdams for a Small Area Plan in a not-to-exceed amount of \$89,437.

PROFESSIONAL CONSULTING SERVICES AGREEMENT

This Professional Consulting Services Agreement (the “Agreement”) is made and entered into this ____ day of _____ 2024, by and between the Town of Trophy Club, a Texas home-rule municipality (the “Town”), the Trophy Club Economic Development Corporation (“EDC”), a nonprofit Corporation organized under Title 12, Subtitle C1, and Ch. 505 of the Texas Local Government Code, and The John R. McAdams Company, Inc. (dba McAdams), 201 Country View Drive, Roanoke, Texas (the “Consultant”).

RECITALS

WHEREAS, the Town and EDC have requested proposals pursuant to RFP No. TMO2024-01, to identify development potential and create a small area plan for the undeveloped parcels located at the intersection of State Highway (SH) 114 and Trophy Wood Drive, in the Town of Trophy Club, Texas (the “Project”); and

WHEREAS, the Town and EDC desire to obtain professional consulting services in connection with the Project as provided in this Agreement and the detailed Fee Schedule, Scope of Services, and Proposal attached hereto as **Exhibit A**; and

WHEREAS, in accordance with Texas Gov’t Code Ch. 2254, the Consultant responded to RFP No. TMO2024-01, and the Town and EDC have determined that the Consultant is acceptable to the Town and EDC and the Consultant is the most highly qualified provider of professional consulting services for the Project, and the Consultant is willing to enter into this Agreement with the Town and EDC to perform such professional consulting services as more fully described in this Agreement and **Exhibit A** (collectively referred to as the “Services”); and

NOW, THEREFORE, in consideration of the premises above and the mutual covenants contained herein, and for other good and valuable consideration, the Town and the Consultant agree as follows:

AGREEMENT

1. Services

Consultant shall perform the Services described in this Agreement and **Exhibit A**, which is attached to and made a part of this Agreement.

2. Compensation and Reimbursement

- 2.1. The Town or EDC shall pay Consultant a fee in the amount of EIGHTY NINE THOUSAND FOUR HUNDRED AND THIRTY SEVEN DOLLARS (**\$89,437**) for the Services.
- 2.2. Consultant shall submit invoices to the Town monthly, as the work progresses. The Town shall then pay Consultant the total amount of the statement which is validly due within thirty (30) days in accordance with the Texas Prompt Payment Act, Texas Gov’t Code Ch. 2251, with the final monthly installment being paid upon satisfactory completion of

the services. All payments made under this Agreement shall be made from currently available funds in accordance with Texas law.

- 2.3. In the event the Town should request additional services not set forth in **Exhibit A**, Consultant and the Town shall agree on the compensation for those services prior to performance by Consultant. Under no circumstances will Consultant perform additional services without prior written authorization from the Town.

3. Confidential Relationship and Media Coverage

- 3.1 The Town and EDC may from time to time communicate to Consultant certain information to enable Consultant to effectively perform the Services. Consultant shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the Town or EDC, as applicable. The Consultant shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the Services. The foregoing obligations of this Section 3, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Consultant, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Consultant without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to Consultant by a third-party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third-party.
- 3.2 Consultant shall not disclose any reports, recommendations, conclusions, or other results of the services or the subject matter of this Agreement without the prior written consent of Town or EDC, as applicable.
- 3.3 Consultant shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm, or corporation.
- 3.4 Consultant will not provide any public statements, press releases, articles, writings or materials to the any media outlet, including but not limited to, newspapers, social media, websites, blogs, magazines, or TV stations, which refers to the Town or EDC, or any of the services provided by Consultant to Town or EDC, under this Agreement without the prior written authorization of the Town or EDC, as applicable. Requests for prior written approval of such releases, public statements, articles, writings or materials shall be directed to the Town's Director of Corporate Communications.

4. Proprietary Rights

- 4.1 The work product of the Services, and any writings, discoveries, inventions, and innovations or data resulting from the Services, shall be promptly communicated to, and be the property of the Town, excluding any pre-existing proprietary rights of Consultant, including without limitation its standard details.

- 4.2 As instruments of service, all documents, including original drawings, estimates, and notes shall be owned by and be available for use by the Town. The Town shall have unlimited right for the benefit of the Town for use in future projects to all drawings, designs, specifications, the Consultant's designs and structures, notes and other pertinent consultant, architectural, or engineering work procured in the performance of this Agreement. Any use of the aforementioned documents for future projects shall be at the Town's own risk and shall be made without use of Consultant's name or registration seal and without any liability whatsoever to the Consultant, its agents, employees, subcontractors, and consultants, and the Town shall hold harmless Consultant from any and all claims, liability, damages, and costs arising from such use.

5. Term

This Agreement shall be effective on the date first mentioned above (the "Effective Date"), and shall remain in effect until the Services are completed (the "Termination Date"). This Agreement shall be subject to termination upon a ten (10) day written notice at any time by the Town. In the event of termination prior to the Termination Date for any reason, payment shall be made for the Services performed through the effective termination date including reimbursable expenses (expenses in addition to Consultant's compensation for its services which are incurred by Consultant directly related to the Project) then due. In addition, upon termination or expiration of this Agreement, Consultant shall return to the Town any and all equipment, documents, or materials, and all copies made thereof, which Consultant received from, or developed for the Town or EDC for the purposes of this Agreement.

6. Right to Audit

The Town or EDC, at its own expense, shall have the right at all reasonable times during normal business hours and upon at least twenty-four (24) hours advance notice, to audit, to examine, and to make copies of or extracts from the books of account and records maintained by Consultant with respect to the services. If such audit shall disclose overpayment by Town or EDC to Consultant, written notice of such overpayment shall be provided to Consultant and the amount of overpayment shall be promptly reimbursed by Consultant to the Town or EDC. In the event any such overpayment is not paid within ten (10) days after receipt of such notice, the unpaid amount of such overpayment shall bear interest at the rate of one percent (1%) per month from the date of such notice until paid.

7. INDEMNIFICATION

CONSULTANT (THE "INDEMNIFYING PARTY"), SHALL AT ITS SOLE COST INDEMNIFY, DEFEND, AND HOLD HARMLESS THE TOWN AND EDC, TOGETHER WITH THE TOWN'S AND EDC'S OFFICERS, AGENTS, COUNCIL MEMBERS, EMPLOYEES, ATTORNEYS AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE TOWN AND EDC, THE "TOWN INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) MADE BY ANY THIRD-PARTY, TO THE EXTENT ARISING FROM OR RELATED TO

THE SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT (COLLECTIVELY, "INDEMNIFIED CLAIMS"), REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD-PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD-PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY CONSULTANT, THE TOWN, OR THE EDC. THE INDEMNITIES IN THIS AGREEMENT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF CONTRACT, BREACH OF WARRANTY, VIOLATION OF STATUTE OR COMMON LAW, VIOLATIONS OF THE STATE OR FEDERAL CONSTITUTIONS, OR ANY OTHER CONDUCT WHATSOEVER OF THE TOWN INDEMNIFIED PARTIES. CONSULTANT SHALL USE LEGAL COUNSEL REASONABLY ACCEPTABLE TO THE TOWN AND EDC IN CARRYING OUT ITS OBLIGATIONS HEREUNDER. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT. THIS INDEMNIFICATION IS NOT INTENDED TO APPLY TO CLAIMS MADE AGAINST THE TOWN INDEMNIFIED PARTIES RESULTING FROM NEGLIGENT ACTS OF TOWN EMPLOYEES COVERED UNDER SECTION 101.021 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE.

The parties hereby acknowledge and agree that Town is entering this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of the Town's or EDC's governmental immunity from suit or liability, which is expressly reserved to the extent allowed by law. Notwithstanding anything to the contrary herein, the parties hereby acknowledge and agree that to the extent this Agreement is subject to the provisions of Subchapter I of Chapter 271, Texas Local Gov't Code, as amended, the Town's immunity from suit is waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code ("CPRC"), including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in CPRC Chapter 101 and Chapter 75.

8. Insurance

Prior to the commencement of Services under this Agreement, Consultant shall obtain standard comprehensive professional liability insurance coverage in an amount of at least \$1,000,000.00 per occurrence with a \$2,000,000.00 aggregate policy limit per year, covering the Services provided under this Agreement, including contractual liability under this Agreement. A "claims made" policy is acceptable subject to coverage being maintained during the course of the Project and up to two (2) years after completion and acceptance of the Project by the Town and EDC. Consultant shall maintain such professional liability insurance coverage during all phases of services and for two (2) years after final completion of the Project. The Town shall be supplied with a certificate of such coverage which shall provide for a thirty (30) day notice of cancellation, non-renewal, or change in limits by endorsement, to the Town by certified mail. Consultant will maintain general liability insurance coverage as follows:

TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1 Workers' Compensation Employers' Liability	Statutory Limits \$100,000 per occurrence	Town to be provided a <u>WAIVER OF SUBROGATION AND PROVIDED 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance Company must be A-rated or above.
2 Commercial General (Public) Liability to include coverage for: a. Premises/Operations b. Products/Completed Operations c. Independent Contractors d. Personal Injury e. Contractual Liability	Bodily Injury - \$250,000 per person, \$500,000 per occurrence; Property Damage - \$100,000 per occurrence -OR- Combined simple limit of \$600,000	Town to be listed as <u>ADDITIONAL INSURED AND PROVIDED 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance Company must be A-rated or above.
3 Business Auto Liability to include coverage for: a. Owned/Leased vehicles b. Non-owned vehicles c. Hired vehicles	Bodily Injury - \$250,000 per person, \$500,000 per occurrence; Property Damage - \$100,000 per occurrence -OR- Combined simple limit of \$600,000	Town to be listed as <u>ADDITIONAL INSURED AND PROVIDED 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance Company must be A-rated or above.

The Town and EDC, including their officers, officials, employees, Boards and Commissions, and volunteers shall be named as an additional insured by endorsement to the general insurance coverage listed in this Agreement, excluding Workers' Compensation, Employers' Liability, and Professional Liability (for which a waiver of subrogation is required to be issued in favor of the Town), with regard to the Consultant's activities as required by this Agreement. The Consultant shall provide any defense provided by the policy to a named insured. The coverage shall contain no special limitations on the scope of protection afforded to the Town and EDC, and all premiums arising from the coverage herein shall be the responsibility of the Consultant. Consultant shall maintain such general liability coverage during all phases of services and for two (2) years after final completion of the Project. The Town shall be supplied with a certificate of such coverage which shall provide for a thirty (30) day notice of cancellation, non-renewal, or change in limits by endorsement, to the Town by certified mail.

9. Notices

Any notices, consents, or other communications required or permitted to be given pursuant to this Agreement must be in writing and shall be sent to the address set forth below (or such other address as the party might hereafter designate for itself by notice to the other parties as required hereby). Any such notice or communication shall be sufficient if sent by registered or certified mail, return receipt requested, postage pre-paid; by hand delivery; by overnight courier service; or by facsimile, with an original by regular mail. Any such notice or communication shall be effective on (a) the date of receipt if delivered personally; (b) three (3) days after deposit in an official depository under the regular care and custody of the United States Postal Service, if transmitted by registered or certified mail, return receipt requested; (c)

the first business day after the date of deposit, if transmitted by overnight courier service; or (d) the date of transmission with confirmed answer back, if transmitted by facsimile, whichever shall first occur:

To Town and EDC: Town of Trophy Club
Attn: Brandon Wright
1 Trophy Wood Drive
Trophy Club, TX 76262

Trophy Club Economic Development Corporation
Attn: Brandon Wright
1 Trophy Wood Drive
Trophy Club, TX 76262

To Consultant: The John R. McAdams Company, Inc.
Attn: Jameson Pinson
201 Country View Drive,
Roanoke, TX 76262

10. General

- 10.1 The terms and conditions of Sections 3, 4, 6, and 7 hereof shall survive the termination of this Agreement and completion of the Services.
- 10.2 Consultant shall perform the Services as an independent contractor and shall not be considered an employee of Town or EDC for any purpose whatsoever, including, but not limited to, entitlement to Town employee benefits. Consultant hereby expressly waives any claim or entitlement to such benefits.
- 10.3 The waiver or failure of any party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement.
- 10.5 If any provision of this Agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. The remainder of the Agreement shall be valid and enforceable to the maximum extent possible.
- 10.6 This Agreement shall be governed by the laws of the State of Texas, without regard for conflict of laws principles. Venue of any action arising from this Agreement shall be in Denton County, Texas.
- 10.7 This Agreement may not be modified, altered or amended except by written instrument duly executed by both parties, except that a party may change its address for notices by providing written notice to the other party.

- 10.8 This Agreement constitutes the entire understanding between Consultant, Town, and EDC respecting the Services described herein.
- 10.9 Notwithstanding any other provision to the contrary in the Agreement, all information, documents, and communications relating to the Agreement shall be subject to the Texas Public Information Act (“Act”) and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Act.
- 10.10 Ethics Disclosure. To the extent required by law, Consultant represents that it has completed a Texas Ethics Commission (the “TEC”) form 1295 (“Form 1295”) generated by the TEC’s electronic filing application in accordance with the provisions of Texas Gov’t Code Ch. 2252.908 and the rules promulgated by the TEC. The parties agree that, with the exception of the information identifying the Town and the contract identification number, the Town is not responsible for the information contained in the Form 1295.
- 10.11 Additional Verifications. To the extent required by Texas law, Consultant verifies that: (1) It does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the contract discriminate against a firearm entity or firearm trade association; (2) It does not “boycott Israel” as that term is defined in Texas Government Code Ch. 2271 and § 808.001 and it will not boycott Israel during the term of this Easement Agreement; and (3) It does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of the Easement Agreement; (4) It does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) It is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.

[SIGNATURE PAGE TO FOLLOW]

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

TOWN:
TOWN OF TROPHY CLUB, TEXAS

By: Brandon Wright, Town Manager

Date: _____

ATTEST:

By: Tammy Dixon, Town Secretary

EDC:
TROPHY CLUB ECONOMIC
DEVELOPMENT CORPORATION,
a Texas non-profit corporation

By: _____

Name: _____

Title: _____

Date: _____

CONSULTANT:
THE JOHN R. MCADAMS COMPANY,
INC. (DBA MCADAMS)

By:

Date: 5-10-2024

ATTEST:

By:

ATTEST:

Board Secretary

EXHIBIT A

FEE SCHEDULE, SCOPE OF SERVICES, AND PROPOSAL