

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

**MANAGEMENT CONTRACT FOR THE PRESTONWOOD
PUBLIC IMPROVEMENT DISTRICT**

This contract for the collection of assessments and management of services and improvements for the Prestonwood Public Improvement District (the "Contract") effective as of January 1, 2012, is made by and between Prestonwood Homeowners Association, Inc. (PHA), a Texas nonprofit corporation, and the City of Dallas (the "City"), a Texas municipal corporation.

RECITALS:

WHEREAS, on June 22, 2011, the City Council of the City of Dallas, Texas passed Resolution No. 111796 which made certain findings concerning the advisability of establishing the Prestonwood Public Improvement District (the "District"), authorized and created the District as a public improvement district under Chapter 372 of the Texas Local Government Code, designated PHA as the entity responsible for the management of and provision of services and improvements to the District, authorized the City Manager to enter into a contract with PHA for the management of the District and the provision of services and improvements for the District and collection services by the City for the District, and approval of the initial District service plan, attached hereto as **Exhibit A** (the "Service Plan"); and

WHEREAS, on June 22, 2011, the Board of Directors of PHA passed a resolution authorizing PHA to enter into this Contract and authorizing Susan Neustadt, Vice President Crime Watch Finance/PID to sign on behalf of PHA to bind the corporation under this Contract; and

WHEREAS, the City and PHA now desire to enter into this Contract for the collection of the assessments; and

WHEREAS, the services to be supplied to the District provide special benefits to the property owners within the District and are supplemental to standard City services; and

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PHA and the City agree as follows:

1. **Engagement and Compensation.** The City hereby engages PHA and PHA agrees to provide in accordance with the provisions of this Contract and Resolution No. 111796 the management services and other services and improvements described in the Service Plan and future annual service plans to be approved by the City Council. The compensation to be paid for

the administration of the program items shall not exceed the amount established for "Administration" by each annually approved service plan (as same may be later modified pursuant to Section 2.(a) of this Contract).

2. **Scope of Services.** During the duration of this Contract, PHA shall provide the services and improvements as described in the Service Plan and thereafter approved annually by the City Council. In providing these services and improvements, PHA shall:

a) timely deliver the services and improvements in accordance with the annually approved service plan, subject to PHA's ability to modify or substitute items without City Council approval within the program categories if PHA determines that such changes would serve the common interest of owners in the District and the increase or decrease in the amount of a program category does not exceed twenty percent (20%) of the budgeted amount for that category (the Service Plan and each such annually approved service plan as same may thereafter be increased or decreased shall be hereafter referred to as the "Service Plan"). The PHA's administrative expenses, including costs for day to day city staff administration for the District shall not exceed fifteen percent (15%) of the total budget in any year unless approved by City Council. "Program categories" in the Service Plan include public safety and security related improvements and other improvements and activities as provided in the Service Plan.

b) only use District assessment funds received to defray expenditures which are: (i) specifically listed in the Service Plan (except as modified pursuant to subsection (a) above); (ii) incurred after January 1, 2012 unless specific authorization from the City's Director of the Office of Economic Development (the "Director") to the contrary is received; (iii) reasonably incurred in the creation and organization of the corporation, as approved by the Director, (iv) satisfactorily documented; and (v) treated uniformly and consistently under the accounting system established by PHA for these purposes (hereinafter called "allowable costs").

c) support all costs defrayed from District assessment funds by properly executed checks, orders, payrolls, time records, invoices, contracts, vouchers, or other accounting documents evidencing in detail the nature and propriety of the charges. Such documentation shall be clearly identified, readily accessible and, to the extent possible, kept separate and apart from all other such documents.

d) set priorities and schedules for implementing the service plan elements, considering the needs and preferences of owners in the District and the availability of personnel and financial resources;

e) if necessary, secure and retain the services of qualified personnel to implement the service plan and provide communication equipment and office supplies;

f) prepare a timely annual update of the Service Plan for the District to be presented to the City Council for review and approval. The plan must include a budget, an assessment plan and an updated five-year plan for services and improvements;

g) prepare and deliver to the City quarterly reports of financial revenues and expenditures for work activities within the District and any budget revisions within forty-five (45) days of the end of each calendar quarter;

h) prepare and deliver to the City quarterly progress reports of PHA's efforts to implement the Service Plan within forty-five (45) days of the end of each calendar quarter;

i) commission an annual financial audit of all PID expenditures by a Certified Public Accountant and make the audit available to the City within one hundred twenty (120) days of the end of the calendar year;

j) allow reasonable access by the City to the financial records of PHA that relate to the District; and

k) enter into contracts with exempt jurisdictions for the payment of assessments or the provision of services or improvements to the District; and

l) prepare and deliver to the City quarterly/annual reports (as included in Exhibit C) related to the participation of Minority/Women Owned Business Enterprises (M/WBE) providing services and improvements to the District.

m) prepare and deliver to the City quarterly/annual financial reports on a timely manner as listed in Exhibit D.

n) take other actions reasonably necessary for the management of the District and the provision of the services and improvements to the District.

3. **Collection and Distribution of Assessments.** As per the contract with the Dallas County, the County shall collect the annual assessments for the District. Funds shall be accounted for and distributed as provided below.

(a) Pursuant to its contract for collection services (including collecting delinquent accounts), the County shall retain a fee (current rate is \$2.75) per account collected as approved by City Council. The collection service fee will be deducted from the first dollars collected until the entire service fee is paid. After said fee has been paid, subsequent collections will be transferred to a separate Prestonwood Public Improvement District fund of the City treasury as required by state law. Delinquent assessments collected after the District has been dissolved shall be retained by the City, but the retention of such assessments shall be subject to utilization by the tax collector to repay any taxpayer who is legally entitled to a refund of all or a portion of an assessment and any interest required by law to be paid.

(b) In order to process the application for PID renewal, the City requires that the applicant submit a onetime application fee of \$15,000 with the PID application. The City will use these funds to cover costs related to processing the application including publication of public notice, mailing and a staff time. Upon renewal of the PID, any unused funds will be

reimbursed to the District management entity. The application fee will not be counted as part of the 15% maximum allocated for administrative expenses in a District budget.

(c) The City will also assess the PID for annual expenses related to oversight of PID operations. This fee shall include actual costs for publication of legal notice regarding PID items, mailing expenses and staff time required for PID oversight (attending PID meetings, reviewing reports and audit, preparing tax rolls and City Council documents). This fee will not be counted as part of the 15% maximum allocation for administrative expenses in a District budget.

(d) The remaining assessments after the collection service fees and mailing fees have been paid, including any interest for late payments, shall be transferred upon receipt to an account of PHA by Automated Clearing House, wire transfer or other means mutually agreed to by the City and PHA. With the exception of the fee for collection services and the mailing fee, funds will be transferred immediately upon receipt, but need not be transferred more frequently than daily and may be retained by the City in a separate Prestonwood Public Improvement District fund of the City treasury for as long as one (1) week if the cumulative balance of funds that have not been transferred does not exceed \$10,000.00.

(e) The City shall provide PHA with printed reports or diskettes of the assessment roll.

(f) If necessary, PHA shall make available to the tax collector sufficient funds to repay any taxpayer who is legally entitled to a refund of all or a portion of an assessment and any interest required by law to be paid. City shall make a good faith effort to notify PHA of such potential situations (including, but not limited to, lawsuits and tax protests) so that PHA is able to set aside a sufficient reserve to cover any such refunds and interests.

(g) PHA will invest the District assessments received from the City and any income earned on those assessments in accordance with the investment policies and strategies prescribed in Chapter 2256 of the Texas Government Code to achieve the following investment objectives, in order of priority: (1) understanding of the suitability of the investment to the financial requirements of the entity; (2) preservation and safety of principal; (3) liquidity; (4) marketability of the investment if the need arises to liquidate the investment before maturity; (5) diversification of the investment portfolio; and (6) yield. The assessments and any interest or other income earned on such public funds shall be used by PHA to fund services and improvements listed in the Service Plan annually approved by the City Council. Additional assessments collected and any interest or other income earned on such public funds which exceeds the total budget approved for the Service Plan shall be remitted immediately to the City Staff unless such funds are allocated and approved by the City Council for additional services and improvements in the District.

4. **Conflict of Interest.** The following section of the Charter of the City of Dallas shall be one of the conditions, and a part of, the consideration of this Contract, to wit:

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER PROHIBITED --

(a) No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer’s or employee’s office or position with the City. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

(b) The alleged violations of this section shall be matters to be determined either by the Trial Board in the case of employees who have the right to appeal to the Trial Board, and by the City Council in the case of other employees.

(c) The prohibitions of this section shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.”

5. **Gift to Public Servant.** City may terminate this Contract immediately if PHA has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

For purposes of this section, “benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

Notwithstanding any other legal remedies, City may require PHA to remove any employee of PHA from the District who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

6. **Notice of Contract Claim.** This Contract is subject to the provisions of Section 2-86 of the Dallas City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Contract as if written word for word in this Contract. PHA shall comply with the requirements of this ordinance as a precondition of any claim relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

7. **Offset.** City may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to City from PHA, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise and regardless of whether or not the debt due to City has been reduced to judgment by a court.

8. **No Partnership or Joint Venture.** It is specifically understood that the relationship described in this Contract between PHA and the City is contractual in nature and is not to be construed to create an agency, partnership or joint venture relationship between PHA and the City; nor shall one party be liable for any debts incurred by the other party in the conduct of such other party's business or function.

9. **Independent Contractor.** PHA's status shall be that of an independent contractor and not an agent, servant, employee, or representative of City in the performance of services under this Contract. PHA shall exercise independent judgment in performing duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of PHA in the performance of this Contract shall be construed as making PHA the agent, servant or employee of City, or making PHA or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which City provides its employees.

10. **Business Inclusion and Development Plan.** PHA shall agree to meet established goals or shall demonstrate and document a good faith effort to include the participation of Minority/Women Owned Business Enterprises (M/WBE) in providing services and improvements to the District.

11. **Assignment.** PHA shall not sell, assign, transfer or convey this Contract, in whole or in part, without the prior written consent of City's Director. As an express condition of consent to any assignment, PHA shall remain liable for completion of the Contract work in the event of default by the successor contractor or assignee.

12. **Insurance.** PHA shall obtain and carry in full force and effect throughout the term of this Contract, in a good and solvent, nationally known insurance company (or companies) licensed to do business in the State of Texas, the minimum insurance coverage contained in **Exhibit B**, and PHA shall require reasonable insurance coverage from its contractors hired to provide services in the District.

PHA and its subcontractors (if any are utilized) shall each furnish (i) a completed insurance industry standard Certificate of Insurance and (ii) sufficient evidence of conformity to City's requirements for insurance coverage (consisting of copies of applicable insurance policies and insurance policy endorsements) to the City's Human Resources Department, Risk Management Division ("Risk Management"), for review. The Certificate of Insurance shall be completed by an agent authorized to bind the named underwriter to the coverages, limits and termination provisions shown in the Certificate. The evidence of conformity shall furnish and contain all required information referenced or indicated under City's insurance requirements to show that the required coverages exist. **CITY SHALL HAVE NO DUTY TO EXECUTE OR PERFORM UNDER THIS CONTRACT UNTIL THE CERTIFICATE AND SUFFICIENT EVIDENCE OF CONFORMITY TO CITY'S INSURANCE REQUIREMENTS SHALL HAVE BEEN DELIVERED AND APPROVED BY RISK MANAGEMENT, AND NO CITY OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.**

13. **Indemnity.** PHA agrees to indemnify and hold harmless the City, its officers, agents and employees, against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons that may arise out of or be occasioned by PHA's breach of any of the terms or provisions of this Contract, or by any negligent act or omission of PHA, its officers, directors, agents, associates, employees, subconsultants or contractors, in the performance of this Contract; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of City, its officers, agents, employees or separate contractors and in the event of joint and concurrent negligence of both PHA and City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and their respective officers, directors, agents, associates, employees, subconsultants or contractors in connection with the performance or conduct of the services related to, contemplated by or arising as a result of the Service Plan, and same are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

14. **Rights, Remedies and Termination.** Both parties are executing this Contract in good faith and with the intent that all provisions contained herein shall be met in accordance with their terms. In the event of a breach or violation of its terms by either party to this Contract, then the party in compliance may exercise whatever rights and remedies may be available or afforded to such party at law or in equity. In addition to any other remedies available, the City may terminate this Contract if PHA violates any part of this Contract and PHA fails to reasonably cure the violation of this Contract within thirty (30) days of receipt of written notice to PHA by the City of a violation of this Contract by certified mail.

In addition to any other remedies available, the Director may terminate this contract upon thirty (30) days written notice to PHA if City Council fails to approve an annual Service Plan for the District. All services being performed under this Contract shall cease upon the date specified in such notice.

In addition to termination, the City shall recover those portions of assessment funds, including interest or other income earned on such public funds that were not spent on allowable costs per the Service Plan, plus any other damages suffered by the City as a result of PHA's violation of the terms and conditions of this Contract. PHA may invoice City for all services completed and shall be compensated in accordance with the terms of this Contract with special assessments for all services performed by PHA prior to the date specified in such notice. A previous payment or approval of payment of all or any portion of assessment funds by City shall not be deemed a waiver of the City's rights under this section. Any express waiver by the City of a violation by PHA shall not be deemed to waive any subsequent violation by PHA.

15. **Notice.** Except as otherwise provided in Section 6, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its

address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing:

If to PHA:

Prestonwood Homeowners Association, Inc
President/ VP Finance
P.O. Box 795682
Dallas, Texas 75379

If to the City:

Director of the Office of Economic Dev.
City of Dallas
Dallas City Hall, 5CS
1500 Marilla Street
Dallas, TX 75201

16. **Right of Review and Audit.** As provided in Section 2(g), City shall review any and all of the services performed by PHA under this Contract. In addition, City is granted the right to audit, at City's election, all PHA's records and billings relating to the performance of this Contract. PHA agrees to retain such records for a minimum of three (3) years following completion of this Contract. Any payment, settlement, satisfaction, or release provided under this Contract shall be subject to City's rights as may be disclosed by such audit.

17. **Captions.** The captions, headings, and arrangements used in this Contract are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.

18. **Compliance with Laws and Regulations.** This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Dallas and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. PHA shall, during the course of performance of this Contract, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

19. **Venue.** The obligations of the parties to this Contract shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Contract, exclusive venue shall lie in Dallas County, Texas.

20. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state.

21. **Legal Construction.** In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

22. **Term.** This Contract shall terminate on December 31, 2018, unless otherwise agreed to in writing by the parties. If for any reason the District is dissolved before December 31, 2018, this Contract shall terminate upon the payment to PHA for all services and

improvements provided to the District to the date of dissolution and for the reasonable cost of services to conclude the business of the District.

23. **Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

24. **Captions.** The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

25. **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this Contract, their assigns.

26. **Entire Agreement; No Oral Modifications.** This Contract (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

EXECUTED and effective as of the 1st day of January 2012, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. 111796 approved by the City Council on June 22, 2011, and by PHA, acting through its duly authorized officials.

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.,
City Attorney

CITY OF DALLAS
MARY K. SUHM
City Manager

BY: 
Assistant City Attorney

BY: 
Assistant City Manager

PRESTONWOOD HOMEOWNERS
ASSOCIATION, INC. *Associations NW*
a Texas nonprofit corporation

By: 
Susan Neustadt, Vice President Crime Watch
Finance/PID

Attachments:
Resolution No. 111796
Exhibit A – The Initial Service Plan
Exhibit B – Insurance Requirements
Exhibit C – M/WBE Documents
Exhibit D – Financial Reports

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

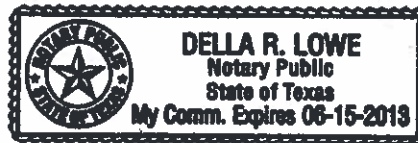
This instrument was ACKNOWLEDGED before me on 1/25/2012, by Ryan S. Evans Assistant City Manager of the City of Dallas, a Texas municipal corporation, on behalf of the City of Dallas.

Della Lowe
Notary Public - State of Texas

My Commission Expires:

6/15/2013

Della Lowe
Printed Name of Notary Public



THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

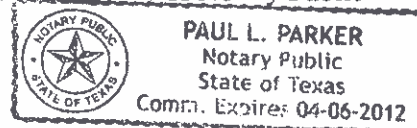
This instrument was ACKNOWLEDGED before me on December 28, 2011, by Susan Neustadt, the authorized agent of Prestonwood Homeowners Association, Inc., a Texas nonprofit corporation, on behalf of said corporation.

Paul L. Parker
Notary Public - State of Texas

My Commission Expires:

4/6-12

Paul L. Parker
Printed Name of Notary Public



**Prestonwood Public Improvement District
Service Plan 2011-2018
Exhibit A**

	2011 Budget	2012 Budget	2013 Budget	2014 Budget	2015 Budget	2016 Budget	2017 Budget	2018 Budget
Revenue & Reserves								
Calendar Year End Balance as of 12/31	\$104,937.00	\$75,901.03	\$73,032.62	\$72,149.16	\$73,749.60	\$75,350.04	\$76,950.66	\$53,551.28
Net Assessment Revenue	\$316,819.03	\$338,668.62	\$342,310.22	\$345,951.82	\$345,951.82	\$345,952.00	\$345,952.00	\$345,952.00
Exempt Jurisdictions	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Interest on Cash balances	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
Other income & contributions	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Income & Reserves	\$422,256.03	\$415,069.65	\$415,842.84	\$418,600.98	\$420,201.42	\$421,802.04	\$423,402.66	\$400,003.28
Disbursements								
Public Safety	\$292,855.00	\$308,962.03	\$308,962.03	\$308,962.03	\$308,962.03	\$308,962.03	\$308,962.03	\$308,962.03
Audit/Insurance	\$21,000.00	\$22,050.00	\$23,155.40	\$23,734.29	\$23,734.29	\$23,734.29	\$23,734.29	\$23,734.29
Administrative Expenses	\$10,500.00	\$11,025.00	\$11,576.25	\$12,155.06	\$12,155.06	\$12,155.06	\$12,155.06	\$12,155.06
7 year Recertification Expenses	\$22,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25,000.00	\$0.00
January 2011 Accrued Expenses								
Total Disbursements	\$346,355.00	\$342,037.03	\$343,693.68	\$344,851.38	\$344,851.38	\$344,851.38	\$369,851.38	\$344,851.38
Funds Balance/Reserves	\$75,901.03	\$73,032.62	\$72,149.16	\$73,749.60	\$75,350.04	\$76,950.66	\$53,551.28	\$55,151.90
Proposed yearly Assessment Rate	\$0.0870	\$0.0930	\$0.0940	\$0.0950	\$0.0950	\$0.0950	\$0.0950	\$0.0950

Exhibit B Insurance Requirements

SECTION A. Prior to the approval of this contract by the CITY, PRESTONWOOD HOMEOWNERS' ASSOCIATION, INC. (PHA) shall procure, pay for and maintain the following insurance written by companies approved by the State of Texas and acceptable to CITY. The insurance shall be evidenced by delivery to the CITY, at the address shown in **REQUIRED PROVISIONS** b.(i), certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, the CITY shall be entitled to receive without expense, copies of the policies and all endorsements. CITY HAS NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT OR AGREEMENT UNTIL SUCH CERTIFICATE HAS BEEN DELIVERED TO THE CITY and no officer or employee shall have authority to waive this requirement.

SECTION B. The CITY reserves the right to review the insurance requirements of this section during the effective period of the contract and to modify insurance coverages and their limits when deemed necessary and prudent by City's Office of Risk Management based upon economic conditions, recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The PHA agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either party to the contract). Upon request by CITY, PHA shall exercise reasonable efforts to accomplish such changes in policy coverages and shall pay the cost thereof.

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to PHA'S right to maintain reasonable deductibles, PHA shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at PHA'S sole expense, insurance coverage in the following type(s) and amounts:

1. **Workers' Compensation** with statutory limits; **Employers Liability** with minimum limits for bodily injury: a) by accident, \$100,000 per each accident b) by disease, \$100,000 per employee with a per policy aggregate of \$500,000.
2. **Business Automobile Liability Insurance** covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of \$500,000 per occurrence.
3. **Commercial Crime Insurance** to cover a) Employee dishonesty, blanket form, b) Theft, Disappearance and Destruction of Money & Securities, and c) Forgery and Alternations with limit per occurrence of \$360,300 (or equal to amount of the total revenue for any one year). The policy shall: show the City of Dallas as a loss payee, as their interest may appear; not contain a Conviction Clause; extend coverage to include the Board Members of PHA as employees.

4. **Commercial General Liability Insurance** including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000 per occurrence, \$1,000,000 products/completed operations aggregate, \$2,000,000 general aggregate.
5. **Directors and Officers/Professional Liability Insurance** to include coverage for alleged negligent acts committed by Board Members. Limit shall be \$500,000 each claim.

NOTE: If this insurance described in #4 or #5 is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the contract and acceptance by the City. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this contract.

REQUIRED PROVISIONS

PHA agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:

- a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
- b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
 - (i) Office of Economic Development, Attention: Vasavi Pilla, Economic Development Analyst, 1500 Marilla, 2C-North, Dallas, Texas 75201 and
 - (ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
- c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
- d. Provide that the PHA'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
- e. Ensure that all certificates of insurance identify the service or product being provided and name the City department shown in **REQUIRED PROVISIONS** b.(i) as the Certificate Holder.

SECTION D. (1) Without limiting any of the other obligations or liabilities of the PHA, the PHA shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the term of the contract, levels of insurance that are necessary and appropriate for the services being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name the PHA as an additional insured. (2) The PHA shall obtain and monitor the certificates of insurance from each Subcontractor. The PHA must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

SECTION E. Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the PHA or its subcontractors shall not relieve the PHA of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the PHA from liability.



**CITY OF DALLAS
Business Inclusion and Development Affidavit**

It is the policy of the City of Dallas to involve qualified Minority and Women-Owned Business Enterprises (M/WBEs) to the greatest extent feasible on the City's construction, procurement and professional services contracts. The City and its contractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts. In consideration of this policy, the City of Dallas has adopted the Business Inclusion and Development Plan (BID Plan) for all City of Dallas contracts.

M/WBE Participation Goals

The BID Plan establishes subcontracting goals and requirements for all prospective bidders to ensure a reasonable degree of M/WBE participation in City contracts. It is the goal of the City of Dallas that a certain percentage of work under each contract be executed by one or more M/WBEs.

On May 14, 1997 the City Council adopted the following M/WBE participation goals without consideration for a specific ethnicity or gender (Resolution Number 97-1605):

<u>Construction</u> 25.00%	<u>Architectural & Engineering</u> 25.66%	<u>Other Professional</u> 36.30%	<u>Other Services</u> 23.80%	<u>Goods</u> 18.00%
--------------------------------------	---	--	--	-------------------------------

The apparent low bidder/most advantageous proposer shall agree to meet the established goals or must demonstrate and document a "good faith effort" to include M/WBEs in subcontracting opportunities. The apparent low bidder/most advantageous proposer who fails to adequately document good faith efforts to subcontract or purchase significant material supplies from M/WBEs may be denied award of the contract by the City based on the contractor's failure to be a "responsive" or "responsible" bidder.

By signing below, I agree to provide the City of Dallas, Business Development & Procurement Services department with a completed copy of all required forms provided within the Business Inclusion and Development document package. I understand that if I fail to provide all of the required documents within five (5) business days after notification, my bid may be deemed "non-responsive" and I may be denied award of the contract. Intentional misrepresentation could result in criminal prosecution.

(Note: Please use the Tab button, mouse or arrows to move from one section to the next. *Please DO NOT use the "Enter" key.*)

Bid Number: _____

Company name: _____

Typed or Printed Name of Certifying Official of Company

Date

Signature of Certifying Official of Company

Title



**CITY OF DALLAS
Business Inclusion and Development Documentation Form**

(Note: Please use the Tab button, mouse or arrows to move from one section to the next. Please DO NOT use the "Enter" key.)

Project Name _____

Bid #:

Firm Name and Address: _____

1. Did you meet with a staff member of Business Development and Procurement Services (BDPS)?

Please make a selection:

Name of staff member: _____

2. Did you utilize a current M/WBE directory from the City's BDPS ResourceLINK Team for this project?

Please make a selection:

Date of Listing: _____

3. Did you provide plans and specifications, bids or proposals to potential M/WBEs or information regarding the location of plans and specifications, bids, or proposals for this project?

Please make a selection:

4. If M/WBE bids and proposals were received and rejected, you must attach documentation of the received bid and the reason for rejection? (i.e. letters, memos, telephone calls, meetings, etc.)

5. Complete the attached Documentation Form(s) to further explain good faith efforts to obtain M/WBE participation on this project. If there is written documentation of efforts with the M/WBEs who responded affirmatively to the bidder's written notice please attach documentation (i.e. quotes, or e-mails).



**CITY OF DALLAS
Business Inclusion and Development Documentation Form**

(Note: Please use the Tab button, arrows or mouse to move from one section to the next. Please DO NOT use the "Enter" key.)

Project Name #: _____ **Bid #:** _____

Firm Name and M/WBE Certification Number	Person Contacted and Date	Telephone Number and Email Address	Type of Work	Method of Communication (Telephone/Email)	Response
		- -			
		- -			
		- -			
		- -			
		- -			
		- -			
		- -			

Please use the form(s) below if additional space is needed. Intentional misrepresentation could result in criminal prosecution.

Officer's Signature: _____ **Title:** _____ **Date:** _____

Printed Name: _____ **Date:** _____



**CITY OF DALLAS
Business Inclusion and Development Documentation Form**

(Note: Please use the Tab button, arrows or mouse to move from one section to the next. Please **DO NOT** use the "Enter" key.)

Project Name & Bid/Contract #: _____ **#:** _____

Firm Name and M/WBE Certification Number	Person Contacted and Date	Telephone Number and Email Address	Type of Work	Method of Communication (Telephone/Email)	Response
		- -			
		- -			
		- -			
		- -			
		- -			
		- -			
		- -			

Please use the form below if additional space is needed. Intentional misrepresentation could result in criminal prosecution.

Officer's Signature: _____ **Title:** _____ **Date:** _____

Printed Name: _____ **Date:** _____

Exhibit D Prestonwood PID Annual Financial Reports

Category	Timeline (annually)
PID Management Workshop	April/May/June
1st quarter financial report (Cover letter, P&L, Balance sheet & Spending update)	May 15
Annual PID Public Meeting for the CY	April/May/June -
Annual Financial Audit Report	April 30
Reports for Annual Assessment (Service Plan, Cover letter, Five year assessment plan & Five year budget)	July 1
2nd quarter financial report (Cover letter, P&L, Balance sheet & Spending update)	August 15
3rd quarter financial report (Cover letter, P&L, Balance sheet & Spending update)	November 15
4 th quarter financial report (Cover letter, P&L, Balance sheet & Spending update)	February 15
Annual Financial Report	February 15

Note: Prestonwood Homeowners Association, Inc., is required to submit: (1) financial information and summary of PID activities on a quarterly basis (2) audited financial statements (3) and attend annual PID Management Workshop. A memo will be sent annually at the beginning of the calendar year (CY) with exact dates for the above mentioned benchmarks.