

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

NOVEMBER 7, 2016

FLOWER MOUND TOWN HALL, 2121 CROSS TIMBERS ROAD
FLOWER MOUND, TEXAS

6:00 P.M.

An agenda information packet is available online at www.flower-mound.com/AgendaCenter

Please silence or turn off all electronic devices in the Council Chambers.

A. CALL MEETING TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND TO THE TEXAS FLAG

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

D. PRESENTATIONS

1. Presentation by Mayor Pro Tem Bryant relative to the L.I.S.D. grade scoring system, and special recognition to Ed Horn for his work in getting numbers adjusted
2. 'National Night Out' neighborhood winner award presentation
3. Recognition of the Communications Department's recent national and state awards
4. Certificate of Recognition from Senator Jane Nelson in honor of Fire Chief Eric Greaser receiving the 2016 Fire News Outstanding Leadership Award

E. PUBLIC PARTICIPATION

Please fill out a speaker form, available in the Town Hall on the night of the meeting, in order to address the Council and turn it in to the Town Secretary prior to Public Participation. Speakers are normally limited to three minutes. Time limits can be adjusted by the Mayor as to accommodate more or fewer speakers. For additional instructions or to complete your speaker form in advance [click here](#).

The purpose of this item is to allow the public an opportunity to address the Town Council on issues that are not the subject of a public hearing. Any item requiring a public hearing will allow the public to speak at the time that item appears on this agenda as indicated as a "Public Hearing." Items that are the subject matter jurisdiction of the Town Council include Town policy and legislative issues. Issues regarding daily operational or administrative matters should first be dealt with at the administrative level by calling Town Hall at 972-874-6000 during business hours.

F. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects.
2. Update and discussion on Economic Development projects.
3. Update and discussion on town hall and library expansion.
4. Update and discussion on senior housing.

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H. FUTURE AGENDA ITEMS

The purpose of this item is to allow the Mayor and members of Council an opportunity to bring forward items they wish to discuss at a future meeting, with the understanding a consensus of Council is needed in order for that item to be placed on a future agenda and in accordance with the Town Council Agenda Setting Policy (Ord. 65-15).

I. COORDINATION OF CALENDARS

1. The next Town Council meeting is a joint work session with the Transportation Commission scheduled for November 17th
2. The next regular scheduled meeting is for November 21st

J. CONSENT AGENDA - Consent Items

This agenda consists of non-controversial or "housekeeping" items required by law. Items may be removed from the Consent Agenda by any Councilmember by making such request prior to a motion and vote on the Consent Agenda.

1. **Minutes 10/17** - Consider approval of the minutes from a regular meeting of the Town Council held on October 17, 2016.
2. **Minutes 10/20** - Consider approval of the minutes from a Joint Town Council/Planning and Zoning work session held on October 20, 2016.
3. **Reimbursement resolution** - Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.
4. **Bulletproof vest grant** - Consider acceptance of grant funds from the U.S. Department of Justice Office of Justice Programs for the FY 2016 Bulletproof Vest Partnership.
5. **Outdoor warning sirens purchase** - Consider approval of the purchase of three outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$72,750.00 and authorization for the Mayor to execute same on behalf of the Town.
6. **Heart monitor purchase** - Consider approval of the purchase of fifteen Zoll X Series EKG Heart Monitors and two Automatic External Defibrillators, in the amount of \$484,286.01.
7. **TXDOT funding** - Consider approval of an Advance Funding Agreement (AFA) with Texas Department of Transportation (TXDOT) for work on FM1171
8. **CIP amendment** - Consider approval of Amendment No. 2 to the Fiscal Year 2016-2017 Capital Improvement Program.
9. **PSA transportation services** - Consider approval of a Professional Services Agreement with Innovative Transportation Solutions, Inc., to provide professional transportation services in the amount of \$75,000.00 annually, with a one year renewal option; and authorization for the Mayor to execute same on behalf of the Town.

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10. **PSA engineering services** - Consider approval of the Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., to provide professional engineering services, for the Firewheel Drive project, at an amount not to exceed of \$59,560.00; and authorization for the Mayor to execute same on behalf of the Town.
11. **PSA design services** - Consider approval of a Professional Services Agreement for the design phase services for the Lake Forest Boulevard Bridge and Water Line project, with CP&Y, Inc., for \$123,510.00; and authorization for the Mayor to execute same on behalf of the Town.
12. **Timber Creek road paving** - Consider approval of Change Order No. 1 for the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for an increase to the contract amount of \$17,952.55; and authorization for the Mayor to execute same on behalf of the Town.
13. **Canyon Falls speed limits** - Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by amending a reduced school speed zone for Argyle Independent School District in Canyon Falls.
14. **CAC pool resurfacing** - Consider approval to purchase materials and installation for the resurfacing of the Community Activity Center's indoor pool and deck area, for the Community Activity Center Improvements project, from DCC, a Buy Board participant; in the amount of \$79,460.91.
15. **PSA lift station** - Consider approval of a Professional Services Agreement for the design phase services of the Lift Station Improvements and Decommissioning Phase I project, with Alan Plummer Associates, Inc., for \$246,000; and authorization for the Mayor to execute same on behalf of the Town.
16. **Park land dedication** - Consider acceptance of cash in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00, for Parkside at Woodlake Phase 2. *(Parks, Arts and Library Services Board recommended approval by a vote of 5 to 0 at its February 24, 2016, meeting.)*
17. **River Walk DA** - Consider approval of a Development Agreement for the River Walk at Central Park and authorization for the Mayor to execute same on behalf of the Town

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K. REGULAR ITEMS

18. The Preserve – tree removal

Public Hearing

Public Hearing to consider an application for a tree removal permit for two (2) specimen trees on property proposed for development as The Preserve at Flower Mound. The property is generally located on the northwest corner of Chaparral Lane and Long Prairie Road. *(The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its October 4, 2016 meeting).*

- 19. McKamy Creek road paving** - Consider approval of the award of Bid No. 2016-77 to Tiseo Paving Company, for the 2015 Street Reconstruction, McKamy Creek Road Reconstruction and McKamy Creek Right Turn Lane projects, in the amount of \$1,453,874.98; and authorization for the Mayor to execute same on behalf of the Town.

L. BOARDS/COMMISSIONS *(Bold text represents boards with vacancies)*

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, Cultural Arts Commission, Environmental Conservation Commission, **Parks, Arts and Library Services Board**, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

M. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.074, 551.087, 551.072, and 551.071 to discuss matters relating to personnel, economic development negotiations, real property, and consultation with attorney, as follows:

- a. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, Planning and Zoning Commission.
- b. Conduct interviews for the position of Municipal Court Judge, including appointment deliberation.
- c. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.

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- d. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights of way, and/or other municipal purposes and all matters incident and related thereto.

1. Prospect Park, Ltd. Property Acquisition

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in a closed meeting with its attorney and to receive legal advice regarding any item listed on this agenda.

N. RECONVENE TO REGULAR MEETING

The Town Council to reconvene into an open meeting to take any action deemed necessary as a result of the closed meeting.

O. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: November 4, 2016, at 4:18 p.m. at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary



TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: November 7, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council held on October 17, 2016.

BACKGROUND INFORMATION: The Town Council held a regular meeting on October 17, 2016.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:

Account Number(s):

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on October 17, 2016.

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THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17TH DAY OF OCTOBER 2016, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a regular meeting with the following members present:

Tom Hayden	Mayor
Kevin Bryant	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Don McDaniel	Councilmember Place 4
Itamar Gelbman	Councilmember Place 5

constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Mark Wood	Director of Economic Development
Matt Woods	Director of Environmental Services
Sue Ridnour	Director of Library Services

A. CALL REGULAR MEETING TO ORDER

Mayor Hayden called the regular meeting to order at 6:00 p.m.

B./C. INVOCATION/PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG

Chaplain Mike Liles gave the invocation and Mayor Hayden led the pledges.

D. PRESENTATIONS

1. Proclamation for "Hand to Paw Month" to be presented to Girl Scout Troop 4778

Girl Scouts from Troop 4778 accepted the proclamation and provided an announcement about the "Hand to Paw Month" campaign.

2. 2016 Arbor Day proclamation.

Matt Woods, Director of Environmental Services, accepted the proclamation and provided background information about the Town's Arbor Day program.

3. Proclamation declaring November 2016 as Arts Month in Flower Mound.

Sue Ridnour, Director of Library Services, and Cultural Arts Board members accepted the proclamation.

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4. Presentation of donation by Friends of the Flower Mound Public Library.

Ann Martin, representing the Friends of the Library, presented a check in the amount of \$35,000 to the Town for use by the Library.

5. Veterans' Liaison report by Doug Brown.

Mr. Brown provided a report on various upcoming Veterans related events.

6. LISD Liaison report by Joanna Crowell Dreiling.

Ms. Crowell-Dreiling provided a report on various LISD activities.

7. Economic Development special recognition.

Mr. Stathatos and Mayor Pro Tem Bryant presented Mark Wood, Director of Economic Development, with a name blade street sign in recognition of his 10+ years of service to the Town and extended him well wishes as he pursues a career in another city.

E. PUBLIC PARTICIPATION

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.

	Speaker names and address	Subject (<i>as written on the form</i>)
1.	Curtis Shore, 3317 Northwood Dr	Thank you – police & fire depts.

F. ANNOUNCEMENTS

Councilmember Gelbman reported on the Fallen Officers Bike Race and 5K in Highland Village.

Deputy Mayor Pro Tem Bryan Webb announced dates and polling locations for the upcoming November 8th election. He also offered a reminder that there are Charter amendments on the ballot. Mr. Meredith responded to his question regarding the legalities associated with free speech given the onset of some yard signs that had language that might be considered profane. Deputy Mayor Pro Tem Bryan Webb noted that while this is considered protected speech he encouraged everyone to exercise good taste and to be neighborly, recognizing that families and children ride their bikes on the street and such language might not be appropriate in that setting.

G. TOWN MANAGER'S REPORT

1. Update and status report related to capital improvement projects.

Mr. Stathatos gave a report on the following CIP projects:

- the signals at Timber Creek Rd and Kirkpatrick have been upgraded
- Forest Vista road project update and the cause for the delay
- Pintail pump station and capacity upgrade

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2. Update and discussion on Economic Development projects.

Mr. Stathatos gave a report on the following economic development projects:

- Lakeside Business District - new E-commerce company called *Boxed* soon to open
- Lakeside DFW - new Italian restaurant called Mio Nonno soon to open

3. Update and discussion on new town hall and library expansion.

Mr. Stathatos gave a report on the new Town Hall and Library expansion projects noting:

- the space study is being fine-tuned for Town Hall
- there will be a Library item to go before the TIRZ Board early Spring of next year

H. FUTURE AGENDA ITEMS

Mayor Pro Tem Bryant expressed interest in having a future agenda item at the next meeting for the purpose of providing a presentation related to the high school scores, which would include LISD Superintendent Kevin Rogers, LISD Board member Angie Cox, as well as the Town's LISD Liaison represented.

There was Council consensus to proceed in having the presentation at a future Council meeting.

I. COORDINATION OF CALENDARS

1. Mayor Hayden announced that the next Town Council meeting is a joint work session with the Planning & Zoning Commission on October 20th and that the next regular Town Council meeting is November 7th.

J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on October 3, 2016.

RECOMMENDATION: Move to approve the minutes from a regular meeting of the Town Council held on October 3, 2016.

2. Consider approval of the purchase of new traffic signal detection equipment for the Traffic Detection Rehabilitation project, from Twincrest Technologies, through the TxSmartBuy program, in the amount of \$124,988.00.

RECOMMENDATION: Move to approve the purchase of new traffic signal detection equipment for the Traffic Detection Rehabilitation project, from Twincrest Technologies, through the TxSmartBuy program, in the amount of \$124,988.00.

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3. Consider approval of Change Order No. 2 for the Forest Vista Drive Reconstruction project, amending the contract with Tiseo Paving Company, for an increase to the contract amount of \$69,595.70; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve Change Order No. 2 for the Forest Vista Drive Reconstruction project, amending the contract with Tiseo Paving Company, for an increase to the contract amount of \$69,595.70; and authorization for the Mayor to execute same on behalf of the Town.

4. Consider approval of the purchase of materials and services identified in RFP No. TCPN-SWIII-10-5314 by Brown & Root Industrial Services, LLC., associated with rehabilitating Final Clarifier No. 2, of the Wastewater Treatment Plant Final Clarification Rehabilitation project, in the amount of \$308,498.00.

RECOMMENDATION: Move to approve the purchase of materials and services identified in RFP No. TCPN-SWIII-10-5314 by Brown & Root Industrial Services, LLC., associated with rehabilitating Final Clarifier No. 2, of the Wastewater Treatment Plant Final Clarification Rehabilitation project, in the amount of \$308,498.00.

5. Consider approval of the purchase of desktop and laptop computers, ruggedized laptop computers, CAD workstations computers and peripherals from Blueline Services, in the amount of \$162,735.79.

RECOMMENDATION: Move to approve the purchase of desktop and laptop computers, ruggedized laptop computers, CAD workstations computers and peripherals from Blueline Services, in the amount of \$162,735.79.

6. Consider approval to purchase a Telecommunications System, for the Town Hall project, in the amount of \$273,014.80.

RECOMMENDATION: Move to approve purchase a Telecommunications System, for the Town Hall project, in the amount of \$273,014.80.

Mayor Pro Tem Bryant moved to approve by consent Items 1 – 6. Deputy Mayor Pro Tem Bryan Webb seconded the motion. Each item, as approved by consent, is restated above along with the approved recommendation, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION:*Motion passed***AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB, GELBMAN****NAYS: NONE**

At 6:39 p.m. Mayor Hayden announced that the Town Council is convening into closed session pursuant to Texas Government Code Chapter 551.071 for consultation with the town attorney. The Town Council reconvened into an open meeting at 6:45 p.m.

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 255**K. REGULAR ITEMS**

Mayor Hayden opened Items 7 and 9 at the same time.

7. Public Hearing to consider a request for a Master Plan Amendment (MPA16-0005 – Smith Tract) to amend Section 5.0, Parks and Trails Plan, by amending Figure 5.4, Trails Master Plan, to remove the Paved Multi-Use Trail, Equestrian Trail, Equestrian Trail Head, and Complete Streets-Bike Lanes within and adjacent to the Smith Tract, and to consider adopting an ordinance providing for said amendment. The property is generally bounded by Cross Timbers Road, Scenic Road, Cardinal Road, Rocky Point Road, and Shiloh Road. *(The Parks, Arts, and Library Services Board recommended denial by a vote of 4 to 0 at its September 1, 2016, meeting.) (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its October 10, 2016, meeting.) (The request related to the Paved Multi-Use Trail and Complete Streets-Bike Lanes has been withdrawn and is not under consideration by the Town Council.)*
8. The applicant requested that MPA 16-0006 be withdrawn and for that reason this item was not heard by Town Council therefore no action was taken.
9. Public Hearing to consider a request for a Master Plan Amendment (MPA16-0007 – Smith Tract) to amend Section 9.0, Wastewater Plan, to add the Smith Tract to the Wastewater Service Area depicted in Figure 1A, and to consider adopting an ordinance providing for said amendment. The property is generally bounded by Cross Timbers Road, Scenic Road, Cardinal Road, Rocky Point Road, and Shiloh Road. *(The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its October 10, 2016, meeting.)*

Staff Presentation

Mr. Powell gave a presentation for items 7 and 9 identifying or noting:

- an explanation as to the withdrawal of item 8 and how the public was notified of such with a statement at the end of that item on the agenda
- overall location
- detailed location
- land use and zoning
- there is no development application that came with the master plan amendment request
- photos of the site, including the area for the gas line
- parks and trails map and bike lanes and equestrian trail
- wastewater service area and the request to add the Smith tract

Mr. Powell responded to questions from Council regarding:

- when a development comes forward is staff discussing adjustments and alignments for things such as trails discussed initially with the applicant
- clarification that the MPA 16-0005 is just to remove the equestrian trail and trailheads

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 256**Applicant Presentation**

Art Anderson, 2728 North Harwood, Dallas, Attorney representing the applicant.

Mr. Anderson gave a presentation identifying or noting:

- clarification relative to the withdrawal and how they are only addressing the equestrian trail
- summary of the request
- development restrictions for the Smith property
- pre-development meeting history
- parks and trails plan – history and MPA16-0005
- wastewater plan
- wastewater service area exhibit
- the adverse impact the equestrian trail presents

Mr. Anderson responded to questions from Council as follows:

- how long has the Smith family owned the property
- why the applicant needs the flexibility with the MPA request
- are there any other encumbrances that would fall outside of the Town's purview, and if so had there been any considerations to reduce those instead of asking the Town to change their ordinances, such as with the gas wells and if they had been approached
- if there is any additional information that can be provided relative to any future plans
- what are the options being considered in the situations of a pass or fail

Mayor Hayden opened the Public Hearing at 7:11 p.m. for items 7 and 9

The following individuals either spoke in support or opposition, or had questions / comments related to the item: *Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.*

Support: Comments or Questions	Item(s)	Opposition: Comments/Questions	Item(s)	Question(s)/ Comments Only
		Stephen Smith, 3705 Sarah Springs	7	
		Russell Milburn, 3036 Hugo Ct	7, 8, 9	
		Cynthia Spilberg, 5204 Bayberry St	7, 8, 9	
		Carl Thunem, 4016 Raintree Dr	9	
		Scott Jostes, 3705 Ridgecrest Dr	7, 8, 9	
		Sharon Gentry, 2750 Bob White Ln*	7, 8, 9	
		Janvier Scott, 2829 Bob White	7 & 9	
		Jon Howes, 7401 Bolo Ln	9	

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		Shannon Barkett, 7500 Bolo Ln	?? (just said K on form)	
		Caroline Finley, 2600 Bourne Ln	7, 8, 9	
		Marc Finley, 2600 Bourne Ln	7, 8, 9	
		Ann Marie Larsen, 3474 Shiloh Rd*	7, 8, 9	
		Ed Carty, Bob Bolo Ln	7, 8, 9	
		Jan Carty, 7300 Bolo Ln*	7, 8, 9	
		Babrielle Springer, 6609 Orchard Dr	7, 9	
		Susan Bodenmiller, 7007 Woodridge	7, 9	
		Christopher Binovi, 6509 Cardinal Dr	9	
		Paul Stone, 709 Lake Bluff Dr	7, 8, 9	
		Katie Lowe, 3113 Springwood Dr*	7, 9	
		Marsha Gavitt, 6501 Meadowcrest Ln	7, 8, 9	
		Father William Blewett, 6512 Country Oaks Dr*	7, 8, 9	
		Kris Thompson, 1501 Holly Oak	7, 9	
		Gerald Robinson, 6920 Hidden Valley Rd	7, 8, 9	
		John Fambrough, 4105 Spring Meadow*	7, 9	
		Sandy Fambrough, 4105 Spring Meadow	7, 9	
		Alexei Nechiporenko, 3514 Raintree	7, 9	
		Natasha Nechiporenko, 3514 Raintree	7, 9	
		John Todd, 5600 Wichita Trail	7, 9	
		Warren Campbell, 6000 Wichita Trl	7, 9	
		Greg Santsche, 6405 Meadowcrest Ln	7, 8, 9	

*Speaker card submitted; however indicated does not wish to speak.

Mayor Hayden closed the Public Hearing at 7:57 p.m.

Council Discussion

There was Council discussion regarding:

- how asking for the request without a plan raises suspicion because it causes the belief that someone is not being fully transparent
- more flexibility sounds like higher density

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- preserving scenic view corridors and the process
- other property owners have equestrian trails in the plan and they are adapting
- without a plan there is no benefit analysis in which staff or Council can assess to determine if an amendment is warranted
- past history association with master plan amendments that have been made
- the Master Plan as it exists today constitutes the Town's policy
- how there is no compelling reason at this time to make a change to the master plan
- how sewer is a waste disposal tool and not a land use tool
- the baseline is one house to 1.6 acres for the Cross Timbers Conservation District and if someone wants to bring in a plan that includes septic, there is also the expectation to see a plan that protects scenic corridors, resulting in an aesthetically beneficial product in the community
- flexibility in the Master Plan exist; however, there must be a plan

Item 7 - MPA16-0005 – Smith Tract

Councilmember McDaniel moved to deny a request for a Master Plan Amendment (MPA16-0005 – Smith Tract) to amend Section 5.0, Parks and Trails Plan, by amending Figure 5.4, Trails Master Plan, to remove the Equestrian Trail and Equestrian Trail Head within and adjacent to the Smith Tract, and adopt an ordinance providing for said amendment. Councilmember Jason Webb seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: GELBMAN, B. WEBB, BRYANT, MCDANIEL, J. WEBB****NAYS: NONE**

Item 9 – MPA16-0007 – Smith Tract

Councilmember McDaniel moved to deny a request for a Master Plan Amendment (MPA16-0007 – Smith Tract) to amend Section 9.0, Wastewater Plan, to add the Smith Tract to the Wastewater Service Area depicted in Figure 1A, and adopt an ordinance providing for said amendment. Councilmember Jason Webb seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB, GELBMAN****NAYS: NONE**

10. Public Hearing to consider a request for a Master Plan Amendment (MPA16-0010 – Urban Design Façade Materials) to amend Section 4, Urban Design Plan, by modifying the Architectural Standards to add stucco as a primary masonry option under Façade Materials, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its October 10, 2016, meeting.)*

Mayor Hayden opened items 10 and 11 at the same time.

Staff Presentation

Mr. Powell gave a presentation for item 10 identifying or noting:

- Background information
- Photos of buildings that appear to be stucco but are not
- Tilt wall versus stucco from an appearance perspective
- Architectural standards
- IBC Code reference
- Feedback from the Planning & Zoning Commission
- Not many comments have been received to date

Mr. Powell responded to questions from Council as follows:

- 80% versus 100% use of stucco as an option
- Clarification relative to the waiver process
- Clarification that if approved it would be just for commercial buildings
- Are there are other materials that include limit restrictions
- Why was stucco originally excluded as a primary material
- How frequently does it come up where builders want to use stucco and they are not allowed
- The cost of stucco versus other materials
- Whether or not a PD can be superseded to allow stucco

Council Discussion

There was Council discussion as follows:

- Tilt wall concrete versus stone
- Tilt wall concrete is cost prohibitive for smaller buildings
- Whether or not there should be limitations on the amount of stucco allowed (i.e. 80% versus 100%); recognizing the 80% rule limitation might allow for additional architectural elements that would enhance the look and feel of the building

Mayor Pro Tem Bryant opened the Public Hearing at 8:21 p.m. No one spoke in support or opposition. Mayor Pro Tem Bryant closed the Public Hearing at 8:21 p.m.

Motion 1:

Deputy Mayor Pro Tem Bryan Webb moved to approve a request for a Master Plan Amendment (MPA16-0010 – Urban Design Façade Materials) to amend Section 4, Urban Design Plan, by modifying the Architectural Standards to add stucco as a primary masonry option under Façade Materials, and adopt an ordinance providing for said amendment. Councilmember McDaniel seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 260**VOTE ON MOTION:**

*Motion failed –
supermajority requirement for MPAs*

AYES: B. WEBB, BRYANT, MCDANIEL

NAYS: GELBMAN, J. WEBB

Motion 2

Deputy Mayor Pro Tem Bryan Webb moved to approve a request for a Master Plan Amendment (MPA16-0010 – Urban Design Façade Materials) to amend Section 4, Urban Design Plan, by modifying the Architectural Standards to add stucco as a primary masonry option under Façade Materials, providing that stucco does not exceed 80% on any one facade with the remaining 20% being a primary material, and adopt an ordinance providing for said amendment. Councilmember McDaniel seconded the motion.

ORDINANCE NO. 57-16

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 4.0, URBAN DESIGN PLAN, OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, TO MODIFY THE ARCHITECTURAL STANDARDS BY ADDING STUCCO AS A PRIMARY MASONRY OPTION UNDER 5.0 FAÇADE MATERIALS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: B. WEBB, BRYANT, MCDANIEL, J. WEBB

NAYS: GELBMAN

11. Public Hearing to consider a request for a Master Plan Amendment (MPA16-0011 – Urban Design Architectural Standards) to amend Section 4, Urban Design Plan, by modifying the Architectural Standards to add a new subparagraph 1.3 stating that buildings certified as Leadership in Energy and Environmental Design (LEED) Gold or better can request waivers to the Architectural Standards, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its October 10, 2016, meeting.)*

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- Definition of Leadership in Energy and Environmental Design (LEED)
- Architectural standards and design review for past projects that were evaluated under suitability of meritorious design
- Clarification on the proposed new standard (1.3) that would allow Council to provide waivers or exceptions for LEED certification projects

Mr. Powell or Mr. Meredith responded to questions from Council as follows:

- What are the mechanics associated with the review process given they are not LEED certified at the time of plan submittal

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 261

- Legalities associated with the developer following through with a LEEDS project given they were offered some considerations initially
- Is there such a thing as a temporary Certificate of Occupancy (CO)
- Could a temporary CO be provided to a business with the understanding that LEEDS certification be achieved at a certain period of time, followed by a regular CO

Mayor Hayden opened the Public Hearing at 9:03 p.m. No one spoke in support or opposition. Mayor Hayden closed the public hearing at 9:03 p.m.

Council Discussion

There was Council discussion related to:

- Appreciation for the fact that there is a Council review process
- Things that can be considered at the time of the request, such as company history, past projects, etc.
- How this is an opportunity for government to get out of the way to get something good that will be sustainable for the future

Mayor Pro Tem Bryant moved to approve a request for a Master Plan Amendment (MPA16-0011 – Urban Design Architectural Standards) to amend Section 4, Urban Design Plan, by modifying the Architectural Standards to add a new subparagraph 1.3 stating that buildings certified as Leadership in Energy and Environmental Design (LEED) Gold or better can request waivers to the Architectural Standards, and adopt an ordinance providing for said amendment. Councilmember McDaniel seconded the motion.

ORDINANCE NO. 55-16

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 4.0, URBAN DESIGN PLAN, OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, TO MODIFY THE ARCHITECTURAL STANDARDS BY ADDING A NEW SUBPARAGRAPH 1.3 ENABLING THE TOWN TO EVALUATE THE SUITABILITY OF BUILDINGS CERTIFIED AS LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) GOLD OR BETTER THAT MIGHT NOT COMPLY EXACTLY WITH THE ARCHITECTURAL STANDARDS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: J. WEBB, MCDANIEL, BRYANT, B. WEBB

NAYS: GELBMAN

- Public Hearing to consider a request to amend the Land Development Regulations (LDR16-0003 – Prohibited Signs Amendment) by deleting subparagraph (12) of Section 86-4, entitled “Prohibited signs,” of the Town’s Code of Ordinances to remove the prohibition on the use of exposed neon, and to consider adopting an ordinance providing for said amendment. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 10, 2016, meeting.)*

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 262**Staff Presentation**

Mr. Powell gave a presentation identifying or noting:

- Photograph of sign at Lakeside that initiated the discussion
- Photograph of sign at Jakes that needed to be retrofitted to put up LED
- Photograph of Chili's sign
- Photograph of Floyds
- Summary of discussion at P & Z
- Sign regulations (Sec. 86-4)

Mr. Powell responded to questions from Council as follows:

- Could someone come back now and do a sign like Lakeside, Chili's, or Floyds
- How can Council control things such as the brightness or strength of the light for signs rather than the instrument that causes the light (i.e. neon or LED)

Mayor Hayden opened the Public Hearing at 9:09 p.m. No one spoke in support or opposition. Mayor Hayden closed the Public Hearing at 9:09 p.m.

Council Discussion

There was Council discussion as follows:

- How Lakeside asked for neon and Council said no because it wasn't allowed
- Examples of how the prohibition of neon as a light source impacts the aesthetics of a building
- How the Jake's sign looked better when it was neon than LED
- How LED is brighter than neon
- The change could be considered clean up as it will allow for a more consistent product and result
- Clarification that it is using the term unshielded instead of exposed

Councilmember McDaniel moved to approve a request to amend the Land Development Regulations (LDR16-0003 – Prohibited Signs Amendment) by amending subparagraph (12) of Section 86-4, entitled "Prohibited signs," of the Town's Code of Ordinances to amend the prohibition to the use of unshielded neon, and adopt an ordinance providing for said amendment. Deputy Mayor Pro Tem Brian Webb seconded the motion.

ORDINANCE NO. 56-16

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 86, SIGNS, OF THE CODE OF ORDINANCES BY AMENDING SECTION 86-4, "PROHIBITED SIGNS," AMENDING SUBPARAGRAPH (12) RELATED TO THE PROHIBITION ON THE USE OF UNSHIELDED NEON; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 263**VOTE ON MOTION:***Motion passed***AYES: B. WEBB, BRYANT, MCDANIEL, J. WEBB****NAYS: GELBMAN****L. BOARDS/COMMISSIONS (Executive Conference Room)**

Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Animal Services Board, Cultural Arts Committee, Environmental Conservation Commission, **Parks, Arts and Library Services Board**, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

No action taken.

Discuss and consider a procedure change to allow applications for the Outstanding Citizenship Award to be considered for one year following submittal.

There was Council consensus to allow consideration of applicants for one calendar year following the initial submittal date effective 2016, and to include a review process that would insure the applicants remain in good standing.

M./N. CLOSED/OPEN MEETING

The Town Council did not convene into a closed meeting on October 17, 2016, therefore no action was taken on the following items:

- a. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission..
- b. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.
- c. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights of way, public safety site, and/or other municipal purposes and all matters incident and related thereto.

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 17, 2016 BOOK 44 PAGE 264

O. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 9:17 p.m. on Monday, October 17, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 2

CONSENT ITEM

DATE: November 7, 2016

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a Joint Town Council/Planning and Zoning work session held on October 20, 2016.

BACKGROUND INFORMATION: The Town Council held a Joint Town Council/Planning and Zoning work session held on October 20, 2016.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:

Account Number(s):

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

RECOMMENDATION: Move to approve the minutes from a Joint Town Council/Planning and Zoning work session held on October 20, 2016.

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 265

THE JOINT FLOWER MOUND TOWN COUNCIL AND PLANNING & ZONING COMMISSION WORK SESSION HELD ON THE 20th DAY OF OCTOBER, 2016, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

The Town Council met in a work session with the following members present:

Tom Hayden	Mayor (arrived at 6:20 p.m.)
Kevin Bryant	Mayor Pro Tem
Bryan Webb	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Don McDaniel	Councilmember Place 4
Itamar Gelbman	Councilmember Place 5 (left at 9:42 p.m.)

constituting a quorum with the following members of the Planning & Zoning Commission present:

Claudio Forest	Chair
Perfecto Solis	Vice Chair
Brad Ruthrauff	Place 1
Mike McCall	Place 3
Al Linley	Place 5
Laura Dillon	Place 6
Heth Kendrick	Place 8, Alternate
David Johnson	Place 9, Alternate (arrived at 6:14 p.m.)

with the following members absent:

Laile Neal	Place 2
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with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Jimmy Stathatos	Town Manager
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Matt Hotelling	Traffic Engineer
Clay Riggs	Floodplain Engineer

A. CALL WORK SESSION TO ORDER

Mayor Pro Tem Bryant called the work session to order at 6:00 p.m.

B./C. INVOCATION/PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND THE TEXAS FLAG

Mayor Pro Tem Bryant led the pledges and Councilmember Jason Webb gave the invocation.

D. WORK SESSION ITEM

Administrative Note: The following items were not heard in the agenda order.

Presentation and discussion regarding the following:

1. The Town's Master Plan (Land Use Plan, Land Use Plan Map, Specific Plan Areas, and Area Plans) including density definitions, infill development, and senior housing

Mr. Powell and Mr. Dalton gave a presentation on the topics of:

- Land use
- Specific Plan Areas (SPAs)
- Density definitions
- Infill Development
- Senior housing

Mr. Powell or Mr. Dalton responded to questions from Council and Planning & Zoning (P & Z) Commission members as follows:

SPAs:

- what is the process to dissolve a SPA
- does the entitlements go with the zoning

Density Definitions:

- why can't the Town use lot size (i.e. SF5, SF10, SF15) instead of density terminology (i.e. high, medium, low)
- clarification regarding the land use layer map and remaining land use categories
- past history associated with the creation of the density levels

Senior Housing:

- clarification regarding development standards as it relates to duplexes

Infill Development:

- clarification regarding the process associated with infill development
- when was the last time the Town conducted a comprehensive review of the Master Plan

Town Council/P & Z recessed at 8:22 p.m. and reconvened at 8:26 p.m.

There was Council/P & Z discussion as follows:

Density:

- end goal as it relates to density
- feedback from P & Z members as it relates to classifying density
- interest in bringing the definitions in line with the reality of what the Town already does
- whether there should be more clarity in the density terminology

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 267**Infill Development:**

- possibility of incentivizing developers to protect the quality and maintain the open space that people have become accustomed to looking at for years
- possibility of having staff come up with wording to incorporate in the Master Plan that would address infill development

There was general Council consensus with the following direction:

- **SPAs**
 - o bring this topic forward as a P & Z work session item for the purpose of review/discuss the function and relevance of the SPAs considering their build-out conditions
 - o review the repetitive language of the development standards and identify those that are unique and specific to certain SPAs
- **Density:**
 - o have the P & Z Commission review various options as it relates to density terminology and come forward with a recommendation
- **Senior Housing:**
 - o consider senior housing in the same spectrum as economic development
 - o interest in considering offering incentives for developers to build senior housing
 - o actively recruit in the marketplace
 - o reach out to land owners to see if senior housing is something they would be interested in
 - o explore both rental and for sale multi-family projects
 - o insure project doesn't resemble an apartment complex
 - o keep central to existing health care facilities and shopping opportunities
- **Infill Development:**
 - o have the P & Z Commission examine the issue and review guidelines as it relates to infill development and come forward with a recommendation

2. The Town's Land Development Regulations involving the Town's floodplain standards and process for flood studies, and the Town's requirement and process for Traffic Impact Analyses

Mr. Dalton gave a presentation identifying or noting:

- River Walk progress update

Mr. Hotelling gave a presentation identifying or noting:

- Development proposal process/guidelines
- TIA process

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 268

- SMARTGrowth requirement
- Town initiated TIAs
- Scope and Fee
- Traffic engineering firms
- General TIA timeline
- Multiple TIAs in same general vicinity

Mr. Hotelling or Mr. Stathatos responded to questions from Council/P & Z as follows:

- will there ever be a point in time where a TIA would not be required
- why doesn't the Town let the developer go to the engineering firms directly instead of communicating through staff
- how do the engineering firms get selected
- if keeping staff in the loop allows for flexibility from one firm to another that allows flexibility as it relates to areas of expertise
- how does the TIA process work for a multiple phase project over the course of many years
- what is the mechanism that triggers an additional traffic analysis of a project
- does the Town do a traffic analysis for Town facilities

There was Council consensus as follows:

- have staff come up with a plan that would eliminate the middle man (staff) involved in the engineering firm communication process
- have staff look at streamlining the mechanics of the engineering firm communication process for improved efficiencies

3. The River Walk at Central Park including progress, parking, floodplain, and updated Traffic Impact Analysis

Mr. Dalton gave a presentation identifying or noting for the River Walk at Central Park as follows:

- progress update
- concept plan
- photos of ongoing work
- River Walk amenity – Development Agreement (DA) terms
- amphitheater landscape plan and revised elevations, including renderings
- amphitheater DA Agreement terms
- chapel DA terms
- commercial/retail DA terms
- residential plans
- photo of hotel under construction
- River Walk floodplain
- River Walk TIA

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 269

Mr. Riggs gave a presentation identifying or noting:

- floodplain terminology explanations
- town regulations/process, including development scenarios
- FEMA Regulations
- survey cites results
- erosion hazard setback

Mr. Powell, Mr. Riggs, Mr. Dalton, or Mr. Stathatos responded to questions from Council or P & Z members as follows:

- what is the process for enrolling in the Community Rating System (CRS) to credit communities that go above and beyond the minimum requirement of the NFIP
- survey city results
- clarification regarding Valley Storage Requirements
- how many comments on CLOMR have come back as adverse on the project
- does FEMA require a secondary review
- what is the role of the Town engineer and/or consultant relative to the review process
- how long does FEMA have to respond to the Town on a project submittal
- what is required before someone can build in a floodplain area
- how do flood plain approvals work with the River Walk
- is the Town's current process burdensome for homeowners, particularly because it can take 3 – 6 months for an approval from FEMA
- what is the status of the River Walk floodplain review
- is there is an expiration date on a CLOMR
- who holds the liability in the event buildings are built and the LOMR map revision comes back where changes are needed on a property
- clarification regarding the provision in the River Walk DA as it relates to the flood plain

Bobby Dollak, G&A Consultants, Consultant for the River Walk

Mehrdad Moayedi, River Walk developer

Mr. Dollak and Mr. Moayedi offered input from their perspective relative to construction language associated with flood plains. Mr. Moayedi also stated that in the interest of addressing the Town's liability concerns as it relates to the flood plain and the River Walk project, he would be agreeable to indemnifying the Town.

Council/P & Z Discussion

There was Council/P & Z discussion regarding:

- how there are a lot of moving parts associated with the issue
- concerns about not putting the Town at risk

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 270

- Interest in looking at CLOMR and LOMR on a global basis to see how it effects the whole Town to understand what was required 30 years ago is still practical, along with looking at the definitions and cleaning up as needed
- Redoing the plats in November is the path forward and offers a quicker turn around than waiting for the CLOMR and LOMR
- Reclamation approval should be depoliticized and put in the hands of staff

There was general Council consensus with the following direction, as applicable:

River Walk Progress:

- No direction was requested or provided on this topic
 - o Update provided on the various amenities for the project. Necessary development agreement amendments were discussed to reconcile differences between the PID and what the developer plans to build. Those will come forward at a later date.

River Walk Parking:

- No direction was requested or provided on this topic
 - o The developer provided a parking analysis and no comments were provided during the meeting. The parking garage was also discussed for the Hotel under construction. The requirement for the garage to be built prior to the issuance of the hotel certificate of occupancy was also discussed.

River Walk Floodplain:

- Direction to amend the development agreement to allow the Town to issue building permits prior to FEMA approval of the LOMR
 - o Status of the LOMR was discussed
 - o Development activity as discussed

River Walk TIA:

- No direction was requested or provided on this topic
 - o The proportionality costs are updated based on 2015 land use numbers. These costs are being reviewed by the developer. The TIA may need to be updated based on current land use numbers.

Town-wide TIA process and regulations:

- received direction to review the Town's regulations and bring back at a future Council work session (March)
- review allowing staff review and approval of work within the floodplain areas that don't require FEMA review/approval
- review FEMA's Community Rating System
- review allowing certain considerations for economic development projects
- better define terms (construction related activities (site prep) vs. building structures (building permits)), and the fully developed floodplain

FLOWER MOUND TOWN COUNCIL MEETING OF OCTOBER 20, 2016 BOOK 44 PAGE 271

4. Updating the Town Council on direction received during the July 22, 2016, Strategic Planning Session, and the September 15, 2016, Town Council work session including topics involving transportation, infrastructure, facilities, parks, sustainability plan, tree farm, tree ordinance, Urban Design Plan, sign standards, landscape standards, undergrounding of overhead utilities, detention and retention pond standards, administrative approvals, and discussing timing and prioritization of any direction associated with items 1-3 above.

Prioritizing Town Council Strategic Initiatives:

- Received direction to prioritize the development agreement for the River Walk floodplain, and seek out interested parties for senior housing.

E. ADJOURN WORK SESSION

Mayor Hayden adjourned the work session at 10:19 p.m. on Thursday, October 20, 2016, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

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TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: November 7, 2016

FROM: Tammy Wilson, Executive Director of Financial Services

ITEM: Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.

BACKGROUND INFORMATION: The procurement process requires that 100% of funding be available before funds can be encumbered for the award of contracts. This reimbursement resolution will allow staff to satisfy the funding requirements prior to the issuance of debt under federal tax law.

The Town plans to issue debt during fiscal year 2016-2017 to fund the purchase of approximately 3.29 acres of land located at 3600 Old Settlers Road . In order to begin this project prior to the issuance of debt, it is necessary to pass this resolution declaring intent to reimburse expenditures. The proposed reimbursement resolution provides the funding source to satisfy the procurement requirements for the projects as included on the fiscal year 2016-2017 Five-Year Capital Improvement Program ("CIP").

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$1,100,000

Proposed Expenditure:	Account Number(s):
\$1,100,000	To satisfy the funding requirements and begin the capital project prior to the issuance of debt under federal tax law.

Finance Review by: Debra Wallace, Deputy Town Manager/CFO 

LEGAL REVIEW: The Town's Bond Counsel, Norton Rose Fulbright US LLP, prepared the proposed resolution. This standard reimbursement resolution was approved in the past by Taylor, Olson, Adkins, Sralla, & Elam L.L.P. No alteration to the legal content of this form document was made in preparation of this document.

ATTACHMENTS:

1. Resolution

RECOMMENDATION: Move to approve a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorize the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and provide an effective date.

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. _____**

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT, AND AUTHORIZING THE PREPARATION OF THE DOCUMENTS ASSOCIATED WITH THE ISSUANCE, SALE AND DELIVERY OF THE DEBT OBLIGATIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas, (the "Town") intends to issue debt to fund the purchase of approximately 3.29 acres of land located at 3600 Old Settlers Road (the "Project"); and further intends to make certain capital expenditures with respect to the Project and currently desires and expects to reimburse the capital expenditures with proceeds of such debt; and

WHEREAS, under Treas. Reg. § 1.150-2 (the "Regulation"), to fund such reimbursement with proceeds of tax-exempt obligations, the Town must declare its expectation to make such reimbursement; and

WHEREAS, the Town desires to preserve its ability to reimburse the capital expenditures with proceeds of tax-exempt obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Flower Mound, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

The Town reasonably expects to reimburse capital expenditures with respect to the Project with proceeds of debt hereafter to be incurred by the Town, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is \$1,100,000.

SECTION 3

Hilltop Securities Inc. is hereby authorized and directed to prepare, or cause to be prepared, any and all documents including, but not limited to, an Official Statement associated with the issuance, sale and delivery of the obligations, the proceeds of which will provide financing of the Project.

RESOLUTION NO. ____-16

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SECTION 4

This Resolution shall take effect from and after the date of its passage.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, ON THIS 7TH DAY OF NOVEMBER, 2016.**

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM:

Bryn Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: November 7, 2016

FROM: Brittni Barnett, Grants and Financial Analyst

ITEM: Consider acceptance of grant funds from the Department of Justice Office of Justice Programs for the FY 2016 Bulletproof Vest Partnership.

BACKGROUND INFORMATION: The Town applied for and was awarded a grant in the amount of \$9,450.00 from the FY 2016 Department of Justice Office of Justice Programs for the Bulletproof Vest Partnership Program. The Bulletproof Vest Partnership Program reimburses municipalities up to 50% of the cost of body armor vests purchased for law enforcement officers, and the remaining 50% will come out of the General Fund Police Services budget.

If approved, this grant, along with the Town's match, will allow the Town to purchase 21 bulletproof vests for the Police Department.

This grant does not have a formal agreement the Mayor has to sign. The Town received email notification that we received an award under the FY 2016 Bulletproof Vest Partnership solicitation. The funds are already posted to the Town's Bulletproof Vest Partnership System ready to spend after Council's approval.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$9,450.00

Proposed Expenditure:	Account Number(s):
\$9,450.00	370-826-97062-2300

Finance Review by: Debra Wallace, Assistant Town Manager/CFO 

LEGAL REVIEW: Ashley D. Dierker, Taylor, Olson, Adkins, Sralla, & Elam L.L.P.

ATTACHMENTS:

1. Approval Email
2. Resolution accepting grant funds and authorizing purchase of bulletproof vests.

RECOMMENDATION: Move to authorize the acceptance of grant funds from the Department of Justice Office of Justice Programs for the FY 2016 Bulletproof Vest Partnership and authorize the purchase of bulletproof vests pursuant to the requirements of the grant program.

Date: October 7, 2016, 14:30:49 CDT

To: Undisclosed recipients;;

Subject: Fiscal Year 2016 BVP Awards

Dear BVP applicant,

The Bureau of Justice Assistance (BJA) is pleased to inform you that your agency will receive an award under the Fiscal Year (FY) 2016 Bulletproof Vest Partnership (BVP) solicitation. These funds have been posted to your account in the BVP System. A complete list of FY 2016 BVP awards is available at: <http://www.ojp.usdoj.gov/bvpbasi/>.

The FY 2016 award may be used for National Institute of Justice (NIJ) compliant armored vests which were ordered after April 1, 2016. The deadline to request payments from the FY 2016 award is August 31, 2017, or until all available funds have been requested. Awards will not be extended past that date, and any unused funds will be forfeited.

Please see the following websites for a list of NIJ compliant vests:

Ballistic Vests: <http://nij.gov/nij/topics/technology/body-armor/compliant-ballistic-armor.htm>

Stab Resistant Vests: <http://nij.gov/nij/topics/technology/body-armor/compliant-stab-armor.htm>

As a reminder, all jurisdictions that applied for FY 2016 BVP funding certified that a mandatory wear policy was in place for their jurisdiction. BJA will be conducting reviews of the mandatory wear policies as funds are requested from the BVP System. For more information on the BVP mandatory wear policy, please see the BVP Frequently Asked Questions document:

<http://www.ojp.usdoj.gov/bvpbasi/docs/FAQsBVPMandatoryWearPolicy.pdf>

Finally, please visit the following page for checklists and guides for each step of the BVP process: <http://ojp.gov/bvpbasi/bvpprogramresources.htm>

For questions regarding the BVP Program or your award, please do not hesitate to contact the BVP Help Desk at vests@usdoj.gov or 1-877-758-3787.

Thank you

BVP Program Support Team
Bureau of Justice Assistance

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. _____**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE DEPARTMENT OF JUSTICE OFFICE OF JUSTICE PROGRAMS FOR THE FISCAL YEAR 2016 BULLETPROOF VEST PARTNERSHIP PROGRAM; APPROVING THE PURCHASE OF BULLETPROOF VESTS FOR THE TOWN USING AWARDED GRANT FUNDS; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE BULLETPROOF VEST PARTNERSHIP PROGRAM.

WHEREAS, the Town of Flower Mound applied for and has been awarded a grant in the amount of \$9,450.00 from the FY 2016 Department of Justice Office of Justice Programs for the Bulletproof Vest Partnership Program to provide funding for purchase of bulletproof vests for the Town of Flower Mound Police Department; and,

WHEREAS, the Town Council of the Town of Flower Mound finds that it is in the best interest of the health, safety, and general welfare of the citizens of the Town to accept the awarded grant funds and authorize the purchase of bulletproof vests for the Town of Flower Mound Police Department with said funds.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FLOWER MOUND IN FLOWER MOUND, TEXAS THAT:

SECTION 1

That all of the above recitations are true and correct and adopted as if fully set out herein.

SECTION 2

The Town of Flower Mound approves and accepts the awarded grant amount of \$9,450.00 from the FY 2016 Department of Justice Office of Justice Programs for the Bulletproof Vest Partnership Program.

SECTION 3

The grant funds are hereby authorized to be used to fund equipment in accordance with the grant award and will be used only for the purposes for which they are intended under the program .

SECTION 4

This Resolution shall be effective upon its adoption.

RESOLUTION NO. _____

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APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn D. Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: November 7, 2016

FROM: Brandon Barth, Emergency Management Officer 

ITEM: Consider approval of the purchase of three outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$72,750.00 and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Town currently has nineteen sirens in the Outdoor Warning Siren System and we are requesting three additional sirens which were approved with the FY 16-17 budget. The solar-powered sirens will be purchased at a turnkey rate of \$23,500.00 each. These three sirens will be installed at the following locations: High Road at Lake Ridge, Roanoke Hills Subdivision, and the new athletic complex on Dunham Road. The contractor will also install a privacy fence around the siren to be located in the Roanoke Hills Subdivision.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Yes

Proposed Expenditure: \$72,750.00	Account Number(s):
\$70,500.00	100-660-64000-6120
\$ 2,250.00	100-660-64000-5110

Finance Review by: Debra Wallace, Deputy Town Manager/CFO 

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Gifford Electric Proposal
2. Outdoor Warning Siren Coverage Map

RECOMMENDATION:

Move to approve the purchase of three outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$72,750.00 and authorize the Mayor to execute same on behalf of the Town.



Proposal

GIFFORD ELECTRIC

P.O. Box 7441
Fort Worth, Texas 76111
817/834-6308 Fax 817/831-8245
David@giffordtx.com

TECL19365

Proposal Submitted To Flower Mound Street	Phone	Date 10/19/2016
City State Zip Code	Job Name Three additional siren installations	Job Location
Estimator David	E-Mail brandon.barth@flower-mound.com	

We hereby submit specifications and estimate for:

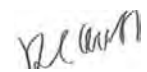
Item #	Spec	QTY	DESCRIPTION	UNIT	Total Price
1		3	ASC T-128 solar sirens installed on steel poles This is a "turn key" siren with a new pole, siren, aluminum control box, and solar panel kit. We will provide all the wiring and equipment for the installation. We will program the siren into the computer as we install them .	\$ 23,500.00	\$ 70,500.00
		1	Privacy fence 6 foot tall by 8 foot in each direction with 8 foot gate Your Maintenance will go up \$785 per siren installed per year after the first year that they will be under warranty. not included Bonds Permit fee	\$ 2,250.00	\$ 2,250.00

We Propose hereby to furnish material and labor--complete in accordance with above specifications, for the sum of:Payment to be made as follows: upon receipt Dollars \$ **72,750.00**

Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications invoking extra cost will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

 Authorized
Signature


David W. Babcock
 President

 Note: This proposal may be withdrawn by us
 if not accepted within thirty days
Acceptance of Proposal - The above prices, specifications
 and conditions are satisfactory and are hereby accepted. You are authorized
 to do the work as specified. Payment will be made as outlined above.

Date of Acceptance _____

Signature _____

Signature _____

Outdoor Warning Siren Coverage - Mar 2016

Outdoor Warning Siren Coverage - Mar 2016





TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: November 7, 2016

FROM: John Glover, Assistant Fire Chief / EMS 

ITEM: Consider approval of the purchase of fifteen Zoll X Series EKG Heart Monitors and two Automatic External Defibrillators, in the amount of \$484,286.01.

BACKGROUND INFORMATION: The Town's aged, repurposed heart monitors have reached the end of useful life with some monitors approaching fifteen years old. These devices have experienced significant wear and tear with frequent and costly repair and maintenance. The EKGs are required for patient therapy and provide critical information such as blood pressure, heart rhythm, temperature, oxygen saturation of the blood and can convert a lethal rhythm in the heart when detected. The new heart monitors will replace the current inventory which is supplied on each Medic as well as all front line fire apparatus allowing full paramedic capabilities by the engine crews.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Yes

Proposed Expenditure: \$484,286.01	Account Number(s):
\$484,286.01	100-660-61000-6190

Finance Review by: Debra Wallace, Deputy Town Manager/CFO 

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Zoll Medical Corporation Quote

RECOMMENDATION:

Move to approve the purchase of fifteen Zoll X Series EKG Heart Monitors and two Automatic External Defibrillators, in the amount of \$484,286.01.

**TO: Flower Mound Fire Department**

3911 S Broadway Avenue
Flower Mound, TX 75028

Attn: **Timothy Mackling**

email: timothy.mackling@flower-mound.com

Tel: 972-874-6270

ZOLL Medical Corporation

Worldwide Headquarters

269 Mill Rd

Chelmsford, Massachusetts 01824-4105

(978) 421-9655 Main

(800) 348-9011

(978) 421-0015 Customer Support

FEDERAL ID#: 04-2711626

QUOTATION 228458 V:1

DATE: October 19, 2016

TERMS: Net 30 Days

FOB: Shipping Point

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	6 0 1 - 2 2 3 1 4 1 1 - 0 1	X Series ® Manual Monitor/Defibrillator \$14,995 with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"(16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display. Accessories Included: • Six (6) foot 3- Lead ECG cable • MFC cable • MFC CPR connector • A/C power adapter/ battery charger • A/C power cord • One (1) roll printer paper • 6.6 Ah Li-ion battery • Carry case • Declaration of Conformity • Operator's Manual • Quick Reference Guide • One (1)-year EMS warranty Advanced Options: Real CPR Help Expansion Pack \$ 995 CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI) • See - Thru CPR artifact filtering ZOLL Noninvasive Pacing Technology: \$2,550	15	\$41,015.00	\$33,632.30	\$504,484.50 *
This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.						Page 1 Subtotal \$504,484.50

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2. PRICES QUOTED ARE VALID FOR 60 DAYS.
3. APPLICABLE TAX, SHIPPING & HANDLING WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. **FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO ESALES@ZOLL.COM.**
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING www.zollwebstore.com.

John Hamilton
Territory Manager

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		Masimo Pulse Oximetry SP02& SpCO \$4,540 • Signal Extraction Technology (SET) • Rainbow SET (for SpCO & SpMet) NIBP Welch Allyn includes: \$3,495 • Smartcuff 10 foot Dual Lumen hose • SureBP Reusable Adult Medium Cuff End Tidal Carbon Dioxide monitoring (ETCO2) Oridion Microstream Technology: \$4,995 Order required Microstream tubing sets separately Interpretative 12- Lead ECG: \$8,450 • 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set Two Temperature monitoring channels with digital displays: \$ 995 Order Temperature probes separately				
2	8000-000901-01	ECG plain white paper- 80mm (pack of 6 rolls)	15	\$24.00	\$19.68	\$295.20 *
3	8000-0895	Cuff Kit with Welch Allyn Small Adult, Large Adult and Thigh Cuffs	5	\$157.50	\$133.88	\$669.40 *
4	REUSE-07-2MQ	REUSE-07-2MQ Cuff, Infant, 2-Tube, Twist lock connector	15	\$52.50	\$44.63	\$669.45 *
5	REUSE-08-2MQ	REUSE-08-2MQ Cuff, Small Child, 2-Tube, Twist lock connector	5	\$52.50	\$44.63	\$223.15 *
Page 2 Subtotal						\$506,341.70

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Territory Manager

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
6	REUSE- 09 - 2 MQ	Cuff, Child, 2-Tube, Twist lock connector	15	\$52.50	\$44.63	\$669.45	*
7	REUSE- 12 - 2 MQ	Welch Allyn REUSE-12-2MQ Cuff, Lg Adult, 2-Tube, Twist lock connector	7	\$52.50	\$44.63	\$312.41	*
8	8000 - 0341	SpO2/SpCO/SpMet Rainbow Resuable Patient Cable: Connects to Single Use Sensors (4 ft)	15	\$245.00	\$168.75	\$2,531.25	*
9	8000 - 000371	SpO2/SpCO/SpMet Rainbow DCI Adult Reusable Sensor with connector (3 ft)	15	\$845.00	\$340.28	\$5,104.20	*
10	8000 - 000372	SpO2/SpCO/SpMet Rainbow DCI Reusable Sensor, Pedi	15	\$845.00	\$364.87	\$5,473.05	*
11	8900 - 0400	CPR stat-padz HVP Multi-Function CPR Electrodes - 8 pair/case	15	\$560.00	\$420.00	\$6,300.00	*
12	8900 - 0810 - 01	pedi-padz® II Pediatric Multi-Function Electrodes - Designed for use with the AED Plus. The AED recognizes when pedi-padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. One pair.	32	\$95.00	\$67.45	\$2,158.40	*
13	8000 - 0580 - 01	Six hour rechargeable Smart battery	26	\$495.00	\$420.75	\$10,939.50	*
						Page 3 Subtotal	\$539,829.96

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
14	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	2	\$2,583.00	\$2,195.55	\$4,391.10	*
15	8200-000100-01	Single Bay Charger for the SurePower and SurePower II batteries	7	\$945.00	\$708.75	\$4,961.25	*
16	90110200499991010	AED Pro Semi-Auto/Manual. Includes: Backlit LCD screen, soft carry case, rugged over-molded outer housing, multi-patient internal memory, IrDA port, operator guide, five year factory warranty, limited lifetime outer housing warranty.	2	\$3,795.00	\$2,580.60	\$5,161.20	*
17	8000-0860-01	AED Pro non-rechargeable lithium battery pack	2	\$160.00	\$120.00	\$240.00	*
18	8000-0838	AED Pro ECG Cable AAMI	2	\$160.00	\$120.00	\$240.00	*
19	8000-0668	YSI reusable adult Esophageal Rectal Temperature probe	15	\$125.00	\$41.25	\$618.75	*
20	8000-0669	YSI reusable pediatric Esophageal Rectal probe	15	\$125.00	\$56.25	\$843.75	*
21	7800-0214	MRX Biphasic w/Pacing, 12 lead + 3 parameters Trade-In	12		(\$6,000.00)	(\$72,000.00)	**
						Page 4 Subtotal	\$484,286.01

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
22		ZOLL online RescueNet 12-Lead and Free Version of Case Review Basic are included at no cost *Reflects National Purchasing Partners (NPP) Contract Pricing. ** Trade value guaranteed only through December 31, 2016 ** Trade-In Value valid if all equipment purchased is in good operational and cosmetic condition, and includes all standard accessories. Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.				
TOTAL						\$484,286.01

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John Hamilton
Territory Manager

ZOLL QUOTATION GENERAL TERMS & CONDITIONS

1. ACCEPTANCE. This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract" the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

2. DELIVERY AND RISK OF LOSS. Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

3. TERMS OF PAYMENT. Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

4. CREDIT APPROVAL. All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

5. TAXES & FEES. The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

6. WARRANTY. (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. SOFTWARE LICENSE. (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth, (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein, (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation, (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

8. DELAYS IN DELIVERY. ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

9. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATIONS PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

10. PATENT INDEMNITY. ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

11. CLAIMS FOR SHORTAGE. Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

12. RETURNS AND CANCELLATION. (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

13. APPLICABLE LAW. This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

14. COMPLIANCE WITH LAWS. (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

15. NON-WAIVER OF DEFAULT. In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

16. ASSIGNMENT. This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

17. TITLE TO PRODUCTS. Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.

VETERAN'S EMPLOYMENT - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

EMPLOYMENT OF HANDICAPPED - If this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

EQUAL OPPORTUNITY EMPLOYMENT - If this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

19. VALIDITY OF QUOTATION. This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

20. GENERAL. Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: November 7, 2016

FROM: Robert Pegg, Senior Project Engineer

ITEM: Consider approval of an Advanced Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for work addressing paving and drainage improvements accomplished by change order to the ongoing TxDOT construction contract for the reconstruction of the western section of FM 1171; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: This AFA with TxDOT addresses paving and drainage improvements accomplished by change order to the ongoing TxDOT construction contract for the reconstruction of the western section of FM1171. The residential development of Trailwood (west of US 377 and south of FM1171) is under construction and their northern property boundary is FM1171 frontage in the area currently under construction by TxDOT contract. The paving and drainage improvements were requested and initiated by the Trailwood developer in an effort to ensure the paving and drainage design for the adjacent TxDOT project is compatible with the design requirements of the Trailwood development. The developer provided the engineering plans to TxDOT to facilitate the changes to the TxDOT construction contract via change order. This AFA covers the construction costs, direct state costs, and indirect State costs associated with the change order allowing TxDOT's contractor to construct the improvements requested by Trailwood.

No Town funds will be required in the fulfillment of this agreement. The total AFA agreement amount of \$96,459.32 has been provided to the Town via escrow payment by the developer of Trailwood. Attachment 2 provides documentation of the funds currently in escrow.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Ashley Dierker of Taylor, Olson, Adkins, Elam, L.L.P., has reviewed the agreement as to form and legality.

ATTACHMENTS:

1. Advance Funding Agreement
2. Developer Escrow Documents

RECOMMENDATION: Move to approve an Advance Funding Agreement (AFA) with the Texas Department of Transportation (TxDOT) for work addressing paving and drainage improvement's accomplished by change order to the ongoing TxDOT construction contract for the reconstruction of the western section of FM 1171; and authorize the Mayor to execute same on behalf of the Town.

CSJ #: 1311-01-034
 District #: 18-Dallas
 Code Chart 64 #: 14670
 Project: FM 1171
 Limits: From West of US 377 to West of Shiloh Road
 County: Denton

STATE OF TEXAS §
 COUNTY OF TRAVIS §

**LOCAL PROJECT ADVANCE FUNDING AGREEMENT FOR
 VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS
 TO TRANSPORTATION IMPROVEMENT
 PROJECTS WITH NO REQUIRED MATCH**

ON SYSTEM

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State", and the Town of Flower Mound, acting by and through its duly authorized officials, called the "Local Government."

WITNESSETH

WHEREAS, Texas Transportation Code, Chapter 201 and 222 authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

WHEREAS, Texas Government Code Chapter 791 and Texas Transportation Code §201.209 and Chapter 221, authorizes the State to contract with municipalities and political subdivisions; and,

WHEREAS, Texas Transportation Commission Minute Order Number 113250 authorizes the State to undertake and complete a highway improvement generally described as widening a two-lane rural roadway to a six-lane divided urban highway on FM 1171 from West of US 377 to West of Shiloh Road in Denton County; and,

WHEREAS, the Local Government has requested that the State allow the Local Government to participate in said improvement by providing the engineering plans and funding that portion of the improvement described as the construction of (1) a median opening at Sta. 301+00; (2) the relocation of inlet DD1 at Sta. 289+63, and (3) the alignment of Culvert E on FM 1171 from West of US 377 to West of Shiloh Road within the Town of Flower Mound, Denton County, called the "Project"; and,

WHEREAS, the State has determined that such participation is in the best interest of the citizens of the State;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

CSJ #: 1311-01-034
District #: 18-Dallas
Code Chart 64 #: 14670
Project: FM 1171
Limits: From West of US 377 to West of Shiloh Road
County: Denton

AGREEMENT

1. Time Period Covered

The period of this Local Project Advance Funding Agreement (LPAFA) is as stated in the Master Agreement Governing Local Transportation Project Advance Funding Agreements (MAFA), without exception.

2. Project Funding and Work Responsibilities

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

3. Payment of Funds

Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation." The check or warrant shall be deposited by the State and managed by the State. The funds may only be applied by the State to the Project. If after final Project accounting excess funds remain, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.

4. Right of Access

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

5. Adjustments Outside the Project Site

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

6. Responsibilities of the Parties

Responsibilities of the Parties will be under the conditions as provided for in the MAFA, without exception.

7. Document and Information Exchange

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This

CSJ #: 1311-01-034
 District #: 18-Dallas
 Code Chart 64 #: 14670
 Project: FM 1171
 Limits: From West of US 377 to West of Shiloh Road
 County: Denton

requirement applies whether the local entity creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

8. Inspection and Conduct of Work

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

9. Increased Cost

Increased cost will be under the conditions as provided for in the MAFA, without exception.

10. Maintenance

Project maintenance will be under the conditions as provided for in the MAFA, without exception.

11. Termination

Termination of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

12. Notices

Notices of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

Local Government:	State:
City Manager Town of Flower Mound 2121 Cross Timbers Road Flower Mound, Texas 75028	Director of Contract Services Texas Department of Transportation 125 E. 11 th Street Austin, Texas 78701

13. Successors and Assigns

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

14. Amendments

Amendments to this LPAFA shall be made as described in the MAFA, without exception.

15. Incorporation of Master Agreement Provisions

This LPAFA incorporates all relevant provisions of the MAFA in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted in this agreement.

CSJ #: 1311-01-034
District #: 18-Dallas
Code Chart 64 #: 14670
Project: FM 1171
Limits: From West of US 377 to West of Shiloh Road
County: Denton

Any conflict between the terms of the MAFA and this LPAFA shall be governed and controlled by this LPAFA.

16. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

17. Insurance

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

18. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Local Government in duplicate.

THE LOCAL GOVERNMENT – TOWN OF FLOWER MOUND

By: _____
Jimmy Stathatos
Town Manager

Date: _____

THE STATE OF TEXAS

By: _____
James K. Selman, P.E.
Dallas District Engineer
Texas Department of Transportation

Date: _____

CSJ #: 1311-01-034
 District #: 18-Dallas
 Code Chart 64 #: 14670
 Project: FM 1171
 Limits: From West of US 377 to West of Shiloh Road
 County: Denton

Attachment A PAYMENT PROVISION AND WORK RESPONSIBILITIES

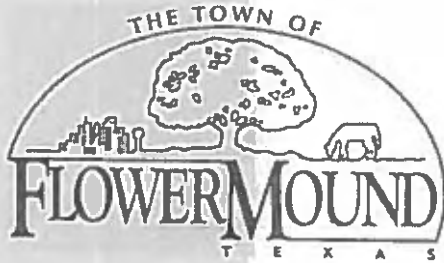
The Local Government will provide the engineering plans in accordance with all applicable State design standards and pay 100% of the cost for the State to construct (1) a median opening at Sta. 301+00; (2) to relocate inlet DD1 at Sta. 289+63, and (3) align Culvert E on FM 1171 from West of US 377 to West of Shiloh Road within the Town of Flower Mound, Denton County. The Local Government's estimated cost for this improvement includes all construction items, direct and indirect state costs. The State has estimated the Project cost to be as follows:

Description	Total Estimate Cost	Federal Participation		State Participation		Local Participation	
Construction (by State)	\$82,394.57	0%	\$0	0%	\$0	100%	\$82,394.57
Direct State Cost—CST@10.69%	\$8,807.98	0%	\$0	0%	\$0	100%	\$8,807.98
Indirect State Cost—CST@ 6.38%	\$5,256.77	0%	\$0	0%	\$0	100%	\$5,256.77
TOTAL	\$96,459.32		\$0		\$0		\$96,459.32

Estimated Total Local Government Participation (100%) = \$96,459.32

Estimated Total Payment by the Local Government to the State on full execution of this Agreement = \$96,459.32

This is an estimate. The final amount of the Local Government participation will be based on actual costs.



RECEIPT

TOWN OF FLOWER MOUND

2121 Cross Timbers Rd
 Flower Mound, TX 75028
 Phone (972) 874-6355

G & A Consultants
 111 Hillside Drive

Date Paid: 10/19/2015
 Paid By: G & A Consultants
 Pay Method: CHECK 10029

Permit No: DEV14-04746

Receipt No: R3024987
 DEVELOPMENT/RESIDENTIAL

TRAILWOOD PHASE I

Fee Description

Fee Amount

ENGINEERING MISC FEES

TEMP ESCROW FEES

\$32,787.33

Total Fees Paid:

\$32,787.33



218 W. Wall Street, Grapevine, Texas 76051
Metro (817) 424-1392

TO: Brent Anderson Town of Flower Mound 2121 Cross Timbers Road Flower Mound, TX 75028	FROM: Robert J. Betancur Zena Management Services
VIA: Hand Delivery	DATE: October 16, 2015

REF: Trailwood Development Permit # 14-04746
FM 1171 TxDOT Storm Drainage Change Order
Culvert "E" realignment & Relocation of Inlet DD1
TxDOT Project #: C 1311-01-34 County: Denton

Brent,

Please find enclosed a check in the amount of \$32,787.33 payable to the Town of Flower Mound to be placed in "escrow" for development permit # 14-04746 - Trailwood Single Family Residential Development.

The enclosed check is being submitted as requested and for the purpose of reimbursement to the Town for storm drainage modifications as shown on the attached Change Order exhibit prepared by TxDOT.

The proposed modifications to the FM1171 storm drainage is in an effort to coordinate the proposed Trailwood development with the currently under construction FM1171.

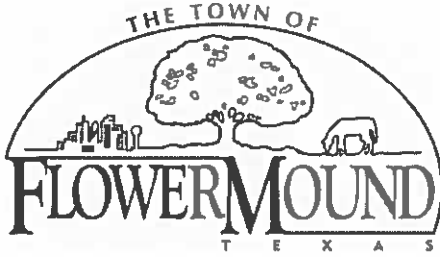
Should you have any questions or require anything further in this matter please do not hesitate to contact me at (214) 385-8021 or by email at: rbetancur@zenaland.com

Thank you for your assistance in coordinating these efforts.

Regards,

Rob Betancur
President

Zena Management Services LLC
For: Trailwood Investments LP



RECEIPT

TOWN OF FLOWER MOUND

2121 Cross Timbers Rd
 Flower Mound, TX 75028
 Phone (972) 874-6355

G & A Consultants
 111 Hillside Drive

Date Paid: 10/04/2016
 Paid By: Trailwood Investments, LP
 Pay Method: CHECK 10094

Permit No: DEV14-04746

Receipt No: R3035445

DEVELOPMENT/RESIDENTIAL

TRAILWOOD PHASE I

Fee Description	Fee Amount
<u>ENGINEERING MISC FEES</u>	
TEMP ESCROW FEES	\$63,671.99
Total Fees Paid:	\$63,671.99



218 W. Wall Street, Grapevine, Texas 76051
Metro (817) 424-1392

TO: Brent Anderson Town of Flower Mound 2121 Cross Timbers Road Flower Mound, TX 75028	FROM: Robert J. Betancur Zena Management Services
VIA: Overnight Delivery	DATE: October 3, 2016

REF: Trailwood Development Permit # 14-04746
FM1171 Median Opening at Satition 301+00 - Change Order #19
TxDOT Project #: C 1311-01-34 County: Denton

Brent,

Please find enclosed a check in the amount of ~~\$63,671.99~~ payable to the Town of Flower Mound to be placed in "escrow" for development permit # 14-04746 - Trailwood Single Family Residential Development.

The enclosed check is being submitted as requested and for the purpose of reimbursement to the Town for median opening modifications at station 301+00 as shown on the attached Change Order exhibit prepared by TxDOT.

A previous check in the amount of \$32,787.33 was submitted for the remaining items on Change Order #19 on 10/15/2016 for Storm Drainage Modifications.

The proposed modifications to the FM1171 median opening is in an effort to coordinate the proposed Trailwood development with the currently under construction FM1171.

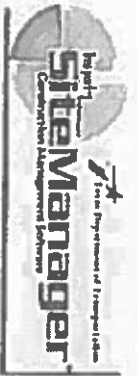
Should you have any questions or require anything further in this matter please do not hesitate to contact me at (214) 385-8021 or by email at: rbetancur@zenaland.com

Thank you for your assistance in coordinating these efforts.

Regards,

Rob Betancur
President

Zena Management Services LLC
For: Trailwood Investments LP



CHANGE ORDER NBR.

19

REPORT DATE: 9/16/2016 2:51:16PM

CONTRACT ID: 131101034
 PROJECT: C 1311-1-34
 CONTRACT: 03133002
 AWARD AMOUNT: \$45,721,253.16
 PROJECTED AMT: \$46,844,328.17
 ADJ PROJECTED AMT: \$47,814,828.30
 PEND ADJ PROJ AMT: \$47,814,828.30
 CONTRACTOR: WEBBER, LLC
 CO AMOUNT: \$82,394.57
 CO TYPE: NON-PARTICIPATING
 3RD PARTY AMOUNT: \$82,394.57
 APPRV LEVEL: OVERRIDE

HIGHWAY:
 DISTRICT:
 COUNTY:
 AREA ENGINEER:
 AREA NUMBER:
 DESCRIPTION:
 REASON:
 SECONDARY REASON(S):

FM 1171
 18
 DENTON
 NANCY CLINE, P.E.
 056

Functions:

☒ Extra Work	☐ Force Account
☐ Zero Dollar	☐ Final Quantity
☐ Overrun/Underrun	☐ Change Project Limits
☐ Time Adjustment	☐ Delete/Add CSJ
☐ Stock Account	

Modifications due to Trailwood Development
 4D - 4D-3RD PARTY ACCOMMODATION - OTHER

DESCRIBE THE REASON FOR THE CHANGE ORDER AND WHAT IS BEING CHANGED. WHEN NECESSARY, INCLUDE EXCEPTIONS TO THIS AGREEMENT:

Change Order Work Limits: Station 283+00 to 316+00

Explanation: This change order provides a method of payment for modifications requested by the Town of Flower Mound due to the Trailwood Estates development. Modifications include the following:

median opening added at sta 301+00
 relocation of inlet DD1 sta 289+63 to accommodate a future driveway
 Culvert E realignment to the into proposed development drainage

Verbal approval was given by Duane Milligan, P.E., on

Third Party Participation: \$82,394.57 + \$8,807.98 (Direct Cost) + \$5,256.77 (Indirect Cost) = \$96,459.32.

New/Revised sheet(s) : 27A; 28A; 34A; 35A; 36A; 729A;

ADDITIONAL TIME NOT NEEDED

"By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses, additional charges for time, overhead and profit, or loss of compensation as a result of this change and that this agreement is made in accordance item 4 and the Contract. Exceptions should be noted in explanation above."

THE CONTRACTOR

BY: _____ DATE _____

TYPED/PRINTED NAME: _____ DATE _____

TYPED/PRINTED TITLE: _____ DATE _____

AREA ENGINEER: _____ DATE _____

AREA ENGINEER'S SEAL: _____ DATE _____

DISTRICT ENGINEER: _____ DATE _____

DIRECTOR, CONSTRUCTION DIVISION: _____ DATE _____

DEPUTY EXECUTIVE DIRECTOR: _____ DATE _____

FHWA: _____ DATE _____

CONTRACT ID 131101034

CHANGE ORDER NBR.

19

Page 3 of 5

CONTRACT ITEMS

PROJECT NBR 131101034

(C 1311-1-34 NOT ELIGIBLE FOR FEDERAL PARTICIPATION)

CATG NBR	LINE ITEM	SP CODE	DESCRIPTION	UNIT	UNIT PRICE	ORIG + PREV REV QTY	QTY THIS CO	NEW QTY	AMOUNT THIS CO
001	2001	01042021	REMOVING CONC (CURB) CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	LF	3.17000	0.000	38.300	38.300	\$121.41
001	2002	02802000	LIME TRT (EXST MATL)(10') CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	SY	3.30000	0.000	539.600	539.600	\$1,790.68
001	2003	02802002	LIME (HYDRATED LIME (SLURRY)) CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	TON	172.71000	0.000	12.800	12.800	\$2,227.96
001	2004	32802008	D-GR HMA TV-B PG04-22 CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	TON	53.50000	0.000	131.300	131.300	\$7,024.55
001	2005	32672014	D-GR HMA(SQ) TV-B PG70-22 CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	TON	68.00000	0.000	37.000	37.000	\$2,553.00
001	2006	32672050	D-GR HMA(SQ) TV-C PG70-22 CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	TON	64.00000	0.000	12.000	12.000	\$768.00
001	2007	03602001	CONC PVMT (CONT REINF-CRCP)(6") CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	SY	38.10000	0.000	601.000	601.000	\$22,898.10
001	2008	05362002	CONC MEDIAN CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	SY	44.78000	0.000	202.000	202.000	\$9,045.56
001	2012	04662020	WINGWALL (FW-Q)(HMA-4 FT) CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development CO#19 Modifications due to Trailwood Development	EA	2,050.00000	0.000	1.000	1.000	\$2,050.00
001	2014	08682036	REEL PAV MARK TY 1 (W) 6" (SLDK100ML) CO#19 Modifications due to Trailwood Development	LF	0.90000	0.000	343.000	343.000	\$308.70

\$82,394.57

CONTRACT ID 131101034

FUNDING SOURCES

1. Work Program: RTR121

Work Category: 3

Amount: \$82,394.57

CHANGE ORDER NBR. 19



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: November 7, 2016

FROM: Kenneth Parr, Director of Public Works

ITEM: Consider approval of Amendment No. 2 to the Fiscal Year 2016-2017 Capital Improvement Program.

BACKGROUND INFORMATION: The Fiscal Year (FY) 2016-2017 Capital Improvement Program (CIP) Amendment No. 1 was approved by Town Council on October 3, 2016. Amendment No. 2 is proposed to add funding to the General Fund and Utility Fund budgets. The proposed CIP Amendment No. 2 for FY 2016-2017 would increase the currently adopted General Fund budgeted expenditures from \$31,752,785, to \$32,952,785 and the Utility Fund budgeted expenditures will increase from \$17,115,000 to \$17,150,000.

FISCAL IMPACT:

Proposed CIP:

FY 2016-2017:	General Capital Projects	\$32,952,785
	Utility Capital Projects	\$17,150,000

Five-Year CIP Plan:	General Capital Projects	\$196,377,948
	Utility Capital Projects	\$154,775,190

Proposed Funding: Upon approval of this item, transfers will be required to adjust the project funding as shown on the attached FY 2016-2017 CIP Amendment No. 2 Changes.

Finance Review by: Debra Wallace, Deputy Town Manager/CFO *DW*

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Project Modification Listing
2. CIP Amendment 2 Changes
3. CIP Amendment 2

RECOMMENDATION: Move to approve Amendment No. 2 to the Fiscal Year 2016-2017 Capital Improvement Program.

Project Modification Listing
CIP Amendment 2

Street Reconstruction

- McKamy Creek Rd. Recon; Increase budget by \$300,000.00 of Street Maintenance - Dedicated Sales Tax

Facilities

- Land; Add project to Purchase property at Old Settlers and Peters Colony, west of the Library
- Town Hall; correct funding to reflect Debt Sales, backed by the TIRZ fund
- Library Expansion; combine project funding into one fiscal year and reduce funding for purchase the adjacent property, and expand title from Library, to Library Expansion

Parks

- Heritage Park of Flower Mound Phase III; budget correction to match the CDC board's approved amount.

Water

- Stonehill Pump Station Discharge Valve Replacement; add a newly identified valve for replacement, increasing the budget by \$60,000.00, of Project Savings

Stormwater

- Bakers Branch Stabilization at 621 Somerset; add new project due to a wastewater line close to being exposed, due to creek bank erosion, budget \$45,000
- Creek Bank Stabilization at 3100 River Hill Court; Quote came in lower, reduce budget to \$20,000
- Timber Creek Stabilization at Timber Creek Rd; push this project out due to the higher priority of the new Bakers Branch Stabilization at 621 Somerset project

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

STREET PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026						2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Aberdeen Drive Phase I (2 Lanes FM 2499 to Lake Forest) **	\$ -	\$ 1,650,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,650,000	\$ 1,000,000	0,2,5	\$ -	\$ -	\$ 650,000	\$ 650,000	\$ -	\$ -	\$ -	\$ -
Aberdeen Drive Phase II (2 additional Lanes FM 2499 to 700 ft. North of Spinks) **	-	-	-	-	-	2,463,000	-	2,463,000	1,063,000	0,2,5	-	-	1,400,000	-	-	-	1,400,000	-
ADA Transition Plan and Implementation **	363,000	170,000	465,000	150,000	150,000	150,000	-	1,448,000	3,000	2,5	360,000	-	1,085,000	170,000	465,000	150,000	150,000	150,000
Churchill Drive (FM 2499 to Yucca) **	525,000	-	400,000	-	-	-	-	925,000	925,000	0,2,7	-	-	-	-	-	-	-	-
Cowboy Lane **	-	-	-	-	-	-	433,337	433,337	193,337	3	-	-	240,000	-	-	-	-	240,000
Denton Creek Boulevard Bridge (Graham Branch crossing)	80,000	-	-	6,920,000	-	-	-	7,000,000	7,000,000	0,1,5	-	-	-	-	-	-	-	-
Firewheel Drive (complete 4 lane gap, to 340 feet north of Garden Rd) **	-	500,000	-	-	-	-	-	500,000	500,000	0	-	-	-	-	-	-	-	-
FM 1171	413,665	-	-	-	-	-	-	413,665	207,401	0,1,2	206,264	*	-	-	-	-	-	-
FM 1171 at FM 2499 Eastbound Right Turn Lane **	100,000	785,000	-	-	-	-	-	885,000	785,000	7	100,000	-	-	-	-	-	-	-
FM 1171 at FM 2499 Westbound Right Turn Lane **	-	998,000	-	-	-	-	-	998,000	998,000	7	-	-	-	-	-	-	-	-
FM 2499 at Lakeside North Right Turn Lane **	-	-	300,000	-	-	-	-	300,000	-	2,5	-	-	300,000	-	300,000	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	8,599,844	-	-	-	-	-	-	8,599,844	7,399,844	1,2	1,200,000	-	-	-	-	-	-	-
FM 407 (TxDot)	177,889	-	-	-	-	-	-	177,889	177,889	1,2	-	-	-	-	-	-	-	-
Garden Ridge Through Lane (at FM 3040)	-	-	-	-	400,000	-	-	400,000	200,000	0,2	-	-	200,000	-	-	200,000	-	-
I 35W Interchange at Denton Creek	-	-	-	-	-	-	5,000,000	5,000,000	5,000,000	0,1,5	-	-	-	-	-	-	-	-
Impact Fee Update	-	-	-	-	120,000	-	-	120,000	120,000	0	-	-	-	-	-	-	-	-
Kirkpatrick Lane Phase III (South of FM 1171)	-	-	-	-	-	-	8,718,000	8,718,000	6,036,000	0,1,2,3,5	-	-	2,682,000	-	-	-	-	2,682,000
Lake Forest Boulevard Bridge	-	200,000	1,800,000	-	-	-	-	2,000,000	600,000	0,2	-	-	1,400,000	-	1,400,000	-	-	-
Lakeside Dual Left turn Lane at Gerault **	-	-	-	140,250	-	-	-	140,250	100,250	0,2,5	-	-	40,000	-	-	40,000	-	-
Lakeside Eastbound Right Turn Lane at Home Depot **	-	250,000	-	-	-	-	-	250,000	-	2,5	-	-	250,000	250,000	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	7,232,000	7,232,000	732,000	0,2	-	-	6,500,000	-	-	-	-	6,500,000
McKamy Creek Turn Lane at Flower Mound Rd **	350,000	-	-	-	-	-	-	350,000	-	0,2	350,000	-	-	-	-	-	-	-
Morriss/Gerault Improvement Phase II (FM 407 - 3040)	-	-	-	-	4,851,480	-	-	4,851,480	4,851,480	0,5	-	-	-	-	-	-	-	-
Neighborhood Traffic Management	125,000	-	-	-	-	-	-	125,000	125,000	2,4	-	-	-	-	-	-	-	-
Roadway Amenities	95,000	90,000	90,000	90,000	90,000	90,000	-	545,000	80,000	2	15,000	-	450,000	90,000	90,000	90,000	90,000	-
Sagebrush Improvements (FM2499 to Old Settlers) **	3,670,000	21,674	-	-	-	-	-	3,691,674	541,674	0,2,3	3,150,000	-	-	-	-	-	-	-
Sidewalk Links **	661,000	-	-	-	-	-	-	661,000	661,000	2,4	-	-	-	-	-	-	-	-
Skillern Road (Flower Mound Rd to Riverhill) **	-	-	880,000	-	-	-	-	880,000	-	2	-	-	880,000	-	880,000	-	-	-
SPA 2 Connector (Bob White)	260,000	-	-	-	-	-	-	260,000	85,000	2	175,000	-	-	-	-	-	-	-
Stonecrest Road (500 ft. North of Canyon Falls Dr. to Town Limit) **	850,000	200,000	-	-	-	-	-	1,050,000	150,000	2,5	700,000	-	200,000	200,000	-	-	-	-
Timber Creek Road (Kirkpatrick to Glen Hollow) **	780,000	-	-	-	-	-	-	780,000	780,000	0,2	-	-	-	-	-	-	-	-
Waketon Road **	600,000	5,270,000	-	-	-	-	-	5,870,000	5,270,000	2,3,5,7	-	-	600,000	600,000	-	-	-	-

SUBTOTAL	\$ 17,650,398	\$ 10,134,674	\$ 3,935,000	\$ 7,300,250	\$ 5,611,480	\$ 2,703,000	\$ 21,383,337	\$ 68,718,139	\$ 45,584,875		\$ 6,256,264	\$ -	\$ 16,877,000	\$ 1,960,000	\$ 3,135,000	\$ 280,000	\$ 440,000	\$ 1,640,000	\$ 9,422,000
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*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
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SIGNAL PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT	DEBT SCHEDULE						
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026									2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026	
College Parkway at Timber Creek	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 215,000	215,000	\$ 215,000	0,2,4	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand at Kenwood	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Bruton Orand at Quail Run	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
FM 1171 at Kirkpatrick - Reconstruction	340,000	-	-	-	-	-	-	340,000	120,000	2,4	220,000		-		-		-	-	-	-	-	-
FM 1171 at Timber Creek - Reconstruction	290,000	-	-	-	-	-	-	290,000	70,000	2	220,000		-		-		-	-	-	-	-	-
FM 2499 at College Parkway	230,000	-	-	-	-	-	-	230,000	230,000	0,2,7	-		-		-		-	-	-	-	-	-
FM 2499 at Silveron	-	240,000	-	-	-	-	-	240,000	240,000	0,2	-		-		-		-	-	-	-	-	-
FM 407 at Browning	25,000	-	-	-	-	-	-	25,000	25,000	2,4	-		-		-		-	-	-	-	-	-
Garden Ridge at Forest Vista	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Garden Ridge at Kirkpatrick	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Lakeside at Silveron	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4,5	-		-		-		-	-	-	-	-	-
Morriss at Eaton	-	-	-	215,000	-	-	-	215,000	215,000	2,4	-		-		-		-	-	-	-	-	-
Peters Colony at Churchill	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Traffic Detection Rehabilitation	250,000	125,000	125,000	125,000	125,000	125,000	-	875,000	-	2	250,000		-		625,000		125,000	125,000	125,000	125,000	125,000	-
Traffic Signal Rehabilitation	-	-	-	-	-	-	500,000	500,000	-	2	-		-		500,000		-	-	-	-	-	500,000
U.S 377 at Canyon Falls Drive	-	25,000	225,000	-	-	-	-	250,000	250,000	0,2,4	-		-		-		-	-	-	-	-	-
SUBTOTAL								\$ 4,470,000	\$ 2,655,000		\$ 690,000		\$ -		\$ 1,125,000		\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ 500,000

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
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5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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STREET RECONSTRUCTION PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's	NEW DEBT		DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026									2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Canterbury Drive Reconstruction (Churchill to Dover) **	\$ 75,000	\$ 275,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 350,000	\$ 350,000	8	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Colonial Drive Reconstruction Phase II (Colony Street to Homestead Street) **	750,000	-	-	-	-	-	-	750,000	750,000	8	-		-	-	-	-	-	-	-	-	-
Flower Mound Road Reconstruction Phase II (Old Settlers to Bruton Orand) **	-	-	-	-	-	-	2,344,000	2,344,000	2,344,000	8	-		-	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase I (Lake Shore to FM 2499) **	3,400,000	-	-	-	-	-	-	3,400,000	3,400,000	8	-		-	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase II (Morriess to Upton Vista) **	-	-	-	-	3,000,000	-	-	3,000,000	3,000,000	8	-		-	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase III (Upton Vista to Lake Shore) **	-	-	-	-	-	2,000,000	-	2,000,000	2,000,000	8	-		-	-	-	-	-	-	-	-	-
Lopo Road Reconstruction (River oak to 330-ft west of Garden Ridge) **	-	-	600,000	-	-	-	-	600,000	600,000	8	-		-	-	-	-	-	-	-	-	-
McKamy Creek Road Reconstruction (Flower Mound Rd. to Woodhill Dr.) **	238,000	862,000	-	-	-	-	-	1,100,000	1,100,000	8	-		-	-	-	-	-	-	-	-	-
McKamy Creek Road Reconstruction (Flower Mound Rd. to Woodhill Dr.) **	238,000	1,162,000	-	-	-	-	-	1,400,000	1,400,000	8	-		-	-	-	-	-	-	-	-	-
Morriess Road Reconstruction Phase I (FM 3040 to Forest Vista Drive) **	-	-	-	-	-	-	2,800,000	2,800,000	2,800,000	8	-		-	-	-	-	-	-	-	-	-
Morriess Road Reconstruction Phase II (Forest Vista Drive to Firewheel) **	-	-	-	-	-	-	2,162,000	2,162,000	2,162,000	8	-		-	-	-	-	-	-	-	-	-
Old Long Prairie Road Reconstruction **	1,100,000	-	-	-	-	-	-	1,100,000	1,100,000	8	-		-	-	-	-	-	-	-	-	-
Sheffield Court Reconstruction (Amhearst to end of Cul-de-Sac) **	325,000	-	-	-	-	-	-	325,000	325,000	8	-		-	-	-	-	-	-	-	-	-
Superior Place Reconstruction (Colonial to 1545 Superior Pl) **	100,000	525,000	-	-	-	-	-	625,000	625,000	8	-		-	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase II (Timber Creek Bridge to Eaton) **	-	-	1,400,000	2,200,000	-	-	-	3,600,000	3,600,000	8	-		-	-	-	-	-	-	-	-	-
West Windsor and Mulberry Connection **	100,000	-	-	-	-	-	-	100,000	100,000	8	-		-	-	-	-	-	-	-	-	-
Woodbine Street Reconstruction (Timber Creek to Hieden Ct.) **	765,000	585,000	-	-	-	-	-	1,350,000	1,350,000	8	-		-	-	-	-	-	-	-	-	-
Wood Creek Circle Reconstruction (Wood Creek Dr to end of Cul-de-Sac) **	-	-	-	400,000	-	-	-	400,000	400,000	8	-		-	-	-	-	-	-	-	-	-
Yucca Drive Reconstruction (Sagebrush to 700 ft South of FM 1171) **	95,000	1,205,000	-	-	-	-	-	1,300,000	1,300,000	8	-		-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 6,948,000	\$ 3,452,000	\$ 2,000,000	\$ 2,600,000	\$ 3,000,000	\$ 2,000,000	\$ 7,306,000	\$ 27,306,000	\$ 27,306,000		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SUBTOTAL	\$ 6,948,000	\$ 3,752,000	\$ 2,000,000	\$ 2,600,000	\$ 3,000,000	\$ 2,000,000	\$ 7,306,000	\$ 27,606,000	\$ 27,606,000		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
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4. Decision Package
5. Developer Agreement(s)
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7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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FACILITY PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026									2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Cultural Arts Center **	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	7	\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fire and Police Training Center	-	-	-	-	-	-	2,235,000	2,235,000	-	2	-		-		2,235,000	-	-	-	-	-	2,235,000
Fire Station No. 1 Facility Upgrades **	-	1,223,375	-	-	-	-	-	1,223,375	243,375	2,4	-		-		980,000	980,000	-	-	-	-	-
Fire Station No. 6 and Apparatus (West Flower Mound) **	-	-	-	300,000	6,500,000	-	-	6,800,000	-	2	-		-		6,800,000	-	-	300,000	6,500,000	-	-
Fire Station No. 7 and Apparatus (Wichita Trail) **	-	-	300,000	5,050,000	-	-	-	5,350,000	-	2	-		-		5,350,000	-	300,000	5,050,000	-	-	-
Land (Old Settlers and Peters Colony)	-	1,100,000	-	-	-	-	-	1,100,000		2	-		-		1,100,000	1,100,000	-	-	-	-	-
Library **	-	-	1,900,000	10,000,000	-	-	-	11,900,000	10,900,000	2,7	-		-		1,000,000	-	1,000,000	-	-	-	-
Library Expansion **	-	-	10,900,000	-	-	-	-	10,900,000	10,900,000	2,7	-		-		-	-	-	-	-	-	-
Mechanical Screen Wall (Police Dept.)	90,000	-	-	-	-	-	-	90,000	90,000	1,2	-		-		-	-	-	-	-	-	-
Police and Courts Facility Upgrades **	560,000	2,771,000	-	-	-	-	-	3,331,000	1,571,000	2,4	-		-		1,760,000	1,760,000	-	-	-	-	-
Senior Center **	5,998,000	-	-	-	-	-	-	5,998,000	5,998,000	2,7,3	-		-		-	-	-	-	-	-	-
Town Hall **	-	10,000,000	5,000,000	-	-	-	-	15,000,000	10,000,000	2,7	-		-		5,000,000		5,000,000	-	-	-	-
Town Hall **	-	10,000,000	5,000,000	-	-	-	-	15,000,000		2,7	-		-		15,000,000	10,000,000	5,000,000	-	-	-	-
Western Operations and Maintenance Facility (Temporaty FS #6)**	600,000	-	-	-	-	-	-	600,000	600,000	2,4	-		-		-	-	-	-	-	-	-
SUBTOTAL	\$ 7,248,000	\$ 13,994,375	\$ 7,200,000	\$ 15,350,000	\$ 6,500,000	\$ -	\$ 12,235,000	\$ 62,527,375	\$ 39,402,375		\$ -		\$ -		\$ 23,125,000	\$ 2,740,000	\$ 6,300,000	\$ 5,350,000	\$ 6,500,000	\$ -	\$ 2,235,000
SUBTOTAL	\$ 7,248,000	\$ 15,094,375	\$ 16,200,000	\$ 5,350,000	\$ 6,500,000	\$ -	\$ 12,235,000	\$ 62,627,375	\$ 29,402,375		\$ -		\$ -		\$ 33,225,000	\$ 13,840,000	\$ 5,300,000	\$ 5,350,000	\$ 6,500,000	\$ -	\$ 2,235,000

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
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TOWN OF FLOWER MOUND
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PARK PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026										2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
2015-16 Playground Replacements (Staton Oak, & Timber Creek parks) **	\$ 400,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400,000	\$ 400,000	8	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2017-18 Playground Replacements(Bluebonnet, Gaston, Glenwick, Grove, Oak, & Spring Meadow parks) **	-	-	1,200,000	-	-	-	-	1,200,000	1,200,000	8	-		-		-		-	-	-	-	-	-
2019-20 Playground Replacements (Lakewood, Pecan Orchard, Stone Creek, Thrush West, & Gerault parks)	-	-	-	-	1,000,000	-	-	1,000,000	1,000,000	8	-		-		-		-	-	-	-	-	-
2020-21 Playground Replacements (Grand, Peacock, & Chinn Chapel parks) **	-	-	-	-	-	600,000	-	600,000	600,000	8	-		-		-		-	-	-	-	-	-
2022-23 Playground Replacements (Cortadera, Wilkerson, & Possum parks) **	-	-	-	-	-	-	600,000	600,000	600,000	8	-		-		-		-	-	-	-	-	-
2023-24 Playground Replacements (Northshore, Jakes Hilltop, & Rustic Timbers parks) **	-	-	-	-	-	-	600,000	600,000	600,000	8	-		-		-		-	-	-	-	-	-
2024-25 Playground Replacements (Thrush East, & Westchester parks) **	-	-	-	-	-	-	400,000	400,000	400,000	8	-		-		-		-	-	-	-	-	-
Bluebonnet Trail Connections **	-	-	-	-	-	1,000,000	-	1,000,000	1,000,000	8	-		-		-		-	-	-	-	-	-
Bakersfield Park Restroom	-	-	400,000	-	-	-	-	400,000	400,000	8	-		-		-		-	-	-	-	-	-
Coumunity Activity Center Improvements	-	257,000	-	-	-	-	-	257,000	-	2	-		-		257,000		257,000	-	-	-	-	-
Cortadera Park Pond	145,000	-	-	-	-	-	-	145,000	145,000	8	-		-		-		-	-	-	-	-	-
Equestrian Trail Head	-	-	-	-	-	-	400,000	400,000	400,000	8	-		-		-		-	-	-	-	-	-
Equestrian Trails	-	-	-	-	-	-	500,000	500,000	500,000	8	-		-		-		-	-	-	-	-	-
Green Acres Memorial Farm	-	-	-	-	-	-	2,200,000	2,200,000	2,200,000	8	-		-		-		-	-	-	-	-	-
Heritage Park of Flower Mound Phase II	2,590,000	-	-	-	-	-	-	2,590,000	2,590,000	8,6	-		-		-		-	-	-	-	-	-
Heritage Park of Flower Mound Phase III	200,000	1,324,736	-	-	-	-	-	1,524,736	1,524,736	8	-		-		-		-	-	-	-	-	-
Heritage Park of Flower Mound Phase III	200,000	1,124,736	-	-	-	-	-	1,324,736	1,324,736	8	-		-		-		-	-	-	-	-	-
Heritage Park of Flower Mound Phase IV	-	2,000,000	-	-	-	-	-	2,000,000	2,000,000	8	-		-		-		-	-	-	-	-	-
Indian Blanket Trail Connections	-	-	-	-	-	-	2,000,000	2,000,000	2,000,000	8	-		-		-		-	-	-	-	-	-
Individual Park Improvements	1,110,000	50,000	-	-	-	-	-	1,160,000	1,160,000	8	-		-		-		-	-	-	-	-	-
Log Cabin Property Purchase	454,098	-	-	-	-	-	-	454,098	454,098	2	-		-		-		-	-	-	-	-	-
Park and Trail Amenities	410,000	50,000	50,000	50,000	50,000	50,000	-	660,000	660,000	2,6,8	-		-		-		-	-	-	-	-	-
Park and Trails Master Plan	200,000	-	-	-	-	-	-	200,000	200,000	2,6	-		-		-		-	-	-	-	-	-
Pink Evening Primrose Trails (Section 1 & 3)	800,000	-	-	-	-	-	-	800,000	800,000	2,6	-		-		-		-	-	-	-	-	-
Pink Evening Primrose Trail Connections	-	-	-	-	600,000	-	-	600,000	600,000	2,6	-		-		-		-	-	-	-	-	-
Purple Coneflower Trail Connections	-	-	-	-	-	-	150,000	150,000	150,000	8	-		-		-		-	-	-	-	-	-
Rheudasil Park Amenities	200,000	-	-	965,600	-	-	-	1,165,600	1,165,600	2,8	-		-		-		-	-	-	-	-	-
Rheudasil & Wilkerson Parks Pond Dredging and Bank Stabilization	3,300,000	-	-	-	-	-	-	3,300,000	1,250,000	8	2,050,000		-		-		-	-	-	-	-	-
Tennis Center	-	-	-	-	2,000,000	-	-	2,000,000	2,000,000	8	-		-		-		-	-	-	-	-	-
Texas Yellow Star Trail Connections	-	-	-	-	-	-	850,000	850,000	850,000	8	-		-		-		-	-	-	-	-	-
Twin Coves Park - Improvements	3,800,000	100,000	-	-	-	-	-	3,900,000	800,000	2,8	3,100,000		-		-		-	-	-	-	-	-
White Lazy Daisy Trail Connections	-	-	-	-	-	-	100,000	100,000	100,000	8	-		-		-		-	-	-	-	-	-
SUBTOTAL	\$ 13,609,098	\$ 3,781,736	\$ 1,650,000	\$ 1,015,600	\$ 3,650,000	\$ 1,650,000	\$ 7,800,000	\$ 33,156,434	\$ 27,749,434		\$ 5,150,000	\$ -	\$ 257,000	\$ 257,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SUBTOTAL	\$ 13,609,098	\$ 3,581,736	\$ 1,650,000	\$ 1,015,600	\$ 3,650,000	\$ 1,650,000	\$ 7,800,000	\$ 32,956,434	\$ 27,549,434		\$ 5,150,000	\$ -	\$ 257,000	\$ 257,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
		(200,000)						(200,000)														
GRAND TOTAL GENERAL FUND	\$ 46,590,496	\$ 31,752,785	\$ 15,135,000	\$ 26,605,850	\$ 18,886,480	\$ 6,478,000	\$ 50,729,337	\$ 196,177,948	\$ 142,697,684		\$ 12,096,264	\$ -	\$ 41,384,000	\$ 5,082,000	\$ 9,560,000	\$ 5,755,000	\$ 7,065,000	\$ 1,765,000	\$ 12,157,000			
GRAND TOTAL GENERAL FUND	\$ 46,590,496	\$ 32,952,785	\$ 24,135,000	\$ 16,605,850	\$ 18,886,480	\$ 6,478,000	\$ 50,729,337	\$ 196,377,948	\$ 132,797,684		\$ 12,096,264	\$ -	\$ 51,484,000	\$ 16,182,000	\$ 8,560,000	\$ 5,755,000	\$ 7,065,000	\$ 1,765,000	\$ 12,157,000			

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)

3. Escrow

4. Decision Package

5. Developer Agreement(s)

6. Park Development Fund

7. Tax Increment Reinvestment Zone (TIRZ)

8. Dedicated Sales Tax

9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

WATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026							2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Aberdeen Water Line (FM 2499 to Lake Forest)	\$ -	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000	\$ 190,000	0,2	\$ -	\$ -	\$ 110,000	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -
Branchwood Water Line (Russwood Dr to FM407)	300,000	-	-	-	-	-	-	300,000	250,000	0,2	50,000	-	-	-	-	-	-	-	-
Bruton Orand Elevated Storage Tank Rehabilitation	180,000	1,700,000	-	-	-	-	-	1,880,000	80,000	2	100,000	-	1,700,000	1,700,000	-	-	-	-	-
Canyon Falls 20-Inch Water Line	1,250,000	750,000	660,000	-	-	-	-	2,660,000	400,000	0,2	1,050,000	-	1,210,000	650,000	560,000	-	-	-	-
Cowboy Lane Water Line	-	-	-	-	-	-	670,000	670,000	140,000	0,3	-	-	530,000	-	-	-	-	-	530,000
Denton Creek Boulevard 12-Inch Water Line	-	-	1,100,000	-	-	-	-	1,100,000	620,000	0,5	-	-	480,000	-	480,000	-	-	-	-
Denton Creek District - Reuse Water Master Plan	100,000	-	-	-	-	-	-	100,000	100,000	0,2	-	-	-	-	-	-	-	-	-
Denton Creek Spine Road 12-inch Water Line	-	-	-	-	-	-	2,550,000	2,550,000	127,500	0,2	-	-	2,422,500	-	-	-	-	-	2,422,500
Denton Creek District - Reuse Waterlines	400,000	250,000	250,000	250,000	-	-	-	1,150,000	1,150,000	0,2	-	-	-	-	-	-	-	-	-
FM 1171 to Hwy. 377 Water Line Phase II	-	-	-	-	-	-	5,880,000	5,880,000	290,000	0,2	-	-	5,590,000	-	-	-	-	-	5,590,000
FM 1171 12-inch Water Line (Karnes Rd. to Churchill Dr.)	-	-	-	-	-	-	210,000	210,000	210,000	0,2	-	-	-	-	-	-	-	-	-
FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171)	-	-	2,900,000	-	-	-	-	2,900,000	2,300,000	0,2,7	-	-	600,000	-	600,000	-	-	-	-
FM 2499 12-inch Water Line Phase III	1,140,000	-	-	-	-	-	-	1,140,000	400,000	0,2,5	740,000	-	-	-	-	-	-	-	-
FM2499/FM3040 24-Inch Water Line Crossing Replacement	550,000	-	-	-	-	-	-	550,000	550,000	2	-	-	-	-	-	-	-	-	-
Garden Ridge Blvd. Ph. II Water Line	-	-	-	-	790,000	-	-	790,000	390,000	0,2	-	-	400,000	-	-	-	400,000	-	-
High Road Water Line Replacement Phase I	-	3,100,000	-	-	-	-	-	3,100,000	-	2	-	-	3,100,000	3,100,000	-	-	-	-	-
High Road Water Line Replacement Phase II	-	-	2,600,000	-	-	-	-	2,600,000	-	-	-	-	2,600,000	-	2,600,000	-	-	-	-
Highway 377/UPRR Water Line Phase II	137,620	-	-	-	-	-	2,310,000	2,447,620	87,620	0,2	50,000	-	2,310,000	-	-	-	-	-	2,310,000
Impact Fee Update	-	-	-	-	80,000	-	-	80,000	80,000	0,2	-	-	-	-	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase II (Valley Ridge - 1171)	35,000	-	1,270,000	-	-	-	-	1,305,000	305,000	0,2	-	-	1,000,000	-	1,000,000	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase III (South of FM1171)	-	-	-	-	-	-	320,000	320,000	320,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Bridge Gap)	-	50,000	320,000	-	-	-	-	370,000	370,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Spinks to Lakeside)	280,000	-	-	-	-	-	-	280,000	280,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (FM 3040 to Spinks)	-	-	-	-	-	-	1,380,000	1,380,000	500,000	0,2	-	-	880,000	-	-	-	-	-	880,000
Long Prairie 12-Inch Water Line	1,360,000	-	-	-	-	-	-	1,360,000	505,000	0,2,5	855,000	-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	3,240,000	3,240,000	240,000	0,2	-	-	3,000,000	-	-	-	-	-	3,000,000
Morriss Road Water Line (FM 407 to FM 1171)	-	-	-	-	-	-	7,120,000	7,120,000	350,000	0,2	-	-	6,770,000	-	-	-	-	-	6,770,000
Morriss Road 12-inch Water Line (Mallard Way to FM 3040)	-	-	-	-	-	-	370,000	370,000	300,000	0,2	-	-	70,000	-	-	-	-	-	70,000
Oak Drive Water Main Replacement	1,910,000	-	-	-	-	-	-	1,910,000	-	2	1,910,000	-	-	-	-	-	-	-	-
Pintail Pump Station Capacity Improvements	1,390,000	-	-	-	-	-	-	1,390,000	1,090,000	2,5	300,000	-	-	-	-	-	-	-	-
Pintail Pump Station (Auxiliary Power & Upgrades)	330,000	270,000	1,500,000	-	-	-	-	2,100,000	330,000	0,2,5	-	-	1,770,000	270,000	1,500,000	-	-	-	-
Pressure Reducing Valves	-	-	-	-	-	-	560,000	560,000	300,000	0,2	-	-	260,000	-	-	-	-	-	260,000
Rippy Road Water line Improvements (FM 2499-Waketon)	-	730,000	-	-	-	-	-	730,000	330,000	0,2	-	-	400,000	400,000	-	-	-	-	-
Scenic Drive Water Line (South of FM 1171 to River Hill Dr.)	-	-	-	-	-	-	1,490,000	1,490,000	490,000	0,2	-	-	1,000,000	-	-	-	-	-	1,000,000
Senior Center - Utilities	315,000	-	-	-	-	-	-	315,000	315,000	2	-	-	-	-	-	-	-	-	-
Shady Point Acres Water Line Replacement	300,000	1,000,000	-	-	-	-	-	1,300,000	-	2	300,000	-	1,000,000	1,000,000	-	-	-	-	-
Stonecrest Pump Station Phase I (Auxiliary Power)	-	-	-	-	2,120,000	-	-	2,120,000	300,000	0,2	-	-	1,820,000	-	-	-	1,820,000	-	-
Stonecrest Pump Station Phase II	-	-	-	-	-	-	5,140,000	5,140,000	250,000	0,2	-	-	4,890,000	-	-	-	-	-	4,890,000
Stonecrest Pump Station Phase III	-	-	-	-	-	-	840,000	840,000	-	2	-	-	840,000	-	-	-	-	-	840,000
Stonehill Pump Station 10MG Ground Storage Tank Modification	50,000	300,000	-	-	-	-	-	350,000	-	1,2	50,000	-	300,000	300,000	-	-	-	-	-
Stonehill 10MG Ground Storage Tank Rehabilitation	40,000	-	-	-	-	-	-	40,000	40,000	2	-	-	-	-	-	-	-	-	-
Stonehill Pump Station Discharge Valve Replacement	-	500,000	-	-	-	-	-	500,000	-	2	-	-	500,000	500,000	-	-	-	-	-
Stonehill Pump Station Discharge Valve Replacement	-	560,000	-	-	-	-	-	560,000	60,000	2	-	-	500,000	500,000	-	-	-	-	-
Timber Creek 20-inch Water Line	-	-	-	-	-	-	370,000	370,000	250,000	2	-	-	120,000	-	-	-	-	-	120,000
Trailwood Terrace 12-inch Water Line	400,000	-	-	-	-	-	-	400,000	400,000	0,2	-	-	-	-	-	-	-	-	-
Twin Coves Park - Improvements (Utilities)	400,000	380,000	-	-	-	-	-	780,000	780,000	2	-	-	-	-	-	-	-	-	-
Utility Asset Management & Utility Replacement	300,000	300,000	300,000	300,000	300,000	300,000	-	1,800,000	-	2	300,000	-	1,500,000	300,000	300,000	300,000	300,000	300,000	-
Water Master Plan	-	-	-	-	150,000	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Water Reuse System Phase I	-	-	-	-	-	-	3,186,000	3,186,000	-	0,2	-	-	3,186,000	-	-	-	-	-	3,186,000
Water Reuse System Phase II	-	-	-	-	-	-	760,000	760,000	-	0,2	-	-	760,000	-	-	-	-	-	760,000
Water Reuse System Phase III	-	-	-	-	-	-	1,100,000	1,100,000	-	0,2	-	-	1,100,000	-	-	-	-	-	1,100,000
Water Reuse System Phase IV	-	-	-	-	-	-	820,000	820,000	820,000	0,2	-	-	-	-	-	-	-	-	-
Water System Leak Detection & Repair	600,000	50,000	50,000	50,000	50,000	50,000	-	850,000	-	2	600,000	-	250,000	50,000	50,000	50,000	50,000	50,000	-
Water System Model Update	130,785	5,000	5,000	5,000	5,000	5,000	-	155,785	155,785	0,2	-	-	-	-	-	-	-	-	-
West Side Water Lines (East)	-	-	-	-	-	-	2,610,000	2,610,000	300,000	0,2	-	-	2,310,000	-	-	-	-	-	2,310,000
West Side Water Lines (South)	-	-	-	-	-	-	3,440,000	3,440,000	350,000	0,2	-	-	3,090,000	-	-	-	-	-	3,090,000
West Side Water Lines (West)	-	-	-	-	-	-	1,390,000	1,390,000	150,000	0,2	-	-	1,240,000	-	-	-	-	-	1,240,000
Western Operations and Maintenance Facility (Temporaty FS #6)	975,000	-	-	-	-	-	-	975,000	975,000	2	-	-	-	-	-	-	-	-	-
Western Operations and Maintenance Facility (Buildout)	-	-	-	-	100,000	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-

SUBTOTAL	\$ 12,873,405	\$ 9,685,000	\$ 10,955,000	\$ 605,000	\$ 3,595,000	\$ 355,000	\$ 45,756,000	\$ 83,824,405	\$ 18,410,905		\$ 6,305,000	\$ -	\$ 59,108,500	\$ 8,380,000	\$ 7,090,000	\$ 350,000	\$ 2,570,000	\$ 350,000	\$ 40,368,500
SUBTOTAL	\$ 12,873,405	\$ 9,745,000	\$ 10,955,000	\$ 605,000	\$ 3,595,000	\$ 355,000	\$ 45,756,000	\$ 83,884,405	\$ 18,470,905		\$ 6,305,000	\$ -	\$ 59,108,500	\$ 8,380,000	\$ 7,090,000	\$ 350,000	\$ 2,570,000	\$ 350,000	\$ 40,368,500

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

2. Other Sources (Proj. Sav., Fund Bal., Interest Inc.)

3. Escrow

4. Decision Package

5. Developer Agreement(s)

6. Park Development Fund

7. Tax Increment Reinvestment Zone (TIRZ)

8. Dedicated Sales Tax

9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

STORMWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026										2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026
Bakers Branch Stabilization at Cedar Bluff (Strait Lane)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000	\$ 150,000	\$ 150,000	2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bakers Branch Stabilization at 1804 Doubletree	-	75,000	-	-	-	-	-	75,000	75,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Bakers Branch Stabilization at 621 Somerset - NEW	-	-	150,000	-	-	-	-	150,000	150,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Bakers Branch Stabilization at 1601 Twilight Drive	127,500	-	-	-	-	-	-	127,500	127,500	2	-	-	-	-	-	-	-	-	-	-	-	-
Creek Bank Stabilization at 3100 River Hill Court	-	45,000	-	-	-	-	-	45,000	45,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
Creek Bank Stabilization at 3100 River Hill Court	-	20,000	-	-	-	-	-	20,000	20,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
Creek Bank Stabilization at 5105 River Hill Drive	-	45,000	-	-	-	-	-	45,000	45,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
East Waketon Road Drainage Improvements	-	50,000	-	-	-	-	-	50,000	50,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	500,000	-	-	-	-	-	-	500,000	500,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
Lusk Lane Drainage Improvements Phase II	20,000	-	-	-	-	-	-	20,000	20,000	2	-	-	-	-	-	-	-	-	-	-	-	-
McKamy Creek Bank Stabilization at 3400 Pheasant Ct	32,500	-	-	-	-	-	-	32,500	32,500	2	-	-	-	-	-	-	-	-	-	-	-	-
Pecan Acres Drainage Improvements	-	-	-	-	150,000	150,000	200,000	500,000	500,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Timber Creek Stabilization at Timber Creek Rd (North & South Bridges)	-	-	100,000	150,000	150,000	-	-	400,000	400,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Timber Creek Stabilization at Timber Creek Rd (North & South Bridges)	-	-	-	100,000	150,000	150,000	-	400,000	400,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Waketon Road Drainage Improvement	-	-	100,000	-	-	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 680,000	\$ 215,000	\$ 200,000	\$ 150,000	\$ 300,000	\$ 150,000	\$ 350,000	\$ 2,045,000	\$ 2,045,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
SUBTOTAL	\$ 680,000	\$ 190,000	\$ 250,000	\$ 100,000	\$ 300,000	\$ 300,000	\$ 350,000	\$ 2,170,000	\$ 2,170,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

(25,000)125,000

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

WASTEWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026							2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Bakers Branch Collector Phase II (Lexington to Gerault)	-	1,700,000	-	-	-	-	-	1,700,000	200,000	0.2	-	-	1,500,000	1,500,000	-	-	-	-	-
Canterbury Lane Sewer Line Replacement	80,000	-	-	-	-	-	-	80,000	80,000	2	-	-	-	-	-	-	-	-	-
Colonial Drive Wastewater Line (Colony St. to Homestead St.)	20,000	-	-	-	-	-	-	20,000	20,000	2	-	-	-	-	-	-	-	-	-
Impact Fee Update	-	-	-	-	80,000	-	-	80,000	80,000	0.2	0	-	-	-	-	-	-	-	-
Inflow-Infiltration/Evaluation and Repair	1,730,000	250,000	250,000	250,000	250,000	250,000	-	2,980,000	130,000	2	1,600,000	-	1,250,000	250,000	250,000	250,000	250,000	250,000	-
Justin Road Lift Station Outfall (Justin Rd. to Cottage Ln.)	-	-	650,000	-	-	-	-	650,000	400,000	0.2	0	-	250,000	-	250,000	-	-	-	-
Lakeside Lift Station and Force Main	3,090,000	-	-	-	-	-	-	3,090,000	2,090,000	0.2,3,5	1,000,000	-	-	-	-	-	-	-	-
Lakeside Lift Station and Force Main Phase II	-	-	-	2,400,000	-	-	-	2,400,000	400,000	0.2,3,5	-	-	2,000,000	-	-	2,000,000	-	-	-
Lift Station Improvements and Decommissioning	375,000	1,400,000	-	-	-	-	-	1,775,000	50,000	2	325,000	-	1,400,000	1,400,000	-	-	-	-	-
Long Prairie Interceptor (North of Woodway Drive)	-	-	-	-	-	-	330,000	330,000	-	0.2	-	-	330,000	-	-	-	-	-	330,000
Lower Timber Interceptor (Teakwood to Pintail Park)	-	-	905,000	-	-	-	-	905,000	-	0.2	-	-	905,000	-	905,000	-	-	-	-
McKamy Creek Road Sewer Line Replacement	185,000	-	-	-	-	-	-	185,000	185,000	2	-	-	-	-	-	-	-	-	-
Oak Street Lift Station and Force Main Phase III	6,225,000	-	-	-	-	-	-	6,225,000	70,000	0.2	6,155,000	-	-	-	-	-	-	-	-
Oak Street Lift Station and Force Main Phase IV	-	-	-	-	3,300,000	-	-	3,300,000	150,000	0.2	-	-	3,150,000	-	-	-	3,150,000	-	-
Oak Street Lift Station and Force Main Phase V	-	-	-	-	-	-	2,500,000	2,500,000	-	0.2	-	-	2,500,000	-	-	-	-	-	2,500,000
Riverwalk Collector (Morriess Rd. to Windsor Dr.)	-	-	-	-	-	-	430,000	430,000	230,000	0.2	-	-	200,000	-	-	-	-	-	200,000
Southside Force Main Extension	-	-	-	-	-	-	1,710,000	1,710,000	710,000	0.2	-	-	1,000,000	-	-	-	-	-	1,000,000
Southside Gravity Improvements	-	-	-	-	-	-	2,970,000	2,970,000	600,000	0.2,3,5	-	-	2,370,000	-	-	-	-	-	2,370,000
Southside Pump Upgrade	-	-	-	-	-	-	780,000	780,000	400,000	0.2	-	-	380,000	-	-	-	-	-	380,000
Upper Timber Creek Interceptor (South of College Pkw.)	-	-	-	-	-	-	300,000	300,000	-	0.2	-	-	300,000	-	-	-	-	-	300,000
Upper Timber Creek Interceptor Phase III (FM 1171 to Hidden Forest Drive)	410,000	2,100,000	-	-	-	-	-	2,510,000	410,000	0.2	-	-	2,100,000	2,100,000	-	-	-	-	-
Upper Timber Creek Interceptor Phase IV (Hidden Forest Drive to Oak Street Lift Station)	-	350,000	2,400,000	-	-	-	-	2,750,000	-	2	-	-	2,750,000	350,000	2,400,000	-	-	-	-
Wastewater Master Plan	-	-	-	-	50,000	-	-	50,000	50,000	0.2	-	-	-	-	-	-	-	-	-
Wastewater System Model Update	200,785	5,000	5,000	5,000	5,000	5,000	-	225,785	225,785	0.2	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Auxiliary Power	620,000	-	-	-	-	-	-	620,000	-	0.2	620,000	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Capacity Study	-	-	75,000	-	-	-	-	75,000	75,000	0.2	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Expansion	-	-	-	-	-	-	150,000	150,000	150,000	0.2	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Final Clarification Rehabilitation	670,000	110,000	-	-	-	-	-	780,000	430,000	2	350,000	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase IV (Dewatering, B&L)	5,540,000	-	-	-	-	-	-	5,540,000	780,000	2	4,760,000	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening)	-	800,000	6,000,000	-	-	-	-	6,800,000	-	2	-	-	6,800,000	800,000	6,000,000	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase VI (Thermal Drying)	-	-	-	-	-	-	13,000,000	13,000,000	-	2	-	-	13,000,000	-	-	-	-	-	13,000,000
Wastewater Treatment Plant Rehabilitation Phase VII (Phosphorus Removal)	-	-	-	-	-	-	1,000,000	1,000,000	-	2	-	-	1,000,000	-	-	-	-	-	1,000,000
Wellington Interceptor Phase IV Section I (Vail Lane to Oak Street Lift Station)	-	-	-	400,000	-	-	-	400,000	95,000	0.2	-	-	305,000	-	-	305,000	-	-	-
Wellington Interceptor Phase V (Ridgemere Dr. to Woodway Dr.)	-	-	-	-	-	-	720,000	720,000	-	0.2	-	-	720,000	-	-	-	-	-	720,000
Wellington Interceptor (Fieldcrest Rd. to FM 3040)	-	-	-	-	-	-	410,000	410,000	-	0.2	-	-	410,000	-	-	-	-	-	410,000
Wichita Trail Lift Station Improvements	-	-	-	-	-	-	780,000	780,000	-	0.2	-	-	780,000	-	-	-	-	-	780,000
Woodbine Street Sewer Line	-	500,000	-	-	-	-	-	500,000	200,000	2	-	-	300,000	300,000	-	-	-	-	-
SUBTOTAL	\$ 19,145,785	\$ 7,215,000	\$ 10,285,000	\$ 3,055,000	\$ 3,685,000	\$ 255,000	\$ 25,080,000	\$ 68,720,785	\$ 8,210,785		\$ 14,810,000	\$ -	\$ 45,700,000	\$ 6,700,000	\$ 9,805,000	\$ 2,555,000	\$ 3,400,000	\$ 250,000	\$ 22,990,000
GRAND TOTAL UTILITY FUND	\$ 32,699,190	\$ 17,115,000	\$ 21,440,000	\$ 3,810,000	\$ 7,580,000	\$ 760,000	\$ 71,186,000	\$ 154,590,190	\$ 28,666,690		\$ 21,115,000	\$ -	\$ 104,808,500	\$ 15,080,000	\$ 16,895,000	\$ 2,905,000	\$ 5,970,000	\$ 600,000	\$ 63,358,500
GRAND TOTAL UTILITY FUND	\$ 32,699,190	\$ 17,150,000	\$ 21,490,000	\$ 3,760,000	\$ 7,580,000	\$ 910,000	\$ 71,186,000	\$ 154,775,190	\$ 28,851,690		\$ 21,115,000	\$ -	\$ 104,808,500	\$ 15,080,000	\$ 16,895,000	\$ 2,905,000	\$ 5,970,000	\$ 600,000	\$ 63,358,500

** Project Includes ADA Improvements

Other Sources

0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav., Fund Bal., Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

TOWN OF FLOWER MOUND
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STREET PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026						2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Aberdeen Drive Phase I (2 Lanes FM 2499 to Lake Forest) **	\$ -	\$ 1,650,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,650,000	\$ 1,000,000	0,2,5	\$ -	\$ -	\$ 650,000	\$ 650,000	\$ -	\$ -	\$ -	\$ -
Aberdeen Drive Phase II (2 additional Lanes FM 2499 to 700 ft. North of Spinks) **	-	-	-	-	-	2,463,000	-	2,463,000	1,063,000	0,2,5	-	-	1,400,000	-	-	-	1,400,000	-
ADA Transition Plan and Implementation **	363,000	170,000	465,000	150,000	150,000	150,000	-	1,448,000	3,000	2,5	360,000	-	1,085,000	170,000	465,000	150,000	150,000	150,000
Churchill Drive (FM 2499 to Yucca) **	525,000	-	400,000	-	-	-	-	925,000	925,000	0,2,7	-	-	-	-	-	-	-	-
Cowboy Lane **	-	-	-	-	-	-	433,337	433,337	193,337	3	-	-	240,000	-	-	-	-	240,000
Denton Creek Boulevard Bridge (Graham Branch crossing)	80,000	-	-	6,920,000	-	-	-	7,000,000	7,000,000	0,1,5	-	-	-	-	-	-	-	-
Firewheel Drive (complete 4 lane gap, to 340 feet north of Garden Rd) **	-	500,000	-	-	-	-	-	500,000	500,000	0	-	-	-	-	-	-	-	-
FM 1171	413,665	-	-	-	-	-	-	413,665	207,401	0,1,2	206,264	*	-	-	-	-	-	-
FM 1171 at FM 2499 Eastbound Right Turn Lane **	100,000	785,000	-	-	-	-	-	885,000	785,000	7	100,000	-	-	-	-	-	-	-
FM 1171 at FM 2499 Westbound Right Turn Lane **	-	998,000	-	-	-	-	-	998,000	998,000	7	-	-	-	-	-	-	-	-
FM 2499 at Lakeside North Right Turn Lane **	-	-	300,000	-	-	-	-	300,000	-	2,5	-	-	300,000	-	300,000	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	8,599,844	-	-	-	-	-	-	8,599,844	7,399,844	1,2	1,200,000	-	-	-	-	-	-	-
FM 407 (TxDot)	177,889	-	-	-	-	-	-	177,889	177,889	1,2	-	-	-	-	-	-	-	-
Garden Ridge Through Lane (at FM 3040)	-	-	-	-	400,000	-	-	400,000	200,000	0,2	-	-	200,000	-	-	200,000	-	-
I 35W Interchange at Denton Creek	-	-	-	-	-	-	5,000,000	5,000,000	5,000,000	0,1,5	-	-	-	-	-	-	-	-
Impact Fee Update	-	-	-	-	120,000	-	-	120,000	120,000	0	-	-	-	-	-	-	-	-
Kirkpatrick Lane Phase III (South of FM 1171)	-	-	-	-	-	-	8,718,000	8,718,000	6,036,000	0,1,2,3,5	-	-	2,682,000	-	-	-	-	2,682,000
Lake Forest Boulevard Bridge	-	200,000	1,800,000	-	-	-	-	2,000,000	600,000	0,2	-	-	1,400,000	-	1,400,000	-	-	-
Lakeside Dual Left turn Lane at Gerault **	-	-	-	140,250	-	-	-	140,250	100,250	0,2,5	-	-	40,000	-	-	40,000	-	-
Lakeside Eastbound Right Turn Lane at Home Depot **	-	250,000	-	-	-	-	-	250,000	-	2,5	-	-	250,000	250,000	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	7,232,000	7,232,000	732,000	0,2	-	-	6,500,000	-	-	-	-	6,500,000
McKamy Creek Turn Lane at Flower Mound Rd **	350,000	-	-	-	-	-	-	350,000	-	0,2	350,000	-	-	-	-	-	-	-
Morriss/Gerault Improvement Phase II (FM 407 - 3040)	-	-	-	-	4,851,480	-	-	4,851,480	4,851,480	0,5	-	-	-	-	-	-	-	-
Neighborhood Traffic Management	125,000	-	-	-	-	-	-	125,000	125,000	2,4	-	-	-	-	-	-	-	-
Roadway Amenities	95,000	90,000	90,000	90,000	90,000	90,000	-	545,000	80,000	2	15,000	-	450,000	90,000	90,000	90,000	90,000	-
Sagebrush Improvements (FM2499 to Old Settlers) **	3,670,000	21,674	-	-	-	-	-	3,691,674	541,674	0,2,3	3,150,000	-	-	-	-	-	-	-
Sidewalk Links **	661,000	-	-	-	-	-	-	661,000	661,000	2,4	-	-	-	-	-	-	-	-
Skillern Road (Flower Mound Rd to Riverhill) **	-	-	880,000	-	-	-	-	880,000	-	2	-	-	880,000	-	880,000	-	-	-
SPA 2 Connector (Bob White)	260,000	-	-	-	-	-	-	260,000	85,000	2	175,000	-	-	-	-	-	-	-
Stonecrest Road (500 ft. North of Canyon Falls Dr. to Town Limit) **	850,000	200,000	-	-	-	-	-	1,050,000	150,000	2,5	700,000	-	200,000	200,000	-	-	-	-
Timber Creek Road (Kirkpatrick to Glen Hollow) **	780,000	-	-	-	-	-	-	780,000	780,000	0,2	-	-	-	-	-	-	-	-
Waketon Road **	600,000	5,270,000	-	-	-	-	-	5,870,000	5,270,000	2,3,5,7	-	-	600,000	600,000	-	-	-	-

SUBTOTAL	\$ 17,650,398	\$ 10,134,674	\$ 3,935,000	\$ 7,300,250	\$ 5,611,480	\$ 2,703,000	\$ 21,383,337	\$ 68,718,139	\$ 45,584,875		\$ 6,256,264	\$ -	\$ 16,877,000	\$ 1,960,000	\$ 3,135,000	\$ 280,000	\$ 440,000	\$ 1,640,000	\$ 9,422,000
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*General Obligation Bonds
** Project Includes ADA Improvements

Other Sources

0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
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SIGNAL PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT	DEBT SCHEDULE						
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026									2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026	
College Parkway at Timber Creek	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 215,000	215,000	\$ 215,000	0,2,4	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand at Kenwood	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Bruton Orand at Quail Run	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
FM 1171 at Kirkpatrick - Reconstruction	340,000	-	-	-	-	-	-	340,000	120,000	2,4	220,000		-		-		-	-	-	-	-	-
FM 1171 at Timber Creek - Reconstruction	290,000	-	-	-	-	-	-	290,000	70,000	2	220,000		-		-		-	-	-	-	-	-
FM 2499 at College Parkway	230,000	-	-	-	-	-	-	230,000	230,000	0,2,7	-		-		-		-	-	-	-	-	-
FM 2499 at Silveron	-	240,000	-	-	-	-	-	240,000	240,000	0,2	-		-		-		-	-	-	-	-	-
FM 407 at Browning	25,000	-	-	-	-	-	-	25,000	25,000	2,4	-		-		-		-	-	-	-	-	-
Garden Ridge at Forest Vista	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Garden Ridge at Kirkpatrick	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Lakeside at Silveron	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4,5	-		-		-		-	-	-	-	-	-
Morriss at Eaton	-	-	-	215,000	-	-	-	215,000	215,000	2,4	-		-		-		-	-	-	-	-	-
Peters Colony at Churchill	-	-	-	-	-	-	215,000	215,000	215,000	0,2,4	-		-		-		-	-	-	-	-	-
Traffic Detection Rehabilitation	250,000	125,000	125,000	125,000	125,000	125,000	-	875,000	-	2	250,000		-		625,000		125,000	125,000	125,000	125,000	125,000	-
Traffic Signal Rehabilitation	-	-	-	-	-	-	500,000	500,000	-	2	-		-		500,000		-	-	-	-	-	500,000
U.S 377 at Canyon Falls Drive	-	25,000	225,000	-	-	-	-	250,000	250,000	0,2,4	-		-		-		-	-	-	-	-	-
SUBTOTAL								\$ 4,470,000	\$ 2,655,000		\$ 690,000		\$ -		\$ 1,125,000		\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ 500,000

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
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11/07/2016

STREET RECONSTRUCTION PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026										2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Canterbury Drive Reconstruction (Churchill to Dover) **	\$ 75,000	\$ 275,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 350,000	\$ 350,000	8	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Colonial Drive Reconstruction Phase II (Colony Street to Homestead Street) **	750,000	-	-	-	-	-	-	750,000	750,000	8	-		-		-		-	-	-	-	-	-
Flower Mound Road Reconstruction Phase II (Old Settlers to Bruton Orand) **	-	-	-	-	-	-	2,344,000	2,344,000	2,344,000	8	-		-		-		-	-	-	-	-	-
Forest Vista Reconstruction Phase I (Lake Shore to FM 2499) **	3,400,000	-	-	-	-	-	-	3,400,000	3,400,000	8	-		-		-		-	-	-	-	-	-
Forest Vista Reconstruction Phase II (Morriss to Upton Vista) **	-	-	-	-	3,000,000	-	-	3,000,000	3,000,000	8	-		-		-		-	-	-	-	-	-
Forest Vista Reconstruction Phase III (Upton Vista to Lake Shore) **	-	-	-	-	-	2,000,000	-	2,000,000	2,000,000	8	-		-		-		-	-	-	-	-	-
Lopo Road Reconstruction (River oak to 330-ft west of Garden Ridge) **	-	-	600,000	-	-	-	-	600,000	600,000	8	-		-		-		-	-	-	-	-	-
McKamy Creek Road Reconstruction (Flower Mound Rd. to Woodhill Dr.) **	238,000	1,162,000	-	-	-	-	-	1,400,000	1,400,000	8	-		-		-		-	-	-	-	-	-
Morriss Road Reconstruction Phase I (FM 3040 to Forest Vista Drive) **	-	-	-	-	-	-	2,800,000	2,800,000	2,800,000	8	-		-		-		-	-	-	-	-	-
Morriss Road Reconstruction Phase II (Forest Vista Drive to Firewheel) **	-	-	-	-	-	-	2,162,000	2,162,000	2,162,000	8	-		-		-		-	-	-	-	-	-
Old Long Prairie Road Reconstruction **	1,100,000	-	-	-	-	-	-	1,100,000	1,100,000	8	-		-		-		-	-	-	-	-	-
Sheffield Court Reconstruction (Amhearth to end of Cul-de-Sac) **	325,000	-	-	-	-	-	-	325,000	325,000	8	-		-		-		-	-	-	-	-	-
Superior Place Reconstruction (Colonial to 1545 Superior Pl) **	100,000	525,000	-	-	-	-	-	625,000	625,000	8	-		-		-		-	-	-	-	-	-
Timber Creek Road Reconstruction Phase II (Timber Creek Bridge to Eaton) **	-	-	1,400,000	2,200,000	-	-	-	3,600,000	3,600,000	8	-		-		-		-	-	-	-	-	-
West Windsor and Mulberry Connection **	100,000	-	-	-	-	-	-	100,000	100,000	8	-		-		-		-	-	-	-	-	-
Woodbine Street Reconstruction (Timber Creek to Hieden Ct.) **	765,000	585,000	-	-	-	-	-	1,350,000	1,350,000	8	-		-		-		-	-	-	-	-	-
Wood Creek Circle Reconstruction (Wood Creek Dr to end of Cul-de-Sac) **	-	-	-	400,000	-	-	-	400,000	400,000	8	-		-		-		-	-	-	-	-	-
Yucca Drive Reconstruction (Sagebrush to 700 ft South of FM 1171) **	95,000	1,205,000	-	-	-	-	-	1,300,000	1,300,000	8	-		-		-		-	-	-	-	-	-
SUBTOTAL	\$ 6,948,000	\$ 3,752,000	\$ 2,000,000	\$ 2,600,000	\$ 3,000,000	\$ 2,000,000	\$ 7,306,000	\$ 27,606,000	\$ 27,606,000		\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav., Fund Bal., Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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FACILITY PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026										2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026
Cultural Arts Center **	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	7	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fire and Police Training Center	-	-	-	-	-	-	2,235,000	2,235,000	-	2	-		-		2,235,000		-	-	-	-	-	2,235,000
Fire Station No. 1 Facility Upgrades **	-	1,223,375	-	-	-	-	-	1,223,375	243,375	2,4	-		-		980,000		980,000	-	-	-	-	-
Fire Station No. 6 and Apparatus (West Flower Mound) **	-	-	-	300,000	6,500,000	-	-	6,800,000	-	2	-		-		6,800,000		-	-	300,000	6,500,000	-	-
Fire Station No. 7 and Apparatus (Wichita Trail) **	-	-	300,000	5,050,000	-	-	-	5,350,000	-	2	-		-		5,350,000		-	300,000	5,050,000	-	-	-
Land (Old Settlers and Peters Colony)	-	1,100,000	-	-	-	-	-	1,100,000		2	-		-		1,100,000		1,100,000	-	-	-	-	-
Library Expansion**	-	-	10,900,000	-	-	-	-	10,900,000	10,900,000	2,7	-		-		-		-	-	-	-	-	-
Mechanical Screen Wall (Police Dept.)	90,000	-	-	-	-	-	-	90,000	90,000	1,2	-		-		-		-	-	-	-	-	-
Police and Courts Facility Upgrades **	560,000	2,771,000	-	-	-	-	-	3,331,000	1,571,000	2,4	-		-		1,760,000		1,760,000	-	-	-	-	-
Senior Center **	5,998,000	-	-	-	-	-	-	5,998,000	5,998,000	2,7,3	-		-		-		-	-	-	-	-	-
Town Hall **	-	10,000,000	5,000,000	-	-	-	-	15,000,000		2,7	-		-		15,000,000		10,000,000	5,000,000	-	-	-	-
Western Operations and Maintenance Facility (Temporaty FS #6)**	600,000	-	-	-	-	-	-	600,000	600,000	2,4	-		-		-		-	-	-	-	-	-
SUBTOTAL	\$ 7,248,000	\$ 15,094,375	\$ 16,200,000	\$ 5,350,000	\$ 6,500,000	\$ -	\$ 12,235,000	\$ 62,627,375	\$ 29,402,375		\$ -		\$ -		\$ 33,225,000		\$ 13,840,000	\$ 5,300,000	\$ 5,350,000	\$ 6,500,000	\$ -	\$ 2,235,000

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
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PARK PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026								2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
2015-16 Playground Replacements (Staton Oak, & Timber Creek parks) **	\$ 400,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400,000	\$ 400,000	8	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -
2017-18 Playground Replacements(Bluebonnet, Gaston, Glenwick, Grove, Oak, & Spring Meadow parks) **	-	-	1,200,000	-	-	-	-	1,200,000	1,200,000	8	-		-		-		-	-	-	-
2019-20 Playground Replacements (Lakewood, Pecan Orchard, Stone Creek, Thrush West, & Gerault parks)	-	-	-	-	1,000,000	-	-	1,000,000	1,000,000	8	-		-		-		-	-	-	-
2020-21 Playground Replacements (Grand, Peacock, & Chinn Chapel parks) **	-	-	-	-	-	600,000	-	600,000	600,000	8	-		-		-		-	-	-	-
2022-23 Playground Replacements (Cortadera, Wilkerson, & Possum parks) **	-	-	-	-	-	-	600,000	600,000	600,000	8	-		-		-		-	-	-	-
2023-24 Playground Replacements (Northshore, Jakes Hilltop, & Rustic Timbers parks) **	-	-	-	-	-	-	600,000	600,000	600,000	8	-		-		-		-	-	-	-
2024-25 Playground Replacements (Thrush East, & Westchester parks) **	-	-	-	-	-	-	400,000	400,000	400,000	8	-		-		-		-	-	-	-
Bluebonnet Trail Connections **	-	-	-	-	-	1,000,000	-	1,000,000	1,000,000	8	-		-		-		-	-	-	-
Bakersfield Park Restroom	-	-	400,000	-	-	-	-	400,000	400,000	8	-		-		-		-	-	-	-
Coumunity Activity Center Improvements	-	257,000	-	-	-	-	-	257,000	-	2	-		-	257,000	257,000	-	-	-	-	-
Cortadera Park Pond	145,000	-	-	-	-	-	-	145,000	145,000	8	-		-		-		-	-	-	-
Equestrian Trail Head	-	-	-	-	-	-	400,000	400,000	400,000	8	-		-		-		-	-	-	-
Equestrian Trails	-	-	-	-	-	-	500,000	500,000	500,000	8	-		-		-		-	-	-	-
Green Acres Memorial Farm	-	-	-	-	-	-	2,200,000	2,200,000	2,200,000	8	-		-		-		-	-	-	-
Heritage Park of Flower Mound Phase II	2,590,000	-	-	-	-	-	-	2,590,000	2,590,000	8,6	-		-		-		-	-	-	-
Heritage Park of Flower Mound Phase III	200,000	1,124,736	-	-	-	-	-	1,324,736	1,324,736	8	-		-		-		-	-	-	-
Heritage Park of Flower Mound Phase IV	-	2,000,000	-	-	-	-	-	2,000,000	2,000,000	8	-		-		-		-	-	-	-
Indian Blanket Trail Connections	-	-	-	-	-	-	2,000,000	2,000,000	2,000,000	8	-		-		-		-	-	-	-
Individual Park Improvements	1,110,000	50,000	-	-	-	-	-	1,160,000	1,160,000	8	-		-		-		-	-	-	-
Log Cabin Property Purchase	454,098	-	-	-	-	-	-	454,098	454,098	2	-		-		-		-	-	-	-
Park and Trail Amenities	410,000	50,000	50,000	50,000	50,000	50,000	-	660,000	660,000	2,6,8	-		-		-		-	-	-	-
Park and Trails Master Plan	200,000	-	-	-	-	-	-	200,000	200,000	2,6	-		-		-		-	-	-	-
Pink Evening Primrose Trails (Section 1 & 3)	800,000	-	-	-	-	-	-	800,000	800,000	2,6	-		-		-		-	-	-	-
Pink Evening Primrose Trail Connections	-	-	-	-	600,000	-	-	600,000	600,000	2,6	-		-		-		-	-	-	-
Purple Coneflower Trail Connections	-	-	-	-	-	-	150,000	150,000	150,000	8	-		-		-		-	-	-	-
Rheudasil Park Amenities	200,000	-	-	965,600	-	-	-	1,165,600	1,165,600	2,8	-		-		-		-	-	-	-
Rheudasil & Wilkerson Parks Pond Dredging and Bank Stabilization	3,300,000	-	-	-	-	-	-	3,300,000	1,250,000	8	2,050,000		-		-		-	-	-	-
Tennis Center	-	-	-	-	2,000,000	-	-	2,000,000	2,000,000	8	-		-		-		-	-	-	-
Texas Yellow Star Trail Connections	-	-	-	-	-	-	850,000	850,000	850,000	8	-		-		-		-	-	-	-
Twin Coves Park - Improvements	3,800,000	100,000	-	-	-	-	-	3,900,000	800,000	2,8	3,100,000		-		-		-	-	-	-
White Lazy Daisy Trail Connections	-	-	-	-	-	-	100,000	100,000	100,000	8	-		-		-		-	-	-	-
SUBTOTAL	\$ 13,609,098	\$ 3,581,736	\$ 1,650,000	\$ 1,015,600	\$ 3,650,000	\$ 1,650,000	\$ 7,800,000	\$ 32,956,434	\$ 27,549,434		\$ 5,150,000	\$ -	\$ 257,000	\$ 257,000	\$ -	\$ -	\$ -	\$ -	\$ -	
GRAND TOTAL GENERAL FUND	\$ 46,590,496	\$ 32,952,785	\$ 24,135,000	\$ 16,605,850	\$ 18,886,480	\$ 6,478,000	\$ 50,729,337	\$ 196,377,948	\$ 132,797,684		\$ 12,096,264	\$ -	\$ 51,484,000	\$ 16,182,000	\$ 8,560,000	\$ 5,755,000	\$ 7,065,000	\$ 1,765,000	\$ 12,157,000	

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)

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WATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026							2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Aberdeen Water Line (FM 2499 to Lake Forest)	\$ -	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000	\$ 190,000	0,2	\$ -	\$ -	\$ 110,000	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -
Branchwood Water Line (Russwood Dr to FM407)	300,000	-	-	-	-	-	-	300,000	250,000	0,2	50,000	-	-	-	-	-	-	-	-
Bruton Orand Elevated Storage Tank Rehabilitation	180,000	1,700,000	-	-	-	-	-	1,880,000	80,000	2	100,000	-	1,700,000	1,700,000	-	-	-	-	-
Canyon Falls 20-Inch Water Line	1,250,000	750,000	660,000	-	-	-	-	2,660,000	400,000	0,2	1,050,000	-	1,210,000	650,000	560,000	-	-	-	-
Cowboy Lane Water Line	-	-	-	-	-	-	670,000	670,000	140,000	0,3	-	-	530,000	-	-	-	-	-	530,000
Denton Creek Boulevard 12-Inch Water Line	-	-	1,100,000	-	-	-	-	1,100,000	620,000	0,5	-	-	480,000	-	480,000	-	-	-	-
Denton Creek District - Reuse Water Master Plan	100,000	-	-	-	-	-	-	100,000	100,000	0,2	-	-	-	-	-	-	-	-	-
Denton Creek Spine Road 12-inch Water Line	-	-	-	-	-	-	2,550,000	2,550,000	127,500	0,2	-	-	2,422,500	-	-	-	-	-	2,422,500
Denton Creek District - Reuse Waterlines	400,000	250,000	250,000	250,000	-	-	-	1,150,000	1,150,000	0,2	-	-	-	-	-	-	-	-	-
FM 1171 to Hwy. 377 Water Line Phase II	-	-	-	-	-	-	5,880,000	5,880,000	290,000	0,2	-	-	5,590,000	-	-	-	-	-	5,590,000
FM 1171 12-inch Water Line (Karnes Rd. to Churchill Dr.)	-	-	-	-	-	-	-	210,000	210,000	0,2	-	-	-	-	-	-	-	-	-
FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171)	-	-	2,900,000	-	-	-	-	2,900,000	2,300,000	0,2,7	-	-	600,000	-	600,000	-	-	-	-
FM 2499 12-inch Water Line Phase III	1,140,000	-	-	-	-	-	-	1,140,000	400,000	0,2,5	740,000	-	-	-	-	-	-	-	-
FM2499/FM3040 24-Inch Water Line Crossing Replacement	550,000	-	-	-	-	-	-	550,000	550,000	2	-	-	-	-	-	-	-	-	-
Garden Ridge Blvd. Ph. II Water Line	-	-	-	-	790,000	-	-	790,000	390,000	0,2	-	-	400,000	-	-	-	400,000	-	-
High Road Water Line Replacement Phase I	-	3,100,000	-	-	-	-	-	3,100,000	-	2	-	-	3,100,000	3,100,000	-	-	-	-	-
High Road Water Line Replacement Phase II	-	-	2,600,000	-	-	-	-	2,600,000	-	-	-	-	2,600,000	-	2,600,000	-	-	-	-
Highway 377/UPRR Water Line Phase II	137,620	-	-	-	-	-	2,310,000	2,447,620	87,620	0,2	50,000	-	2,310,000	-	-	-	-	-	2,310,000
Impact Fee Update	-	-	-	-	80,000	-	-	80,000	80,000	0,2	-	-	-	-	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase II (Valley Ridge - 1171)	35,000	-	1,270,000	-	-	-	-	1,305,000	305,000	0,2	-	-	1,000,000	-	1,000,000	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase III (South of FM1171)	-	-	-	-	-	-	320,000	320,000	320,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Bridge Gap)	-	50,000	320,000	-	-	-	-	370,000	370,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Spinks to Lakeside)	280,000	-	-	-	-	-	-	280,000	280,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (FM 3040 to Spinks)	-	-	-	-	-	-	1,380,000	1,380,000	500,000	0,2	-	-	880,000	-	-	-	-	-	880,000
Long Prairie 12-Inch Water Line	1,360,000	-	-	-	-	-	-	1,360,000	505,000	0,2,5	855,000	-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	3,240,000	3,240,000	240,000	0,2	-	-	3,000,000	-	-	-	-	-	3,000,000
Morriiss Road Water Line (FM 407 to FM 1171)	-	-	-	-	-	-	7,120,000	7,120,000	350,000	0,2	-	-	6,770,000	-	-	-	-	-	6,770,000
Morriiss Road 12-inch Water Line (Mallard Way to FM 3040)	-	-	-	-	-	-	370,000	370,000	300,000	0,2	-	-	70,000	-	-	-	-	-	70,000
Oak Drive Water Main Replacement	1,910,000	-	-	-	-	-	-	1,910,000	-	2	1,910,000	-	-	-	-	-	-	-	-
Pintail Pump Station Capacity Improvements	1,390,000	-	-	-	-	-	-	1,390,000	1,090,000	2,5	300,000	-	-	-	-	-	-	-	-
Pintail Pump Station (Auxiliary Power & Upgrades)	330,000	270,000	1,500,000	-	-	-	-	2,100,000	330,000	0,2,5	-	-	1,770,000	270,000	1,500,000	-	-	-	-
Pressure Reducing Valves	-	-	-	-	-	-	560,000	560,000	300,000	0,2	-	-	260,000	-	-	-	-	-	260,000
Rippy Road Water line Improvements (FM 2499-Waketon)	-	730,000	-	-	-	-	-	730,000	330,000	0,2	-	-	400,000	400,000	-	-	-	-	-
Scenic Drive Water Line (South of FM 1171 to River Hill Dr.)	-	-	-	-	-	-	1,490,000	1,490,000	490,000	0,2	-	-	1,000,000	-	-	-	-	-	1,000,000
Senior Center - Utilities	315,000	-	-	-	-	-	-	315,000	315,000	2	-	-	-	-	-	-	-	-	-
Shady Point Acres Water Line Replacement	300,000	1,000,000	-	-	-	-	-	1,300,000	-	2	300,000	-	1,000,000	1,000,000	-	-	-	-	-
Stonecrest Pump Station Phase I (Auxiliary Power)	-	-	-	-	2,120,000	-	-	2,120,000	300,000	0,2	-	-	1,820,000	-	-	-	1,820,000	-	-
Stonecrest Pump Station Phase II	-	-	-	-	-	-	5,140,000	5,140,000	250,000	0,2	-	-	4,890,000	-	-	-	-	-	4,890,000
Stonecrest Pump Station Phase III	-	-	-	-	-	-	840,000	840,000	-	2	-	-	840,000	-	-	-	-	-	840,000
Stonehill Pump Station 10MG Ground Storage Tank Modification	50,000	300,000	-	-	-	-	-	350,000	-	1,2	50,000	-	300,000	300,000	-	-	-	-	-
Stonehill 10MG Ground Storage Tank Rehabilitation	40,000	-	-	-	-	-	-	40,000	40,000	2	-	-	-	-	-	-	-	-	-
Stonehill Pump Station Discharge Valve Replacement	-	560,000	-	-	-	-	-	560,000	60,000	2	-	-	500,000	500,000	-	-	-	-	-
Timber Creek 20-inch Water Line	-	-	-	-	-	-	370,000	370,000	250,000	2	-	-	120,000	-	-	-	-	-	120,000
Trailwood Terrace 12-inch Water Line	400,000	-	-	-	-	-	-	400,000	400,000	0,2	-	-	-	-	-	-	-	-	-
Twin Coves Park - Improvements (Utilities)	400,000	380,000	-	-	-	-	-	780,000	780,000	2	-	-	-	-	-	-	-	-	-
Utility Asset Management & Utility Replacement	300,000	300,000	300,000	300,000	300,000	300,000	-	1,800,000	-	2	300,000	-	1,500,000	300,000	300,000	300,000	300,000	300,000	-
Water Master Plan	-	-	-	-	150,000	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Water Reuse System Phase I	-	-	-	-	-	-	3,186,000	3,186,000	-	0,2	-	-	3,186,000	-	-	-	-	-	3,186,000
Water Reuse System Phase II	-	-	-	-	-	-	-	760,000	-	0,2	-	-	760,000	-	-	-	-	-	760,000
Water Reuse System Phase III	-	-	-	-	-	-	1,100,000	1,100,000	-	0,2	-	-	1,100,000	-	-	-	-	-	1,100,000
Water Reuse System Phase IV	-	-	-	-	-	-	820,000	820,000	820,000	0,2	-	-	-	-	-	-	-	-	-
Water System Leak Detection & Repair	600,000	50,000	50,000	50,000	50,000	50,000	-	850,000	-	2	600,000	-	250,000	50,000	50,000	50,000	50,000	50,000	-
Water System Model Update	130,785	5,000	5,000	5,000	5,000	5,000	-	155,785	155,785	0,2	-	-	-	-	-	-	-	-	-
West Side Water Lines (East)	-	-	-	-	-	-	2,610,000	2,610,000	300,000	0,2	-	-	2,310,000	-	-	-	-	-	2,310,000
West Side Water Lines (South)	-	-	-	-	-	-	3,440,000	3,440,000	350,000	0,2	-	-	3,090,000	-	-	-	-	-	3,090,000
West Side Water Lines (West)	-	-	-	-	-	-	1,390,000	1,390,000	150,000	0,2	-	-	1,240,000	-	-	-	-	-	1,240,000
Western Operations and Maintenance Facility (Temporaty FS #6)	975,000	-	-	-	-	-	-	975,000	975,000	2	-	-	-	-	-	-	-	-	-
Western Operations and Maintenance Facility (Buildout)	-	-	-	-	100,000	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 12,873,405	\$ 9,745,000	\$ 10,955,000	\$ 605,000	\$ 3,595,000	\$ 355,000	\$ 45,756,000	\$ 83,884,405	\$ 18,470,905		\$ 6,305,000	\$ -	\$ 59,108,500	\$ 8,380,000	\$ 7,090,000	\$ 350,000	\$ 2,570,000	\$ 350,000	\$ 40,368,500

** Project Includes ADA Improvements

Other Sources

0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

STORMWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026										2016- 2017	2017- 2018	2018- 2019	2019- 2020	2020- 2021	2021- 2026
Bakers Branch Stabilization at Cedar Bluff (Strait Lane)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000	\$ 150,000	\$ 150,000	2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bakers Branch Stabilization at 1804 Doubletree	-	75,000	-	-	-	-	-	75,000	75,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Bakers Branch Stabilization at 621 Somerset	-	-	150,000	-	-	-	-	150,000	150,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Bakers Branch Stabilization at 1601 Twilight Drive	127,500	-	-	-	-	-	-	127,500	127,500	2	-	-	-	-	-	-	-	-	-	-	-	-
Creek Bank Stabilization at 3100 River Hill Court	-	20,000	-	-	-	-	-	20,000	20,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
Creek Bank Stabilization at 5105 River Hill Drive	-	45,000	-	-	-	-	-	45,000	45,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
East Waketon Road Drainage Improvements	-	50,000	-	-	-	-	-	50,000	50,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	500,000	-	-	-	-	-	-	500,000	500,000	1,2	-	-	-	-	-	-	-	-	-	-	-	-
Lusk Lane Drainage Improvements Phase II	20,000	-	-	-	-	-	-	20,000	20,000	2	-	-	-	-	-	-	-	-	-	-	-	-
McKamy Creek Bank Stabilization at 3400 Pheasant Ct	32,500	-	-	-	-	-	-	32,500	32,500	2	-	-	-	-	-	-	-	-	-	-	-	-
Pecan Acres Drainage Improvements	-	-	-	-	150,000	150,000	200,000	500,000	500,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Timber Creek Stabilization at Timber Creek Rd (North & South Bridges)	-	-	-	100,000	150,000	150,000	-	400,000	400,000	2	-	-	-	-	-	-	-	-	-	-	-	-
Waketon Road Drainage Improvement	-	-	100,000	-	-	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 680,000	\$ 190,000	\$ 250,000	\$ 100,000	\$ 300,000	\$ 300,000	\$ 350,000	\$ 2,170,000	\$ 2,170,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)

3. Escrow

4. Decision Package

5. Developer Agreement(s)

6. Park Development Fund

7. Tax Increment Reinvestment Zone (TIRZ)

8. Dedicated Sales Tax

9. SH 121 Regional Toll Revenue (RTR)

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2016-2017
Amendment 2
11/07/2016

WASTEWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's	NEW		DEBT SCHEDULE					
		2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026									2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2026
Bakers Branch Collector Phase II (Lexington to Gerault)	-	1,700,000	-	-	-	-	-	1,700,000	200,000	0.2	-	-	-	1,500,000	1,500,000	-	-	-	-	-	-
Canterbury Lane Sewer Line Replacement	80,000	-	-	-	-	-	-	80,000	80,000	2	-	-	-	-	-	-	-	-	-	-	-
Colonial Drive Wastewater Line (Colony St. to Homestead St.)	20,000	-	-	-	-	-	-	20,000	20,000	2	-	-	-	-	-	-	-	-	-	-	-
Impact Fee Update	-	-	-	-	80,000	-	-	80,000	80,000	0.2	0	-	-	-	-	-	-	-	-	-	-
Inflow-Infiltration/Evaluation and Repair	1,730,000	250,000	250,000	250,000	250,000	250,000	-	2,980,000	130,000	2	1,600,000	-	-	1,250,000	250,000	250,000	250,000	250,000	250,000	-	-
Justin Road Lift Station Outfall (Justin Rd. to Cottage Ln.)	-	-	650,000	-	-	-	-	650,000	400,000	0.2	0	-	-	250,000	-	250,000	-	-	-	-	-
Lakeside Lift Station and Force Main	3,090,000	-	-	-	-	-	-	3,090,000	2,090,000	0.2,3,5	1,000,000	-	-	-	-	-	-	-	-	-	-
Lakeside Lift Station and Force Main Phase II	-	-	-	2,400,000	-	-	-	2,400,000	400,000	0.2,3,5	-	-	-	2,000,000	-	-	2,000,000	-	-	-	-
Lift Station Improvements and Decommissioning	375,000	1,400,000	-	-	-	-	-	1,775,000	50,000	2	325,000	-	-	1,400,000	1,400,000	-	-	-	-	-	-
Long Prairie Interceptor (North of Woodway Drive)	-	-	-	-	-	-	330,000	330,000	-	0.2	-	-	-	330,000	-	-	-	-	-	-	330,000
Lower Timber Interceptor (Teakwood to Pintail Park)	-	-	905,000	-	-	-	-	905,000	-	0.2	-	-	-	905,000	-	905,000	-	-	-	-	-
McKamy Creek Road Sewer Line Replacement	185,000	-	-	-	-	-	-	185,000	185,000	2	-	-	-	-	-	-	-	-	-	-	-
Oak Street Lift Station and Force Main Phase III	6,225,000	-	-	-	-	-	-	6,225,000	70,000	0.2	6,155,000	-	-	-	-	-	-	-	-	-	-
Oak Street Lift Station and Force Main Phase IV	-	-	-	-	3,300,000	-	-	3,300,000	150,000	0.2	-	-	-	3,150,000	-	-	-	3,150,000	-	-	-
Oak Street Lift Station and Force Main Phase V	-	-	-	-	-	-	2,500,000	2,500,000	-	0.2	-	-	-	2,500,000	-	-	-	-	-	-	2,500,000
Riverwalk Collector (Morris Rd. to Windsor Dr.)	-	-	-	-	-	-	430,000	430,000	230,000	0.2	-	-	-	200,000	-	-	-	-	-	-	200,000
Southside Force Main Extension	-	-	-	-	-	-	1,710,000	1,710,000	710,000	0.2	-	-	-	1,000,000	-	-	-	-	-	-	1,000,000
Southside Gravity Improvements	-	-	-	-	-	-	2,970,000	2,970,000	600,000	0.2,3,5	-	-	-	2,370,000	-	-	-	-	-	-	2,370,000
Southside Pump Upgrade	-	-	-	-	-	-	780,000	780,000	400,000	0.2	-	-	-	380,000	-	-	-	-	-	-	380,000
Upper Timber Creek Interceptor (South of College Pkw.)	-	-	-	-	-	-	300,000	300,000	-	0.2	-	-	-	300,000	-	-	-	-	-	-	300,000
Upper Timber Creek Interceptor Phase III (FM 1171 to Hidden Forest Drive)	410,000	2,100,000	-	-	-	-	-	2,510,000	410,000	0.2	-	-	-	2,100,000	2,100,000	-	-	-	-	-	-
Upper Timber Creek Interceptor Phase IV (Hidden Forest Drive to Oak Street Lift Station)	-	350,000	2,400,000	-	-	-	-	2,750,000	-	2	-	-	-	2,750,000	350,000	2,400,000	-	-	-	-	-
Wastewater Master Plan	-	-	-	-	50,000	-	-	50,000	50,000	0.2	-	-	-	-	-	-	-	-	-	-	-
Wastewater System Model Update	200,785	5,000	5,000	5,000	5,000	5,000	-	225,785	225,785	0.2	-	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Auxiliary Power	620,000	-	-	-	-	-	-	620,000	-	0.2	620,000	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Capacity Study	-	-	75,000	-	-	-	-	75,000	75,000	0.2	-	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Expansion	-	-	-	-	-	-	150,000	150,000	150,000	0.2	-	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Final Clarification Rehabilitation	670,000	110,000	-	-	-	-	-	780,000	430,000	2	350,000	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase IV (Dewatering, B&L)	5,540,000	-	-	-	-	-	-	5,540,000	780,000	2	4,760,000	-	-	-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening)	-	800,000	6,000,000	-	-	-	-	6,800,000	-	2	-	-	-	6,800,000	800,000	6,000,000	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase VI (Thermal Drying)	-	-	-	-	-	-	13,000,000	13,000,000	-	2	-	-	-	13,000,000	-	-	-	-	-	-	13,000,000
Wastewater Treatment Plant Rehabilitation Phase VII (Phosphorus Removal)	-	-	-	-	-	-	1,000,000	1,000,000	-	2	-	-	-	1,000,000	-	-	-	-	-	-	1,000,000
Wellington Interceptor Phase IV Section I (Vail Lane to Oak Street Lift Station)	-	-	-	400,000	-	-	-	400,000	95,000	0.2	-	-	-	305,000	-	-	305,000	-	-	-	-
Wellington Interceptor Phase V (Ridgemere Dr. to Woodway Dr.)	-	-	-	-	-	-	720,000	720,000	-	0.2	-	-	-	720,000	-	-	-	-	-	-	720,000
Wellington Interceptor (Fieldcrest Rd. to FM 3040)	-	-	-	-	-	-	410,000	410,000	-	0.2	-	-	-	410,000	-	-	-	-	-	-	410,000
Wichita Trail Lift Station Improvements	-	-	-	-	-	-	780,000	780,000	-	0.2	-	-	-	780,000	-	-	-	-	-	-	780,000
Woodbine Street Sewer Line	-	500,000	-	-	-	-	-	500,000	200,000	2	-	-	-	300,000	300,000	-	-	-	-	-	-
SUBTOTAL	\$ 19,145,785	\$ 7,215,000	\$ 10,285,000	\$ 3,055,000	\$ 3,685,000	\$ 255,000	\$ 25,080,000	\$ 68,720,785	\$ 8,210,785		\$ 14,810,000	\$ -	\$ 45,700,000	\$ 6,700,000	\$ 9,805,000	\$ 2,555,000	\$ 3,400,000	\$ 250,000	\$ 22,990,000		
GRAND TOTAL UTILITY FUND	\$ 32,699,190	\$ 17,150,000	\$ 21,490,000	\$ 3,760,000	\$ 7,580,000	\$ 910,000	\$ 71,186,000	\$ 154,775,190	\$ 28,851,690		\$ 21,115,000	\$ -	\$ 104,808,500	\$ 15,080,000	\$ 16,895,000	\$ 2,905,000	\$ 5,970,000	\$ 600,000	\$ 63,358,500		

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

2. Other Sources (Proj. Sav., Fund Bal., Interest Inc.)

3. Escrow

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9. SH 121 Regional Toll Revenue (RTR)



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: November 7, 2016

FROM: Tiffany Bruce, P.E., CIP Engineering Manager

ITEM: Consider approval of a Professional Services Agreement with Innovative Transportation Solutions, Inc., to provide professional transportation services in the amount of \$75,000.00 annually, with a one year renewal option; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The scope of services identified in the attached agreement with Innovative Transportation Solutions (ITS), includes pursuing all transportation issues identified by the Town, with an emphasis on funding issues affecting the Town. The scope of services is included as an attachment to the professional services agreement.

As indicated in the agreement, the Town would provide compensation to ITS in the amount of \$6,250.00 per month, from the Roadway Amenities project, for unlimited transportation services. The term of the contract is for one year, beginning January 1, 2017, with a one year renewal option.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$75,000.00

Proposed Expenditure:	Account Number(s):
\$ 75,000.00	531-220-70622-6160

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve a Professional Services Agreement with Innovative Transportation Solutions, Inc., to provide professional transportation services in the amount of \$75,000.00 annually, with a one year renewal option; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
INNOVATIVE TRANSPORTATION SOLUTIONS, INC.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Innovative Transportation Solutions, Inc.**, (hereinafter referred to as "CONSULTANT") whose address is 2701 Valley View Lane, Farmers Branch, Texas 75234.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT; and

WHEREAS, CONSULTANT is a is a transportation consulting firm qualified to provide such services and is willing to undertake the performance of such services for TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

**I.
Employment of Consultant**

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide professional transportation services specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Seventy-Five Thousand and No/100 Dollars (\$ 75,000.00) per year. This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a monthly basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for actual services performed by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in

compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire *costs involved in performing such additional services. Prior to CONSULTANT* undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on January 1st, after the date first written above, and shall continue for a period of one year with one automatic one-year extension, unless the TOWN otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with

this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.
Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.
Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis save and except the Professional Liability Insurance which may be written on a “claims-made” basis, provided that “tail coverage” or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance 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 TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Tiffany Bruce, P.E., CIP Engineering Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6306 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.
Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED

BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has

not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.

Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.

Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.

Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN's attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN's agent as follows, unless and until CONSULTANT is otherwise notified:

Tiffany Bruce, P.E., CIP Engineering Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6306 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

John R. Polster, P.E.
Innovative Transportation Solutions, Inc.
2701 Valley View Lane
Farmers Branch, Texas 75234
972/484-2525 Telephone
972/484-4545 Facsimile

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.
Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.
Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.
No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[The remainder of this page is left blank intentionally]

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

**CONSULTANT:
INNOVATIVE TRANSPORTATION
SOLUTIONS, INC., a Texas Corporation**

By: _____

Name: John R. Polster, P.E.

Title: President

Date Signed: _____

State of Texas §

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by John R. Polster, P.E., in his capacity as President of **INNOVATIVE TRANSPORTATION SOLUTIONS, INC.**, a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of **INNOVATIVE TRANSPORTATION SOLUTIONS, INC.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF ____, 20____.

Notary Public, State of Texas

My Commission Expires:

ATTACHMENT “A”

SCOPE OF SERVICES

Innovative Transportation Services Inc., (ITS) will provide the following Transportation Consultation services for the Town:

ITS will provide transportation consulting services as directed by the Town Manager or Town Engineer. As a part of this contract, ITS will actively pursue all transportation related issues as identified by the Town with the understanding that the current focus will be on transportation programming and funding issues in the Town. ITS will maintain dialogue with the Town and appropriate Town staff to ascertain the relative priority of each project to other projects and attend Town of Flower Mound Council meeting, when appropriate, to provide updates on transportation activities. ITS will perform tasks, as assigned by the Town Manager or his designee, related to advancing projects to address the transportation needs of the Town of Flower Mound. Other services include, but are not limited to, the following:

TASK 1: Act as a Liaison between TOWN and other Local, State and Federal Transportation Bodies.

When requested and appropriate, ITS will act as liaison between The TOWN and other local, state and national transportation groups. As liaison, ITS will act as the transportation advocate for The TOWN by working positively and efficiently with other transportation groups toward completion of projects critical to The TOWN. ITS will interact, on behalf of The TOWN, with the Federal Highway Administration, the Texas Transportation Commission and Texas Department of Transportation and the North Texas Tollway Authority (NTTA). In addition, ITS will act as liaison between The TOWN and other groups such as the Regional Transportation Council of the North Central Texas Council of Governments, Project Specific Task Force Groups, Dallas Regional Mobility Coalition, the Denton County Transit Authority, The T, North Texas Commission, and the Partners in Mobility.

TASK 2: Implement Cost Reduction Strategies.

ITS has an unparalleled history of identifying cost reductions for clients. For the TOWN, the following is a list of possible cost reduction strategies:

Leveraging funding - Transportation Infrastructure funding is almost always a partnership process. ITS will strive to maximize the TOWN's transportation dollars by “leveraging” those funds with eligible funding sources. In many cases, ITS will be able to

leverage funds to capture “non-Town” sources that will increase funding to the project by 300% to 500%.

TASK 3. ITS will provide other transportation consulting services as directed by the Town.

As a part of this Enhancement Proposal, ITS will actively pursue all transportation related issues as identified by the Town. ITS will continue to dialogue with Town staff to ascertain the relative priority of each project to other projects and attend Town meeting as directed to updates on all transportation activities.

ATTACHMENT “B”***COMPENSATION***

In consideration for professional services rendered monthly by ITS, Flower Mound agrees to pay ITS a reasonable and customary annual fee of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), per year (the “Annual Fee”). Flower Mound agrees to pay ITS the amount of SIX THOUSAND TWO HUNDRED FIFTY DOLLARS (\$6,250.00) per month (the “Monthly Payment”) towards satisfaction of the Town’s Annual Fee obligation. Flower Mound shall make the Monthly Payment, processing the itemized statement in its usual and customary fashion, making all reasonable efforts to process the Monthly Payment within thirty (30) days from Town of Flower Mound’s receipt of each monthly statement.

ITS’s Standard Hourly Billing rates are attached as Exhibit A.

ITS shall submit its monthly statements and semi-annual certificates to the Town Manager, 2121 Cross Timbers Road, Flower Mound, Texas 75028.

EXHIBIT “A”**STANDARD RATE SCHEDULE****1.1 STANDARD RATE SCHEDULE**

The services related to this project will be based upon the following Standard Billing Rates. Standard Billing Rates are subject to change at the beginning of each calendar year.

Professional	Standard Billing Rate
Principal	\$275
Principal Engineer	\$275
Executive Transportation Planning Specialist	\$125
Technical Support	\$125
Support Staff	\$75



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: November 7, 2016

FROM: Clay Riggs, PE, CFM, Senior Project Engineer

ITEM: Consider approval of the Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., to provide professional engineering services for the Firewheel Drive project, at an amount not to exceed of \$59,560.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The project completes the Firewheel Drive four lane roadway section, south of Milford Drive to 340 feet north of Garden Rd. The professional engineering services associated with this agreement, includes the preparation of design plans, specifications, cost estimate data, and bid book (contract documents) for construction of the roadway.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$59,560.00

Proposed Expenditure:	Account Number(s):
\$59,560.00	550-117-78033

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve the Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., to provide professional engineering services for the Firewheel Drive project, at an amount not to exceed of \$59,560.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
Nathan D. Maier Consulting Engineers, Inc.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as “TOWN”), acting by and through its Mayor, and **Nathan D. Maier Consulting Engineers, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 8080 Park Lane, Suite 600, Dallas, TX 75231.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Firewheel Drive Street Improvements project; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Firewheel Drive Street Improvements project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Fifty-Nine Thousand Five Hundred Sixty and No/100 Dollars (\$59,560.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for supporting the percentage for which payment is sought by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing

CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis save and except the Professional Liability Insurance which may be written on a “claims-made” basis, provided that “tail coverage” or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance 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 TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Clay Riggs, P.E.,
 Senior Project Engineer
 Town of Flower Mound
 2121 Cross Timbers Road
 Flower Mound, Texas 75028
 972-874-6302 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.

Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.
Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.
CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.
Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS

OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.

Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.

Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.

Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.

Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein,

“Confidential Information” means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term “Confidential Information” shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN’s attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN’s agent as follows, unless and until CONSULTANT is otherwise notified:

Clay Riggs, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6302 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Matthew McLeod, P.E.
Project Engineer
Nathan D. Maier Consulting Engineers, Inc.
8080 Park Lane, Suite 600
Dallas, Texas 75231
214-739-4741 Telephone

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and

federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.
Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.
Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.
No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual

relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

CONSULTANT:
Nathan D. Maier Consulting Engineers, Inc.

By: _____

Name:

Title:

Date Signed: _____

State of Texas §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 20____.

 Notary Public, State of Texas

My Commission Expires:

ATTACHMENT A
SCOPE OF SERVICES

PROJECT NAME: Firewheel Drive Street Improvements

PROJECT UNDERSTANDING

The corridor is approximately 900 feet in length and extends from north of Milford Drive to north of Garden Road as shown in Exhibit 1. The design will include improvements to the eastern side of Firewheel Drive to provide a 4 lane section and sidewalk along the entire length to link existing improved sections of Firewheel Drive.

SCOPE OF PROFESSIONAL SERVICES

TASK ONE: SURVEY

1. Research
 - A. Conduct deed research of adjacent properties on eastern edge of ROW to identify existing ROW (for approximately eight tracts).
 - B. Prepare Deed Sketch: Consultant will prepare a deed sketch to identify the adjacent ROW. This sketch can be used to establish limits of project improvements within the public ROW.
2. Site Surveying
 - A. Horizontal and vertical project control tied to the Town's Geodetic Control Network will be established for approximately 900 linear feet along Firewheel Drive.
 - B. Full topographic surveys of the project limits will be performed from the existing western ROW up to and including 30 feet outside of the existing eastern ROW in order to provide adequate ground ties for the proposed improvements. The topographic survey will include ties to all visible features and break lines including franchise and Town utilities, overhead utility lines, appurtenances and flow lines, drainage structures and flow lines, tress 6" in diameter or greater, landscaped areas, bushes, shrubs, mailboxes, driveways, retaining walls, signs, curb lines, edges of pavement, flumes, gutters, sidewalk, pedestrian ramps, fences, and gates. The topographic survey will be included in a base map to be used for design purposes.
 - C. Property corner monuments along the eastern right-of-way will be field located and tied for adjoining properties. Rear corners will need to be located in order to verify front corners and establish property/right of way lines. NDM will provide and coordinate right-of-entry for this task. The Town will assist in finding contact information.
3. Survey Guidelines and Exclusions

- A. Site coordination system will be state plane (NAD 83) based on WDS RTK Network and tied to the Town's Geodetic Control Network and adjusted to surface based on scale factors listed in the Town's Geodetic Control Network.
- B. Elevation datum for site benchmarks will be NAVD 88 established with WDS RTK Network.
- C. Property base map will determine right of way lines and eastern adjacent property lines as they intersect the right of way.
- D. No right of way strip map (signed & sealed final) is included in this estimate.
- E. No time has been included for calculating, preparing plots or setting boundary corners monuments on any of the involved properties other than ROW dedications prepared by NDM.
- F. Location of existing easements is limited to information provided by the client such as title commitments, surveys, plats or easement instruments and/or those incidentally discovered during property research; no time has been included for abstracting properties or research of existing easements beyond this.
- G. No Town or County filing fees are included in this estimate.
- H. Topographic survey includes visible and apparent utilities, improvements, structures, and trees six inches (in diameter) and above.

TASK TWO: DESIGN

SCHEMATIC DESIGN (30% LEVEL CONSTRUCTION DWGS)

The general objective for this phase of the work is to prepare schematic plans to a 30% level of detail. NDM will prepare plans designed in accordance with the Town of Flower Mound Design Criteria Manual. The following are the anticipated specific components of the plan set:

1. Cover Sheet: Provide a description of the improvements, sheet index, client name, consultant information, etc.
2. General Notes Sheet: Provide standard information to contractor and parameters of the project.
3. Typical Sections: Proposed typical sections will be developed for the roadway segment. The typical sections will illustrate lane assignments, dimensions, slopes, and pavement section.
4. Traffic Control Plans: A traffic control and phasing plan will be developed. The traffic control plan will provide for the orderly routing of traffic during construction. Adjustments may be made, as necessary, to better accommodate traffic as the project progresses. Safety will at all times be the primary consideration. The traffic control plan will detail the location and layout of traffic control devices as outlined in the "Texas Manual on Uniform Traffic Control Devices." Final plans will provide for striping, barricades, and signage.

5. Demolition and Protection Plans: Identify and document all existing elements that are to be demolished or protected as part of project implementation. This will utilize the existing conditions survey.
6. Paving and Grading: The roadway geometry for the project will be developed based on the Town of Flower Mound design standards & criteria and to match existing conditions. NDM will provide plan sheets showing modifications to roadway paving, inlets, curbs, drives, and striping.

A sidewalk will be provided along the eastern edge of the roadway. A curb ramp and pedestrian crossing will be provided to link the proposed eastern sidewalk with the western sidewalk curb ramp at Hearthstone Drive. Driveway crossings are not expected to need curb ramps. Coordination with the Texas Department of Licensing and Regulation (TDLR) will be provided regarding project concurrence with TDLR or ADA standards.

7. Existing Panel Replacement Plans: Plan sheets will be included that include the limits of paving reconstruction necessary to alleviate the existing panel issues at the various locations as identified by the Town.
8. Utility and Regulatory Coordination and Plans:
 - A. Utility Locations: Proposed plans will show the schematic location, alignment, and grade of each public or private utility crossing visible in the field or obtainable from records and utility representatives (franchise utility company records) as well as SUE if applicable as an addition to the base scope. NDM will prepare and submit these plans to the Town of Flower Mound for coordination so that all utility company relocations may be approved and relocated prior to awarding of the general construction contracts. This scope specifically excludes any plan development or direct coordination with franchise utility companies.

This scope assumes that the Town's existing local infrastructure (storm sewer, water, and sanitary sewer) will be maintained as-is. NDM will review the existing storm sewer system in Firewheel Drive and provide the Town information on the adequacy of the system.

The Town of Flower Mound will provide as-built records for the following facilities in the project area, including, but not limited to:

- Roadways
- Water Lines
- Sanitary Sewer Lines
- Storm Drain Lines
- Franchise Utility Underground and/or Overhead Lines
- Other utilities known by the Town to serve the project area

- B. Plot Preliminary Locations: Information secured above will be plotted to identify utility locations. Utility conflicts, and the need for relocation, will be identified and provided to the Town of Flower Mound for coordinating with the affected utilities. Consultant will not provide any design for franchise utility relocation as part of this scope.

- C. Coordination will be provided for project concurrence with Texas Commission on Environmental Quality (TCEQ).
9. Surface Drainage and Storm Sewer Design:
 - A. Drainage areas will be evaluated based on the existing conditions.
 - B. Storm Sewer Design: It is assumed that the basic storm sewer infrastructure is in place and adequate. Additional storm sewer design will be provided based on the proposed improvements. This is limited to minor inlet laterals for tying into existing system. Inlets will be located and/or relocated as necessary. Plan and profile sheets will be developed for inlet laterals as necessary to meet Town Standards. Should the Town decide to upgrade existing infrastructure such as storm sewer, water, and sanitary sewer, this can be performed as an alternate task as outlined in the fees and description above.
 - C. Erosion Control: Points of surface run-off concentration will be treated as required to control erosion. This applies to erosion control during construction, as well as permanent erosion control for the completed project. Construction plans will include an erosion control plan sheet. Contractor will be responsible for preparation of a Storm Water Pollution Prevention Plan (SW3P) for small construction activity.
 10. Preliminary Cross Sections: Preliminary cross sections for the project roadway will be developed for the 30% schematic based on the horizontal and vertical geometry, as well as the typical section to establish the necessary width of the temporary construction easement.
 11. Schematic Level Quality Control Review: An internal audit of design, engineering, and drawings to ensure quality control.
 12. Schematic Level Opinion of Probable Costs: NDM will prepare opinions of probably construction cost (OPC) for the proposed project. NDM will identify potential alternatives that may provide cost savings to the Client. Opinions of ROW acquisitions will not be included in the construction cost opinion and are not a part of this scope.
 13. Design drawings will be developed for 22"x34" printing and will be submitted to the Town of Flower Mound on half size (11"x17") plans and electronically as a .pdf file. Four sets of hard copy plans are included in this scope.

DESIGN DEVELOPMENT (60% LEVEL CONSTRUCTION DWGS)

The general objective for the Design Development phase of the work is to resolve design and engineering conflicts, further coordination between users and utilities, coordinate with Town staff, and verify construction costs. Based on the client-approved Schematic Design package, the Consultant will prepare Design Development Drawings, Specifications, and Design Development Level Opinion of Probable Costs.

1. Design Development Package will include further advancement of the plan concepts discussed in Phase II including:
 - Cover Sheet

- General Notes Sheet
 - Overall Site Plan
 - Typical Paving Sections
 - Traffic Control Plans
 - Demolition and Protection Plans
 - Paving and Grading Plans
 - Existing Panel Replacement Plans
 - Signing and Pavement Marking Layouts
 - Subsurface Drainage and Storm Sewer Design (as applicable)
 - Drainage Area Map and Calculations (as applicable)
 - Preliminary Cross Sections
 - Quality Control Review
 - Design Development Level Opinion of Probable Costs
2. One meeting with the Town will be included to review 30% schematic plans.
 3. Design drawings will be developed for 22"x34" printing and will be submitted to the Town of Flower Mound on half size (11"x17") plans and electronically as a .pdf file. Four sets of hard copy plans are included in this scope for the Town and up to five additional sets to be distributed to franchise utilities.
 4. A list of proposed specifications and standard details will be provided to the Town for review at this phase. A list of special provisions and specifications will also be provided to the Town for review and comment.
 5. An updated opinion of probable cost will be provided. This opinion will include a take-off and tabulation of all pay quantities. Pay items will be in accordance with the Town of Flower Mound or NCTCOG standard specifications as amended by the Town of Flower Mound and supplemented where necessary with special items.

CONSTRUCTION DOCUMENTS (90% LEVEL CONSTRUCTION DWGS)

The general objective for this phase of the work is to prepare final documentation drawings that incorporate the most current information.

1. Construction Document Package will include further advancement of the plan concepts discussed in Phase III including:
 - Cover Sheet
 - General Notes Sheet
 - Overall Site Plan
 - Typical Paving Sections
 - Traffic Control Plans
 - Demolition and Protection Plans
 - Paving and Grading Plans
 - Existing Panel Replacement Plans
 - Signing and Pavement Marking Layouts
 - Subsurface Drainage and Storm Sewer Design (as applicable)
 - Drainage Area Map and Calculations (as applicable)
 - Preliminary Cross Sections

- Quality Control Review
 - Design Development Level Opinion of Probable Costs
2. One meeting with the Town will be included to review the 60% plans.
 3. Design drawings will be developed for 22"x34" printing and will be submitted to the Town of Flower Mound on half size (11"x17") plans and electronically as a .pdf file. Four sets of hard copy plans are included in this scope for the Town and up to five additional sets to be distributed to franchise utilities.
 4. Specifications and standard details will be developed for review at this phase. This will include special provisions and specifications. Items not covered in the Town of Flower Mound or NCTCOG standard specifications as amended by the Town of Flower Mound or in TxDOT specifications will require written Special Specifications. Special details that are not included as a standard will be included in the plans. Structural items will follow the latest editions of ACI (American Concrete Institute) and AISC (American Institute of Steel Constructors) as well as the Town's requirements according to the latest adopted IBC/UBC (International Building Code / Uniform Building Code) for plumbing, electrical, and mechanical.
 5. An updated opinion of probable cost will be provided. This opinion will include a take-off and tabulation of all pay quantities. Pay items will be in accordance with the Town of Flower Mound or NCTCOG standard specifications as amended by the Town of Flower

FINAL SUBMITTAL BID AND CONSTRUCTION PACKAGE (100% LEVEL CONSTRUCTION DWGS)

The intent is to have a 100% complete set with all Client redlines resolved, all sheets indexed, required general notes furnished, and work items listed.

All plans, details, specifications and contract documents, surveys, maps and documents will be produced in AutoCAD format and a copy of the design files will be provided to the Town electronically in that format as well as in .pdf or .tif format.

1. Construction Document Package will include further advancement of the plan concepts discussed in Phase III including:
 - Cover Sheet
 - General Notes Sheet
 - Overall Site Plan
 - Typical Paving Sections
 - Traffic Control Plans
 - Demolition and Protection Plans
 - Paving and Grading Plans
 - Existing Panel Replacement Plans
 - Signing and Pavement Marking Layouts
 - Subsurface Drainage and Storm Sewer Design (as applicable)
 - Drainage Area Map and Calculations (as applicable)
 - Preliminary Cross Sections
 - Quality Control Review

- Design Development Level Opinion of Probable Costs
2. One meeting with the Town will be included to review the 90% plans.
 3. Design drawings will be developed for 22"x34" printing and will be submitted to the Town of Flower Mound on either full size (24"x36") or half size (11"x17") plans or electronically as a .pdf file. Four sets of hard copy plans are included in this scope for the Town and up to five additional sets to be distributed to franchise utilities.
 4. A final opinion of probable cost will be provided. This opinion will include a take-off and tabulation of all pay quantities. Pay items will be in accordance with the Town of Flower Mound or NCTCOG standard specifications as amended by the Town of Flower Mound and supplemented where necessary with special items.

TASK THREE: BIDDING PHASE SERVICES

1. Print and issue 7 sets of bidding documents. Additional sets of bidding documents shall be printed, only upon the Town's authorization, as Additional Professional Services. Bidding documents will be issued to potential bidders upon the payment of a non-refundable fee to cover the cost of printing those documents.
2. Issue addenda as required.
3. In this phase, the Consultant will provide the following deliverables:
 - Notice to Bidders for advertising by the Town.
 - Addenda as required.
 - Print and deliver to the Town up to 7 sets of bid documents.

TASK FOUR: RIGHT-OF-WAY DOCUMENTS

1. NDM will provide right-of-way conveyance documents, exhibits, descriptions, and will field tie corners on a per tract basis (eight assumed).

EXCLUSIONS

The following items are excluded from this scope of services, but can be added for additional compensation:

- Geotechnical investigation and pavement design is not included. All pavement details will be based on Town Design Criteria and NCTCOG.
- Subsurface utility engineering investigations
- Structural design services
- Traffic signal design and plans
- Street lighting layout or design
- Landscaping or irrigation design
- Construction administration services

FEES

Fees for engineering services for this project are included under Attachment B.

ATTACHMENT B
COMPENSATION

The Consultant will provide the Scope of Services for Tasks 1-3 for a lump sum fee. The Task fees provided are a projection of the level of service required for each task. Task 4 services will be provided based on the number of right-of-way tracts that are required for the project implementation.

TASK 1 – Survey	\$13,800
TASK 2 – Design	\$28,690
TASK 3 – Bidding Phase Services	\$1,640
Sub – Total (Lump Sum)	\$44,130
TASK 4 – Right-of-Way Documents (\$1,835/EA)	\$14,680
Reimbursable	\$750
<u>TOTAL</u>	<u>\$59,560</u>

Additional services will be negotiated at the time they are identified.

EXHIBIT 1





TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: November 7, 2016

FROM: Brian Waltenburg, P.E., Senior Project Engineer

ITEM: Consider approval of a Professional Services Agreement for the design phase services for the Lake Forest Boulevard Bridge and Water Line project, with CP&Y, Inc., for \$123,510.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Lake Forest Boulevard Bridge and Water Line project includes construction of approximately 700 LF of two-lane concrete roadway (urban collector) with curb and gutter, two box culvert creek crossings, retaining walls, enclosed drainage systems and 800 LF of 12-inch water line. The project will complete a gap on Lake Forest Boulevard between Foxborough Trail and Lincoln Court.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$ 123,510.00

Proposed Expenditure:	Account Number(s):
\$88,510.00	550-117-96011 Bridge
\$35,000.00	601-900-96011 Water Line

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: George Staples, of Taylor, Olson, Adkins, Sralla and Elam, has reviewed the professional services agreement as to form and content.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve the Professional Services Agreement for the design phase services for the Lake Forest Boulevard Bridge and Water Line project, with CP&Y, Inc., for \$123,510.00; and authorization for the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
CP&Y, INC.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as “TOWN”), acting by and through its Mayor, and **CP&Y, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 1820 Regal Row, Dallas, TX 75235.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Lake Forest Boulevard Bridge and Water Line project; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Lake Forest Boulevard Bridge and Water Line project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed one hundred twenty-three thousand five hundred ten and No/100 Dollars (\$123,510.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "A" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for supporting the percentage for which payment is sought by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing

CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an “occurrence” basis save and except the Professional Liability Insurance which may be written on a “claims-made” basis, provided that “tail coverage” or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance 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 TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.

Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCURRING DIRECTLY AS A RESULT OF ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, , AND CONSULTANT WILL, AT ITS

OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;

- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

XV.
Provisions Surviving Termination

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XVI.
Changes

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

XVII.
Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or

its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN's attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN's agent as follows, unless and until CONSULTANT is otherwise notified:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Tomas Cochill, P.E.
Vice President
CP&Y, Inc.
1820 Regal Row
Dallas, Texas 75235
214-638-0500

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state

or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.

Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.

Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.

No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.

Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual

relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E. Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

CONSULTANT:
CP&Y, Inc.

By: _____

Name:

Title:

Date Signed: _____

State of Texas §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF ____, 20____.

 Notary Public, State of Texas

My Commission Expires:

ATTACHMENT A

EXHIBIT A

SCOPE OF SERVICES

FOR

LAKE FOREST BOULEVARD BRIDGE AND WATER LINE PROJECT FLOWER MOUND, TEXAS

The scope of work for engineering provided by CP&Y, Inc. (the “Engineer”) services involves: field surveying, geotechnical investigation, engineering design, preparation of plans and specifications, computing of construction quantities, and preparation of an opinion of probable cost for the construction of approximately 700 linear feet (LF) of Lake Forest Boulevard from Foxborough Trail northward to Lincoln Ct. All design work shall be in accordance with the Town of Flower Mound, Texas (the “Owner”) standard requirements. The standard drawings and specifications published by the Owner will be utilized on the project and supplemented where necessary by standard drawings and specifications from the North Central Texas Council of Governments (NCTCOG) and/or the Texas Department of Transportation (TxDOT).

The project involves new construction of approximately 700 LF of two-lane concrete roadway (37’ back of curb to back of curb) with curb and gutter, two box culvert creek crossings, retaining walls, enclosed drainage systems and 800 LF of 12-inch water line.

Consultant services for this project shall include all aspects of the work as set forth in the following scope of services (Exhibit A), and in coordination with Exhibit B (Services to be provided by the Town). Any of the items identified herein that are specifically excluded from this scope of work and/or any items not listed below that are desired by the Town to be included in the scope of work may be added at any time via a duly executed Supplemental Agreement defining the scope of those items and the related adjustment to the agreed upon fee.

The parameters for the design of the improvements shall include the following:

- A detailed field survey of the project area will be performed to establish the existing conditions and topography of the project site, along with verifying the existing right-of-way;
- A geotechnical investigation will be performed prior to commencement of design to establish the general strata, bearing capacity and other soil characteristic relevant to engineering design;
- There is no apparent need for additional right-of-way. If, after the survey is completed, it is determined that ample right-of-way is not available the Town will be notified;
- New concrete pavement with curb and gutter will be designed between the existing dead ends of Lake Forest Boulevard between Foxborough Trail and Lincoln Ct. The pavement section will have a width of 37’ (back of curb to back of curb);
- Construction of a 5’ wide sidewalk on the east side of the road;

- Analysis of existing storm water runoff based on a 100-year storm and development of an enclosed drainage system;
- Two creek crossings will require multiple barrel box culverts at each location;
- Retaining walls will be designed to accommodate the topography of the meandering creek and wide creek crossing areas;
- Construction of a new 12-inch water line connecting existing dead-end line at each end of the project limits. Appropriate appurtenances will be included;
- Erosion control plans for use during construction, and post construction erosion control to include streambank protection, sodding and/or seeding as necessary to re-establish vegetation;
- Submittals to the City of work-in-progress shall be made at 50%, 90% and 100% stages of completion, as more fully defined in Exhibit C. Each submittal will include three (3) sets of half size (11" x 17") drawings;
- All plan sheets for review and construction shall be printed on 11"x17" bond paper and provided electronically in PDF format if requested;
- All design work shall be prepared in CAD with electronic files in MicroStation V8 format which will be provided to the Town upon completion of the record drawings;
- Standard and typical details of the Town, NCTCOG and/or TxDOT selected for use will be included in the final plans and specifications;
- Special details not available as a standard drawing by the Town, NCTCOG or TxDOT will be prepared, as necessary;

The Engineer will perform the necessary engineering and technical services for the Design, Bid, and Construction Phases, including any Additional Services for the development of this project in accordance with the following sections of this agreement.

I. PROJECT MANAGEMENT & ADMINISTRATIVE TASKS

1. Project Management, Administration and Coordination

The Engineer will establish and maintain project schedules and budgets, develop monthly progress reports, prepare invoices, and attend design meetings with the Owner and other entities on an as-needed basis during the project design.

2. Franchise Utility Coordination

The Engineer will not be responsible for direct coordination with the various utility companies. The Engineer will attend coordination meetings to assist the Town in investigating potential conflicts. If, in fact, there is a conflict, the Engineer and Town staff

will meet with the utility company to resolve the conflict.

The Engineer will not be responsible for the redesign of any franchise utility services, the relocation of these services, or the scheduling and confirmation of such relocations.

II. DESIGN PHASE SERVICES

0. General Design

a. Project Title Sheet

A project title sheet will be prepared as required for use in the construction plans in accordance with the sample provided by the Owner.

b. Project Layout Sheets

Project layout sheets will be prepared at a minimum of 1"=100' (half-size), which clearly indicates the limits of the entire project. These layout sheets will indicate the major structures contained within the project, the names of all intersecting roadways and waterways, and other items relevant to creating an overall perspective of the entire project.

c. Tree Removal Sheet

A sheet identifying trees six inches (6") and larger will be provided. Trees to be removed will be identified. Specific species of trees will not be provided. Identifying tree species will be considered an additional service.

d. Quantities and Construction Cost

Project quantities will be calculated and tabulated in a bid schedule. The pay items will be in accordance with previous Town projects and supplemented where necessary with special specifications prepared by the Engineer. The bid schedule will be included in the Bid Documents and may be reproduced in the plan set.

An Engineer's Opinion of Probable Construction Cost will be prepared for the project using current unit cost data from recent bid information.

e. Bid/Construction Administration Documents

The Engineer will assemble project documents governing the bidding and construction administration of the project including but not limited to the following: advertisement for bids, instructions to bidders, construction contract, bid schedule, bonds, general conditions of the contract, supplementary conditions and other documents related to the performance of work for the project.

f. Technical Specifications

A list of specifications necessary for construction of the various elements designed on the project will be compiled by the Engineer. Any special specifications will also be provided.

1. Roadway Design

a. Paving Plans/Profiles

On approval of the preliminary horizontal & vertical alignments, plan sheets will be prepared which depict these alignments. These plan sheets will be a minimum of 1"=40' half-size (11"x17") and contain topographic information, roadway baselines, pavement edges, roadway pavement contours where necessary, limits of structures, limits of retaining walls, drainage structures excluding pipes, limits of sidewalks, limits of barriers and any other information necessary for pavement construction. On approval of the preliminary vertical alignments, profile sheets will be prepared to depict these alignments. These profiles will contain existing ground lines at the proposed profile grade line, limits of structures, and proposed elevations at a minimum of 50-foot intervals.

b. Cross Sections

The Engineer will prepare cross sections of the project during the design phase to facilitate the development of the appropriate vertical profile of the roadway. These cross sections will be developed to a sufficient level to aid the Engineer in this effort and to approximate the cut/fill quantities required for the project. The Engineer will not prepare cross section sheets. If requested this information may be provided after the award, to the selected contractor and/or Town, in electronic format for informational purposes only. This information will not be further detailed and/or manipulated into plan sheet format unless specifically requested as an Additional Service item as defined in Section V below.

c. Typical Sections

Roadway typical sections will be prepared for various paving sections along the project. These sections will be developed in accordance with the Town of Flower Mound design standards. These sections will be based on the pavement and sub-grade design recommended in the geotechnical investigation to and approved by the Owner.

d. Grading Sheets

Where necessary, grading sheets will be prepared to properly show the relationship between the existing topography and proposed features of the project. These sheets will contain spot elevations and/or contours to guide the construction in these areas.

e. Miscellaneous Paving Details

Miscellaneous paving details will be developed as necessary to describe various types of construction such as sidewalks, curbs, etc. when no such standard details are available from the Town of Flower Mound, NCTCOG and/or TxDOT.

f. Signing and Striping

The Engineer will prepare Signing and Striping plans at a scale similar to the roadway paving sheets. The plans will be in accordance with the Texas Manual on Uniform Traffic Control Devices (TxMUTCD).

2. Drainage Design & Erosion Control Plans

a. Drainage Area Maps

Drainage area maps will be prepared at a minimum scale of 1"=100' (11"x17"), using available contour maps. Inlets will be located and sub-drainage areas determined. The runoff to each inlet will be calculated in accordance with the Town of Flower Mound hydraulic design criteria and shown on run-off and inlet computation sheets.

b. Computation Sheets

In accordance with standard practice, sheets will be prepared for Runoff and Inlet Computations, Storm Sewer Computations and Lateral Computations. These sheets will tabulate all relevant data used in design for easy verification of the design methods and for future improvements to be coordinated with this project.

c. Culvert Plan/Profile Sheets and Hydraulic Calculations

Culvert plan/profile sheets and cross-sections will be provided for new culvert construction. TxDOT Standards will be used whenever possible for these culverts.

d. Storm Sewer Design

Plan/profile sheets will be prepared at a minimum 1"-40' (11"x17"). These sheets will show the location of inlets, manholes, storm sewers, slotted drains, culverts, and open channel improvements in relation to the project roadways. Drainage profile sheets will also be prepared which show profile information for the proposed storm sewer trunk lines, proposed ground above the storm sewers, existing ground above the storm sewers, and locations of lateral junctions. Any detail sheets necessary culverts will be developed. Profiles of laterals will be provided in tabular form, with associated details as necessary, unless a proposed or existing utility crosses the lateral, in which case the lateral may be profiled.

e. Miscellaneous Drainage Details

Miscellaneous drainage details will be prepared for any drainage related items, which

are not covered by the Town of Flower Mound and/or TxDOT standard details.

f. Erosion Control Plans and Details

Erosion Control Plans will be prepared and will illustrate the implementation of elements to be used to reduce the pollutants to storm water discharges associated with the construction site. The intent of these plans will be to show the ultimate configuration of these elements, not the intermediate phasing of the necessary elements.

3. Utility Design

The Engineer will prepare water plan/profile sheets at a minimum scale of 1"=40' (11x17") as part of this contract. The utilities will be designed in accordance with the Town's design criteria. The water and sewer utilities will be designed to replace the existing water and sewer utilities for the limits of the paving portion of this project.

4. Assemble and Incorporate Standard Drawings

The Engineer shall assemble, collect, and incorporate the necessary standard drawings needed for the plan set.

5. Items Not in Scope

The items listed below are not included in this scope of work. Should any of these items of work become necessary, the Town shall have the right to expand the scope of work for this project under the terms of the Additional Engineering and Services portion of this contract.

- a. Irrigation Design
- b. Landscape Design
- c. Sequence of Work and/or Traffic Control Plans
- d. Mitigation Plans
- e. Aerial Survey

6. Field/Ground Survey

Engineer will provide detailed field survey as necessary to facilitate said design including:

- a. Town of Flower Mound will obtain Right-of-Entry as needed.
- b. Recover and or establish horizontal and vertical control based on Town of Flower Mound or other applicable datum approved by the Town.
- c. Establish the horizontal and vertical project control per Town of Flower Mound, locate existing utilities, obtain cross section data and locate other topographical features in the project necessary for design. The general field surveying requirements are as follows:

- (i) Establish the horizontal control points using any Town control points if readily available. The project base line will be coincidental with or parallel to the station design centerline. The ROW will be established by using existing property corners found and tied. If insufficient or conflicting property data is found, a right-of-way survey shall be prepared as an additional service as directed by Town. Any traverse related to the project will be performed with appropriate modified second order procedures by closed loop into the project control. Closures will be one part in 20,000 or better.
- (ii) The vertical control survey shall include ties into any readily available Town benchmark for correlation. A Town approved benchmark will be established at the limits of the project and tied to the project baseline. Benchmarks shall be located outside of the anticipated construction area so they are not disturbed during construction.
- (iii) Provide drawing of cross-sections of the ROW and adjoining overhead electric transmission easement area at 25 foot intervals. This will also include work to detail all grade breaks.
- (iv) Provide drawing of all trees greater than 4" in caliper, paving, and all surface and overhead features within the project limits including: all visible surface appurtenances such as power poles, guy anchors, overhead electric line crossings, telephone pedestals and cabinets, pipeline signs and vents, valves, manholes, roadway signs (size and photographs), mailboxes, private driveways, turnouts, fences. All existing drainage structures will be shown, to include: Flow line, rip-rap, headwall and wingwall elevations for drainage structures. The culvert dimensions, number of barrels, material type and photographs shall be noted for each drainage structure.
- (v) Design survey area includes: Lake Forest Blvd from Foxborough Trail to Lincoln Ct. (approximately 1,000 feet south to north) with the width extending from the west edge of the adjacent electrical transmission easement eastward through the existing right-of-way ending 25 feet beyond the east right-of-way line.

d. Information Submittal

All fieldwork will be documented and made available to Town for review if requested. Format of field data submittals will be a computer output listing of data collector information which includes x, y, & z coordinates and a description of each point; coordinate geometry computer output of traverses and level loops; field books if produced; or other acceptable formats. Survey files will be provided in ASCII format where applicable. A Digital Terrain Model shall be created and the MicroStation 3-D file including, but not limited to, break lines, elevation points, triangles and contours, on separate levels. Field Survey Data Collection

III. CONSTRUCTION PHASE SERVICES

1. Administrative Services

The Engineer will not provide Construction Administration services under this contract.

2. Field Engineering

The Engineer will not perform any Field Engineering to design additional features as part of this contract. However, any redesign of a planned improvement that is required as a result of an incompatibility of Engineer's original design will be addressed by the Engineer.

3. Bid Processing

The Engineer will prepare addenda, answer bid questions, provide clarification and assist with the bid opening by summarizing the bids received.

4. Construction Contract Documents

After the project is awarded to a contractor, the Engineer will revise the plans to include any addenda published prior to award and update the project specifications documents to reflect the bid information as awarded. These revisions will constitute the final construction documents and will be provided to the Town for execution by the contractor and Town.

5. As-Built Drawings

The Engineer will prepare a reproducible complete set of As-Built drawings based on any field changes made during construction and any field notes or marked up plans provided by the contractor/Town upon completion of construction.

6. Change Orders

The Engineer will not assist the Owner in preparing any Change Orders required during the construction phase.

7. Pay Requests

The Engineer will not assist the Owner in the review of construction Pay Requests under this contract.

8. Requests for Information

The Engineer will respond, as necessary to Requests for Information during the construction phase of the Project. Should the requests arise from work outside the Engineer's original scope of work, a supplemental agreement may be required.

IV. ADDITIONAL SERVICES

1. Engineering Redesign

At various points during the design phase, the Engineer will submit work in progress plan sets for review by the Owner. Such sets should receive a thorough review by the Owner for compliance with the Owner's expectations for the Project. (Note: the Owner is not required to review such plan sets for design conformance, code compliance, or other requirements deemed to be the responsibility of the Engineer). Once these plans are reviewed and returned to the Engineer, they shall be considered accepted by the Owner except as noted in the review comments. **Subsequent changes requested by the Owner shall constitute Additional Services outside of the scope of this agreement. In such cases, the Engineer shall be granted a Supplemental Agreement for additional compensation in an amount sufficient to cover any and all costs incurred by the Engineer while completing the redesign effort.**

2. TDLR Review

A TDLR review is not anticipated on this project based on the amount of applicable improvements. If necessary, CP&Y will submit a final set of plans to a local TDLR review firm for review. Review fees are based on the construction cost of the project. CP&Y will submit an invoice to the Owner for the cost of the review. This fee is not included in the Fee Summary attached (Exhibit D). If such a review is determined to be necessary, this work will be considered an expense item.

V. GEOTECHNICAL INVESTIGATIONS

1. Sub-consultant – HVJ Associates

2. Scope of Work

- a. Four (4) 20 feet borings within the project alignment will be drilled to obtain the subsurface conditions at the project site and provide recommendations for the proposed structures. It is anticipated that an All Terrain Vehicle (ATV) drill rig will be required to access the boring locations. Sampling will be performed continuously to the maximum termination depth of approximately 10 feet and at 5-feet thereafter to the termination depth of 20 feet. Pavement surface will be cored prior to drilling at boring locations located on the pavement. The borings will be used to determine site stratigraphy and to obtain samples for laboratory testing. Shelby tube sampling will be performed in cohesive soils and split spoon sampling will be performed in cohesionless soils.
- b. Selected laboratory testing will be conducted on samples that are representative of the materials obtained during the field exploration. The tests will be used to evaluate and classify the soils, identify subsurface site characteristics, and provide data for analysis.

- c. All the field and laboratory tests will be performed according to ASTM standards, where applicable, or with other established procedures. Results of the field and laboratory data will be used to provide geotechnical recommendations for the proposed structures.
- d. A geotechnical report will be prepared by an engineer specializing in soil mechanics and foundation engineering after reviewing available structural, geological, boring, and laboratory data. In general, the following items will be included in the report:
 - (i) Plan of borings.
 - (ii) Table of laboratory results,
 - (iii) Boring logs,
 - (iv) Generalized subsurface conditions,
 - (v) Groundwater level observations,
 - (vi) Recommendation for the proposed water lines,
 - (vii) Pavement recommendations as per Town of Flower Mound Standards,
 - (viii) Retaining wall and culvert recommendation,
 - (ix) Site preparation and structural fill requirements,
 - (x) Construction considerations, and
 - (xi) General earthwork recommendations.
- e. A draft report will be submitted for review by CP&Y. After approval of the draft report, a final report of the study will be submitted. Additional revisions and/or supplements to the report following approval may be considered additional services.
- f. The following assumptions were made in preparing this letter:
 - (i) Boring locations are accessible to All Terrain Vehicle (ATV) drill rig.
 - (ii) Field survey of the borings locations and elevations is not part of our scope.
 - (iii) The exact boring locations will be determined after receiving the proposed retaining wall and culvert locations.
 - (iv) Right of Entry to the properties, if any will be obtained by CP&Y.
 - (v) Laboratory samples will be held for no more than a period of 60 days following completion of the final report or 120 days following completion of the draft report, whichever is less.
- g. The scope of services described is appropriate for the project configuration presented to us. If anomalous conditions are encountered, or if the project configuration changes significantly, a change in work scope may be required. Sub-consultant will recommend such changes when and if it is deemed necessary. No changes will be implemented without prior authorization by CP&Y. Sub-consultant will contact the Texas One Call System, to locate buried utilities. Sub-consultant will take care to minimize damage to existing facilities; however, activities may result in some damage to vegetation or unidentified existing utilities. This scope specifically excludes any costs associated with restoration of vegetation or repair.

VI. EXPENSES

The Engineer will necessarily incur reasonable expenses in conjunction with the design and administration of this project. Such expenses have been estimated from similar experiences and included as a line item on the Fee Summary (Exhibit D). These expenses include:

- Printing of specifications and plan sets for review, bidding and construction
- TDLR review and coordination

These expenses will be limited to every extent possible and will be reimbursed by the Owner as part of this agreement. If the scope of the project changes or if the required number of submittals and/or copies changes appreciably from that indicated in Exhibit C, the Engineer reserves the right to seek additional compensation for the additional expenses.

EXHIBIT B**SERVICES TO BE PROVIDED BY THE OWNER****FOR
LAKE FOREST BOULEVARD BRIDGE AND WATER LINE PROJECT
FLOWER MOUND, TEXAS**

The Owner will provide the following to the Engineer in the performance of the Project upon request:

- A. Provide any existing data the Owner has on file concerning the Project.
- B. Provide any available as-built plans for the existing facilities in and around the project site.
- C. Provide any available as-built plans for Town owned utility lines along and/or below the existing and proposed facility.
- D. Provide any plats and/or development plans for adjacent properties.
- E. Provide Town preferred project specifications and construction administration documents in electronic format or an example specification package from a prior project as a go-by.
- F. Assist the Engineer, as necessary, in obtaining any required data and information from the State, County, neighboring cities and/or other franchise utility companies.
- G. Assist the Engineer by requiring appropriate utility companies to expose underground utilities within the right-of-way, when required.
- H. Give prompt written notice to Engineer whenever the Owner observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services.
- I. Provide right-of-entry to properties along project for surveying and geotechnical investigation purposes.

EXHIBIT C

LIST OF SUBMITTALS

FOR LAKE FOREST BOULEVARD BRIDGE AND WATER LINE PROJECT FLOWER MOUND, TEXAS

During the course of this project the Engineer will make periodic submittals to the Owner for review and input. The timing of such submittals will be determined by the flow of work and responsiveness of the Owner in reviewing previously submitted information. Below is a list of the expected submittals for this project and the approximate preparation time required for each submittal.

- A. Preliminary Design (50%) — to be submitted in sheet format on 11"x17" pages, suitable for reproduction. Three (3) sets of plans will be provided with one (1) to be returned with any review comments from the Owner. The plan set will also be provided in electronic format as PDF files. These review sets of plans will include:
 - 1. Title Sheet
 - 2. Typical Sections
 - 3. Project Layout Sheets
 - 4. Roadway Plan and Profile Sheets
 - 5. Drainage Area Maps and Preliminary Storm Sewer Plans
 - 6. Bridge Layouts
 - 7. Retaining Wall Layouts
- B. Pre-Final Design Plans (90%) — to be submitted in sheet format on 11"x17" pages, suitable for reproduction. The first draft of the project specifications will be included with the plans. Three (3) sets of plans and project specifications will be provided with one (1) to be returned with any review comments from the Owner. The plan set will also be provided in electronic format as PDF files. These review sets of plans will include all plan sheets required for construction of the project as well as all standard details for inclusion in the final bid documents.
- C. Bidding Plans (100%) - to be submitted in sheet format on 11"x17" pages, suitable for reproduction. The final draft of the project specifications will be included with the plans. Five (5) sets of plans and project specifications will be provided for the Owner's records. These final documents will be copies of the signed and sealed engineering plans to be used for the bidding the project. The plan set will also be provided in electronic format as PDF files.
- D. Construction Documents – plans and specifications revised after award to reflect changes made by addenda and update information supplied by the successful bidder. Engineer will provide the Town with five (5) half-size (11"x17") plan sets, two (2) full-size (22"x34") plan sets and five (5) project specification books for execution. The executed plan set will also be provided in electronic format as PDF files.

- E. As-Built Plans - to be submitted in electronic format as PDF files. These plans will reflect any design changes made during construction. All electronic project design files will be submitted in MicroStation V8 and PDF.
- F. Construction Cost Analysis — at the 50%, 90% and 100% plan stages the Engineer will submit an updated Opinion of Probable Construction Cost for review by the Owner. This cost analysis will be based on updated estimates of material quantities and unit cost data from recent bid openings within the project area. This information is provided to the Owner for informational purposes. The Engineer does not guarantee that the information provided in such analysis will reflect actual construction bid price or the final cost of the project.

EXHIBIT D
FEE SUMMARY
FOR
LAKE FOREST BOULEVARD BRIDGE AND WATER LINE PROJECT
FLOWER MOUND, TEXAS

	Fee
BASIC SERVICES	
Project Management and Administration	\$ 23,800.00
Topographic Survey	\$ 10,000.00
Tree Survey	\$ 4,000.00
Design Phase Services	\$ 66,890.00
Construction Phase Services	\$ 7,820.00
TOTAL BASIC SERVICES	\$ 112,510.00
SUBCONSULTANT SERVICES	
a. Geotechnical Services	\$ 10,000.00
TOTAL SUBCONSULTANT SERVICES	\$ 10,000.00
Reimbursible Expenses	\$ 1,000.00
TOTAL FEE	\$ 123,510.00

NOTES:

EXHIBIT E

SCHEDULE

FOR LAKE FOREST BOULEVARD BRIDGE AND WATER LINE PROJECT FLOWER MOUND, TEXAS

The Engineer will work diligently to complete the design phase, prepare bid documents and provide any support services required during construction. The schedule of activities provided below is based on award of the design contract in August 2017. The remainder of the schedule is based on information provided by the Owner during the selection process and previous experience with the Town of Flower Mound. This information can be adjusted based on the actual award date.

	Duration	Completion Date
Award of Contract	N/A	Nov 7, 2016
Notice to Proceed	21	Nov 28, 2016
Submit Preliminary Plans (50%)	103	March 10, 2017
Review by City Staff	14	March 24, 2017
Submit Pre-Final Plans (90%)	63	May 26, 2017
Review by City Staff	14	June 9, 2017
Submit Bidding Documents (100%)	35	July 14, 2017
Advertise for Construction	7	July 21, 2017
Receive Open Bids	21	Aug 10, 2017
Award Construction Contract	11	Aug 21, 2017

ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST				
LAKE FOREST BLVD. BRIDGE AND WATER LINE PROJECT				
September 27, 2016				
ITEM	UNIT	QUANTITY	UNIT COST	TOTAL COST
GENERAL				
ROW PREPARATION	STA	7	\$ 10,000	\$ 70,000
EXCAVATION	CY	2,000	\$ 8	\$ 16,000
EMBANKMENT	CY	4,000	\$ 5	\$ 20,000
SW3P	LS	1	\$ 15,000	\$ 15,000
SUBTOTAL				\$ 121,000
ROADWAY				
CONCRETE PAVEMENT (37' B-B)	SY	2,900	\$ 50	\$ 145,000
LIME TREATED SUBGRADE	SY	3,200	\$ 3	\$ 9,600
LIME (SLURRY)	TON	80	\$ 180	\$ 14,400
CONCRETE SIDEWALK	SY	400	\$ 30	\$ 12,000
RETAINING WALLS	SF	6,800	\$ 50	\$ 340,000
SUBTOTAL				\$ 521,000
DRAINAGE				
CURB INLET	EA	4	\$ 4,000	\$ 16,000
24" RCP	LF	450	\$ 100	\$ 45,000
BOX CULVERT 5'x3'	LF	220	\$ 250	\$ 55,000
BOX CULVERT 6'x6'	LF	180	\$ 350	\$ 63,000
HEADWALL (5'x3')	EA	1	\$ 25,000	\$ 25,000
HEADWALL (6'x6')	EA	2	\$ 25,000	\$ 50,000
STREAMBANK PROTECTION	CY	500	\$ 130	\$ 65,000
SUBTOTAL				\$ 319,000
WATER				
12" WATER LINE	LF	800	\$ 80	\$ 64,000
FIRE HYDRANT ASSEMBLY	EA	1	\$ 3,000	\$ 3,000
6" GATE VALVE	EA	2	\$ 2,000	\$ 4,000
SUBTOTAL				\$ 71,000
CONSTRUCTION CONTENGENCIES	20%			\$ 206,400
TOTAL				\$ 1,238,400



TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: November 7, 2016

FROM: Brian Waltenburg, P.E., Senior Project Engineer

ITEM: Consider approval of Change Order No. 1 for the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for an increase to the contract in the amount of \$17,952.55; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On May 2, 2016 XIT Paving and Construction, Inc. was awarded the construction contract for the Timber Creek Road Paving Improvements project. The original construction award amount was \$595,946.00. After approval of Change Order 1, the revised contract amount will increase in the amount of \$17,952.55 to a total contract amount of \$613,898.55.

Change Order No. 1 provides for additional subgrade stabilization, minor repair of an existing concrete pad, and temporary traffic control markings, all items not anticipated in the original design. Also included with the proposed change order is a native seed mix and biodegradable erosion control mats to restore the environmentally sensitive area to its native state and the installation of barrier free ramps that meet ADA requirements.

FISCAL IMPACT: \$17,952.55

Proposed Expenditure:	Account Number(s):
\$17,952.55	550-117-78029

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No.1

RECOMMENDATION: Move to approve Change Order No. 1 for the Timber Creek Road Paving Improvements project, amending the contract with XIT Paving and Construction, Inc., for an increase to the contract in the amount of \$17,952.55; and authorize the Mayor to execute same on behalf of the Town.

CHANGE ORDER No. 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound

Contractor: XIT Paving and Construction, Inc.

Project: **Timber Creek Road Paving Improvements****CHANGE ORDER NO. 1**

The compensation agreed upon in this Change Order is a full, complete, and final payment for all costs the Contractor incurs as a result of or relating to the change, whether said costs are known, unknown, foreseen, or unforeseen at this time, including without limitation, any costs for delay, extended overhead, ripple or impact costs, or any other effect on changed or unchanged work as a result of this change.

You are directed to make the following changes in the Contract Documents:

Item No.	Description	Unit	Add/ Deduct	Qty.	Unit Price	Extended Amount
14	Lime or Cement Material for Treated Subgrade	TON	Add	10	\$205.00	\$ 2,050.00
16	Barrier Free Ramps	EA	Add	4	\$1,300.00	\$ 5,200.00
CO1-A	Grading, Native Vegetation, and Erosion Control	LS	Add	1	\$9,860.05	\$ 9,860.05
CO1-B	Replace Concrete Utility Pad	LS	Add	1	\$115.12	\$ 115.12
CO1-C	Additional Traffic Control	LS	Add	1	\$727.38	\$ 727.38
SUBTOTAL						\$ 17,952.55

JUSTIFICATION

Change Order No. 1 provides for the following:

Item 14 and 16 include quantity adjustments for bid items to match quantities installed.

Item CO1-A allows additional payment for grading beyond the project limits and the installation of native seed mix and biodegradable erosion control mats to restore the environmentally sensitive area to its native state. Minor grading was required to remove debris and sediment left by an old beaver dam that was causing ponding of storm water.

Item CO1-B allows payment to be made for the repair of a previously damaged concrete pad around a utility testing station.

Item CO1-C allows payment to be made for additional traffic control markings, requested by Town staff, to provide safe lane designation during traffic switches.

Original Contract	\$ 595,946.00
Change Order #1	\$ 17,952.55
Revised Contract Price	\$ 613,898.55

Original Substantial Completion Days	80
Change Order No. 1 Additional Days	30
Revised Substantial Completion Days	110

Original Final Completion Days	110
Change Order No. 1 Additional Days	30
Revised Final Completion Days	140

Recommended
for Approval

Brian Waltenburg, P.E.
Sr. Project Engineer

Date

Contractor

Contractor Title

Date

Approved

Thomas E. Hayden
Mayor

Date



TOWN COUNCIL AGENDA ITEM NO. 13

CONSENT ITEM

DATE: November 7, 2016

FROM: Matthew J. Hotelling, P.E., PTOE, Traffic Engineer

ITEM: Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by amending a reduced school speed zone for Argyle Independent School District in Canyon Falls.

BACKGROUND INFORMATION:

Argyle Independent School District (AISD) reduced school speed zone

The middle school building of the AISD is now open and residential housing in close proximity, the need for the reduced school speed zone was necessary. The AISD middle school is located primarily on Canyon Falls Drive. Vicinity map included as part of Attachment 1. The following streets either border the school property or lead into the school property: Canyon Falls Drive, Denton Creek Boulevard, Horseshoe Falls Drive, Pedernales Falls Drive, Prairie Ridge Road and Stonecrest Drive. According to the AISD middle school site plan, Attachment 3, the southern portion is not being developed at this time and the last residential homes along the east side of the school property is located at Pedernales Falls Drive. The original times given to the Town for the reduced school speed zone by AISD representatives were as follows: 7:45 – 8:45 AM and 3:15 – 4:15 PM. However, since the opening of the middle school, the Police Department has requested that these times be adjusted for the needs to the crossing guards at this location and the safety of the students. It was determined that the more appropriate time for these school zones are the same times as the Lewisville Independent School District school zone times. This will provide consistency with all middle school zones across the Town as well. The new times are as follows: 7:45 am to 9 am; and 3:45 pm to 4:45 pm.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Leave speed limits as they currently exist.

FISCAL IMPACT: The cost of changing and adding speed limit signs will be covered by the operations budget.

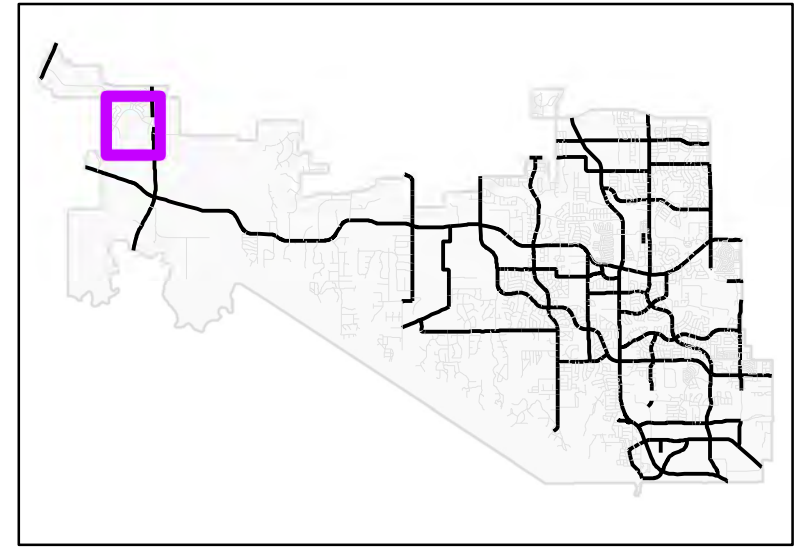
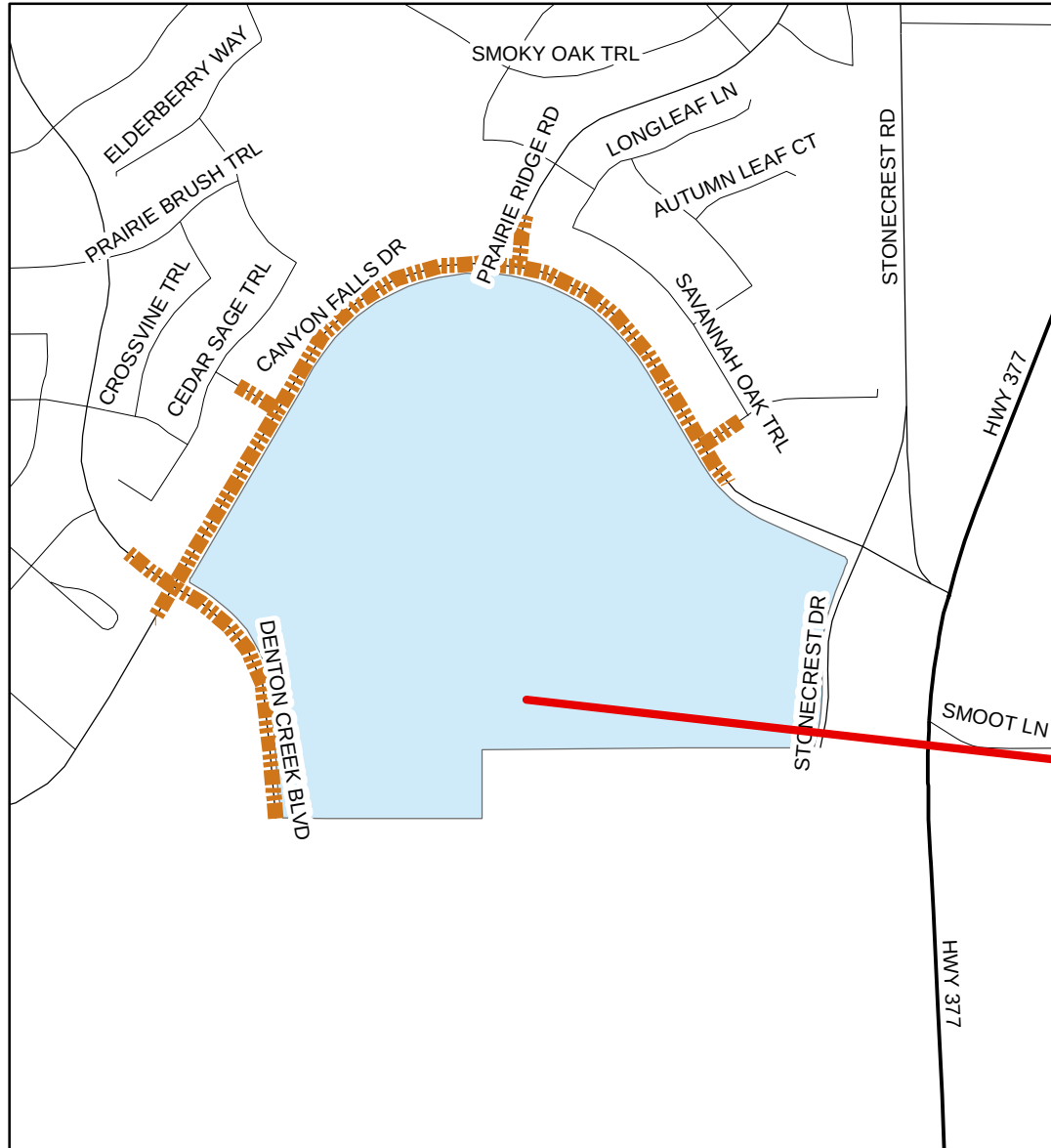
LEGAL REVIEW: Ashley Dierker of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

ATTACHMENTS:

1. Vicinity Map
2. Draft Ordinance
3. AISD middle school site plan

RECOMMENDATION: Move to approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound, Texas, relating to the prima facie speed limits for specific streets by amending a reduced school speed zone for Argyle Independent School District in Canyon Falls.

Vicinity Map - AISD



Vicinity Map

Project
Location(s)

Legend

-  Proposed Speed Limit Change
-  AISD Middle School Property

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 66-214, "ENUMERATION FOR SPECIFIC STREETS;" PROVIDING FOR THE MAXIMUM PRIMA FACIE SPEED LIMIT FOR CERTAIN STREETS AND PORTIONS OF CERTAIN STREETS WITHIN THE TOWN AT CERTAIN TIMES; PROVIDING A PENALTY NOT TO EXCEED \$200 FOR VIOLATIONS HEREOF; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 545.356 of the Texas Transportation Code authorizes a municipality to establish prima facie maximum reasonable and prudent speeds for vehicles on streets and highways within its corporate boundaries; and,

WHEREAS, the Town Council recognizes that it is necessary to regulate traffic near schools to provide a reduced speed limit for a period of time that is of sufficient length to protect children going to and from school; and,

WHEREAS, the Town of Flower Mound has conducted an engineering and traffic investigation and study to determine a prima facie maximum speed limit which is reasonable and safe during certain times on the portions of certain roadways that are the subject of this ordinance; and,

WHEREAS, the Town Council hereby finds and determines based upon said engineering and traffic investigation and study that the existing speed limits on portions of Canyon Falls Drive, Denton Creek Boulevard, Horseshoe Falls Drive, Pedernales Falls Drive, and Prairie Ridge Road are unreasonable and unsafe during certain hours when children are traveling to and from school and the Town Council hereby declares that the speed limits in those areas should be twenty miles per hour (20 mph) during established time frames as set forth in this Ordinance; and,

WHEREAS, the Town Council finds that an amendment to the speed limits on portions of Canyon Falls Drive, Denton Creek Boulevard, Horseshoe Falls Drive, Pedernales Falls Drive, and Prairie Ridge Road during certain times as set out herein is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations of the Town of Flower Mound and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

ORDINANCE NO.**PAGE 2****SECTION 2**

That Chapter 66, "Traffic and Vehicles," Article V, "Speed Limits," Section 66-214 "Enumeration for Specific Streets" of the Code of Ordinances, Town of Flower Mound, Texas is hereby amended by adopting the following maximum prima facie speed limit on the following additional streets in alphabetical order:

Location	Speed (mph)
Canyon Falls Drive from approximately 250 feet southwest of Denton Creek Boulevard to approximately 250 feet southeast of Pedernales Falls Drive from 7:45 – 9:00 AM and 3:45 – 4:45 PM	20
All other times it shall be:	30
Denton Creek Boulevard from approximately 200 feet north of Canyon Falls Drive to approximately 1,200 feet south of Canyon Falls Drive from 7:45 – 9:00 AM and 3:45 – 4:45 PM	20
All other times it shall be:	30
Horseshoe Falls Drive from approximately 200 feet north of Canyon Falls Drive to Canyon Falls Drive from 7:45 – 9:00 AM and 3:45 – 4:45 PM	20
All other times it shall be:	30
Pedernales Falls Drive from approximately 200 feet north of Canyon Falls Drive to Canyon Falls Drive from 7:45 – 9:00 AM and 3:45 – 4:45 PM	20
All other times it shall be:	30
Prairie Ridge Road from approximately 200 feet north of Canyon Falls Drive to Canyon Falls Drive from 7:45 – 9:00 AM and 3:45 – 4:45 PM	20
All other times it shall be:	30

SECTION 3

The speed limits set forth in Section 2 above, are effective when the Town Manager, or his designee, erects signs giving notice of the new speed limits. The Town Manager is directed to take such action necessary to ensure that such new speed limit signs are erected and installed.

SECTION 4

Any person, firm or corporation violating any term or provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$200.

SECTION 5

All ordinances, orders or resolutions heretofore passed and adopted by the Town Council of the Town of Flower Mound, Texas are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

ORDINANCE NO.**PAGE 3****SECTION 6**

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 7

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 8

This Ordinance shall take effect and be in full force from and after its passage and publication.

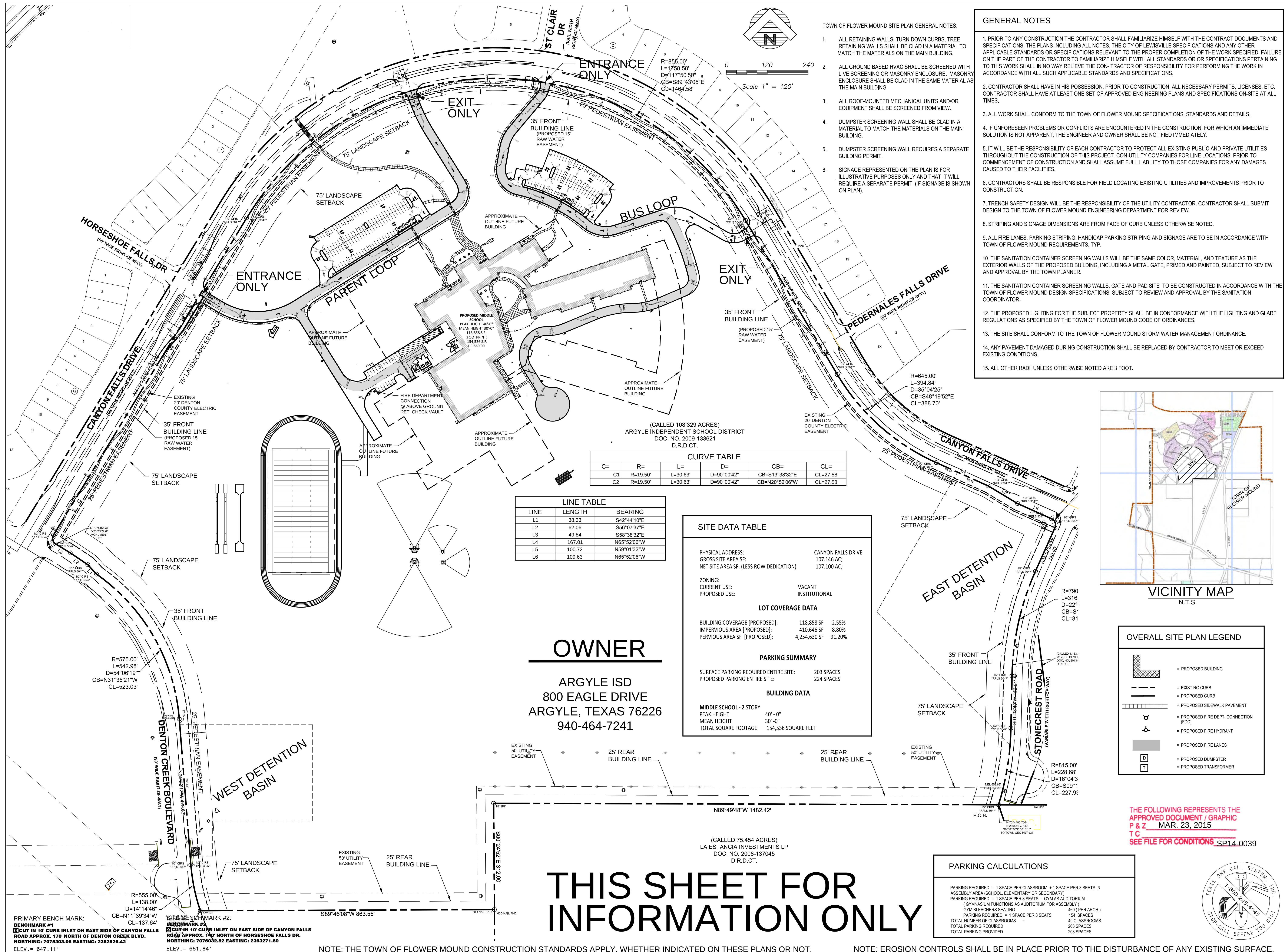
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 7TH DAY OF NOVEMBER, 2016.

APPROVED:

Thomas E. Hayden, MAYOR**ATTEST:**

Theresa Scott, TOWN SECRETARY**APPROVED AS TO FORM AND LEGALITY:**

Bryn Meredith, TOWN ATTORNEY



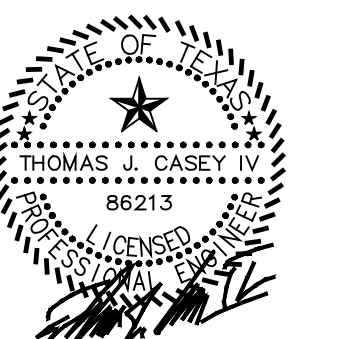
CORGAN

CORGAN
401 N. Houston St.
Dallas, TX 75202
T: 214.748.2000
F: 214.653.8281

ISSUES

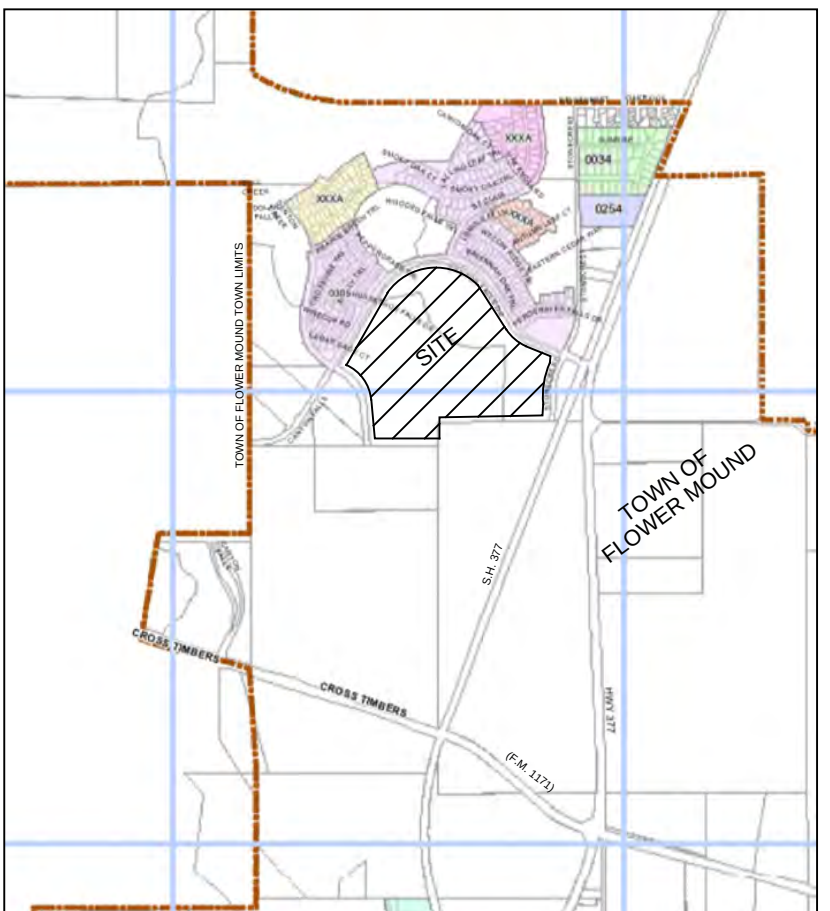
REVISIONS

1	ADD #1	TOWN COMMENTS 2-05-15
2	ADD #2	TOWN COMMENTS 2-17-15
3	ADD #3	TOWN COMMENTS 2-20-15
4	ADD #4	TOWN COMMENTS 3-06-15



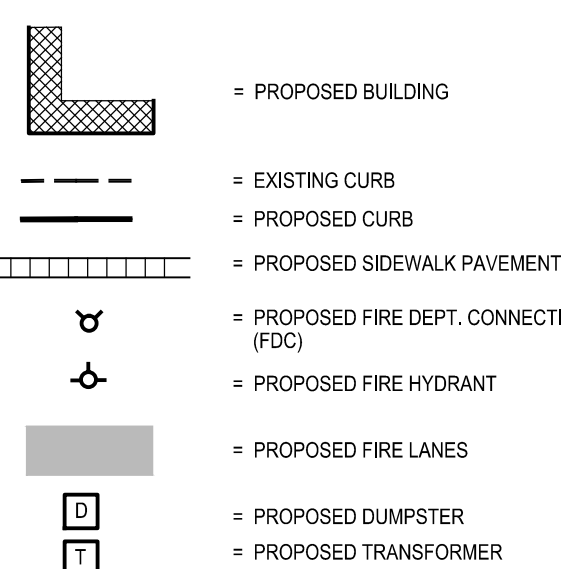
THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY THOMAS J. CASEY IV, P.E., 86213, ON MARCH 16, 2015

GLENN ENGINEERING
T.B.P.E. FIRM REGISTRATION NO. F - 303
PHONE 972-717-5151 FAX 972-717-2178
105 DECKER COURT - SUITE 910 IRVING, TEXAS 75062

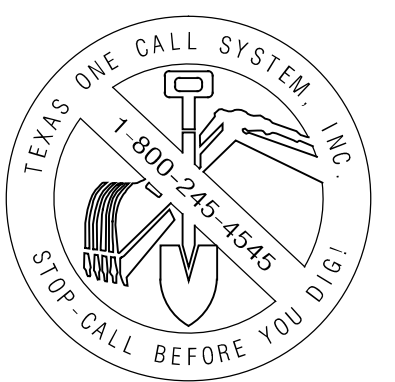


VICINITY MAP
N.T.S.

OVERALL SITE PLAN LEGEND



THE FOLLOWING REPRESENTS THE APPROVED DOCUMENT / GRAPHIC P & Z MAR. 23, 2015 TC SEE FILE FOR CONDITIONS SP14-0039



Argyle ISD New Phase I Middle School Addition

LOT 1, BLOCK 1
CANYON FALLS MIDDLE SCHOOL ADDITION
107.146 ACRES
TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS

INFORMATIONAL OVERALL SITE PLAN

JOB 14124.0000
DATE 1/22/15
SHEET

CS 101A



TOWN COUNCIL AGENDA ITEM NO. 14

CONSENT ITEM

DATE: November 7, 2016

FROM: Jeff Garner, Director of Facilities Management

ITEM: Consider approval to purchase materials and installation for the resurfacing of the Community Activity Center's indoor pool and deck area, for the Community Activity Center Improvements project, from DCC Inc., a Buy Board participant; in the amount of \$79,460.91.

BACKGROUND INFORMATION: At the Community Activity Center, the indoor pool plaster finish is showing signs of wear. The plaster is becoming rough and the color is fading due to the quartz being washed from the plaster. In addition, due to budgetary constraints during construction, it required the Town to install a sealed concrete floor around the indoor pool. Over time the floor has become stained due to heavy use and chemicals.

FISCAL IMPACT: \$79,460.91

Proposed Expenditure:	Account Number(s):
\$79,460.91	532-110-90816-6210

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

ATTACHMENTS:

1. DCC Inc., proposal

RECOMMENDATION: Move to approve the purchase of materials and installation for the resurfacing of the Community Activity Center's indoor pool and deck area, for the Community Activity Center Improvements project, from DCC Inc., a Buy Board participant; in the amount of \$79,460.91.

QUOTE - SERVICE & PARTS & SUPPLIES

Page 168 of 257

Attachment 1

MAIL INVOICES

D C C, Inc.
2929 Storey Lane
Dallas, TX 75220
Office 972-224-1669
Fax 214-352-1049



Quote # 3675
Order Date 10/06/16
Requested Date 10/06/16
Promised Date 10/06/16
Delivery Date 10/06/16

TOWN OF FLOWER MOUND-ACTIVITY CE
1200 GERAULT ROAD

INDOOR POOL RENOVATIONS
DOUG DEAN BID#52719

FLOWER MOUND, TX 75028
972-874-6300

Fax: 972-874-6471

972-874-6283

QUOTE

COMMENTS:

SCOPE OF WORK:
-RE-PLASTER OF INDOOR POOL/ QUARTZ BASED
COLORED PLASTER FINISH
-PROJECT ESTIMATED 10-15 DAYS FOR
COMPLETION
-BUDGETARY ESTIMATE/DCC WILL PROVIDE
FORMAL QUOTE. CUSTOMER HAS BUDGET
APPROVAL FOR PROJECT
-PROJECT AVAILABLE THROUGH TEXAS
BUYBOARD CONTRACT 451-14/DCC VENDER
ID# 1753
PROJECT TOTAL: \$74,460.91

Qty	Unit \$	Total Item \$
1		0.00

REMODEL - POOL/SPA L.P.S.

LABOR, PARTS, SUPPLIES 1 \$64,446.79 64,446.79

-CUSTOMER TO DRAIN POOL AND SHUT OFF ALL
EQUIPMENT PRIOR TO START OF PROJECT
-SOUND POOL FOR EXISTING HOLLOWS AND
REMOVE ANY THAT ARE FOUND
-SAW CUT TILE TINE, FITTINGS, RACE LANES
& TARGETS
-VERIFY SURFACE TO BE CLEAN OF DIRT, OR
ANY FOREIGN MATTER THAM MAY AFFECT THE
BONDING PROCESS
-APPLICATION OF BOND COAT- MULTI COAT
SCRATCH COAT TO BE APPLIED
-APPLICATION OF PLASTER SURFACE
-TROWEL TO A SMOOTH FINISH
-ACID WASH SURFACE TO EXPOSE QUARTZ
FINISH
-INSTALL VGB DRAIN COVERS-TO BE PROVIDED
BY CUSTOMER
-START WATER TO BEGIN FILLING POOL
CLI QUARTZ COLORED FINISH: \$64,446.79

D C C. Inc.
2929 Storey Lane
Dallas, TX 75220
Office 972-224-1669
Fax 214-352-1049



Attachment 1

Quote #	3675
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TOWN OF FLOWER MOUND-ACTIVITY CE
1200 GERAULT ROAD

INDOOR POOL RENOVATIONS
DOUG DEAN BID#52719

FLOWER MOUND, TX 75028
972-874-6300

Fax: 972-874-6471

972-874-6283

QUOTE

REMODEL - POOL/SPA L.P.S.	LABOR, PARTS, SUPPLIES	1	\$5,514.12	5,514.12
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OTHER PROJECTS: OPTIONAL RE-GROUT TILE
-OPTIONAL RE-GROUTING OF RACING LANES/
TARGETS- BOTH NORTH & SOUTH
-DOES NOT INCLUDE CUTTING OUT OLD GROUT
AND WOULD REQUIRE ACID WASH IN ATTEMPT
TO REMOVE AS MUCH OLD GROUT AS POSSIBLE
WITHOUT CUTTING
-POSSIBLE GROUT MAY BE THINNER IN SOME
AREAS THAN OTHERS
OPTIONAL RE-GROUT: \$5,514.12

REMODEL - POOL/SPA L.P.S.	LABOR, PARTS, SUPPLIES	1		0.00
----------------------------------	------------------------	---	--	------

OTHER PROJECTS-CONTROL JOINTS AND CRACK
REPAIRS
-SUPERFICIAL CRACKS WILL BE SAW CUT AND
FILLED, TO BE COVERED IN SCOPE OF
PLASTER PREPARATION
-EPOZY INJECTION FOR ANY STRUCTURAL
CRACKS MAY BE COMPLETED UPON CUSTOMER
REQUEST AND SIGNED CHANGE ORDER
-EPOXY INJECTION CRACK REPAIRS @ \$27.65
PER LINEAR FT

REMODEL - POOL/SPA	SUPPORT	1	\$4,500.00	4,500.00
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-PROJECT MOBILIZATION
-TECHNICIAN SUPPORT
LABOR & SUPPORT TOTAL: \$4,500

PLASTER TERMS & CONDITIONS		1		0.00
---------------------------------------	--	---	--	------

D C C, Inc.
2929 Storey Lane
Dallas, TX 75220
Office 972-224-1669
Fax 214-352-1049



Attachment 1

Quote #	3675
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DOUG DEAN BID#52719

FLOWER MOUND, TX 75028
972-874-6300

Fax: 972-874-6471

972-874-6283

QUOTE

PROJECT COMMENTS: If more than 20% of pool is found to require Hollow Repairs, an additional charge will be required to remove the extra material. DCC will provide a quote prior to completing any additional work.

DCC will inspect existing drain covers for VGB compliance when removed during preparation stage. Grates may be re-used if they are in compliance and are not damaged.

DCC will provide additional quote for new grates if it is determined they need to be replaced at time of project.

MAINTENANCE COMMENTS: Customer must provide City water to refill the pool and be responsible for completing pool refill. Customer must immediately upon completion of the plaster fill the pool and shut off water only after pool is completely filled

In addition the customer is also responsible for brushing all new plaster surfaces for 7 consecutive days after pool has been filled, this will prevent a buildup of plaster dust and result in a smoother and cleaner surface.

WARRANTY COMMENTS: Any unforeseen repairs or additional work that is identified during project, the customer will be notified immediately of such, and if required DCC will provide additional pricing for approval before such repairs are performed.

The customer must maintain water in the pool, regularly brush the pool plaster area and maintain the daily water chemistry balance in accordance with State and City pool and plaster standards as well as follow plaster guidelines set forth by the National Plaster Council. Customer to notify DCC prior to project with any concerns regarding filtration equipment, or electrical equipment (including pool lights) No warranty expressed or implied on vertical

mastic (cantilever can move) or deck-o-seal (decks can move). 30 day warranty on tile/brick/rock repairs No wheeled/tracked commercial pool cleaners/vacuums should be used on pool surface within 30 days of plaster completion.

WARRANTY includes one (1) year workmanship / Manufacturers Plaster/Material Warranty varies and is based on selection of final surface. FAILURE for the customer to adhere to plaster standards and guidelines, including proper chemical startup and

brushing, maintaining pool water chemistry or by draining the pool will result in the warranty being voided. Therefore, the customer is required to notify DCC in writing at least 10 business days prior to draining the re-plastered pool.

QUOTE TOTAL

\$74,460.91

DCC Inc.
2929 Storey Lane
Dallas, TX 75220
Office 972-224-1669
Fax 214-352-1049



Quote #	3675
Order Date	10/06/16
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TOWN OF FLOWER MOUND-ACTIVITY CE
1200 GERAULT ROAD

INDOOR POOL RENOVATIONS
DOUG DEAN BID#52719

FLOWER MOUND, TX 75028
972-874-6300

Fax: 972-874-6471

972-874-6283

QUOTE

Note: Changes to Scope of Work: DCC Inc. will notify the customer and submit a proposal if there is a required labor or material change not included in the scope of work highlighted in page one of the quote that will require DCC Inc to expend more monies than budgeted. The customer agrees to pay DCC Inc. for such expenses plus reasonable profit and overhead (10%) if the customer desires to continue under the changed scope of work. Material pricing is for normal, stock delivery. Expediting charges, if necessary, are to be added to the proposal amount.

The following price is good for **30** days. All of the above work to be completed in a substantial and workmanlike manner according to standard and code practices for the sum of : \$ 74,460.91 **plus applicable sales tax.**

DCC recommends that all pool and spa owners or operators contact (1) the pool and spa health inspector or similar code enforcement officer or their local regulatory authority (e.g. city or county government), or (2) a certified-registered professional inspector to verify pool and spa requirements and compliance.

Therefore DCC, Inc., is acting solely as an installer, and makes no representation that the services and materials specified herein will insure that customer's pool or spa complies with local (municipal and/or county) ordinances, state regulations or federal regulations.

Customers is solely responsible to insure that customer's pool or spa complies with such regulations and releases DCC, Inc. from any claim related to the compliance with such regulations.

The customer agrees to defend and indemnify DCC Inc. and its employees, agents, representatives, officers, directors, parents and subsidiaries from and against any and all claims, actions, causes of action, lawsuits, losses, damages, expenses, fees (including but not limited to attorney fees, expert fees and costs), judgments and awards (collectively the "Indemnified Claims") arising from or relating to DCC work and products under this Agreement or the Scope of Work under this Agreement or under any Proposal, to the proportionate extent such Indemnified Claims are caused, in whole or in part, by fault, negligence, or wrongdoing of the customer (including its agents, employees, and/or subcontractors) or any third party.

DCC Inc. will warrant labor for thirty (30) days. Also, installed equipment and parts are based on each manufactures warranty however labor will be charged for their warranty replacement requirements. Therefore DCC does not warrant labor, equipment or any items directly or indirectly that is not included in the scope of work.

D C C. Inc.
 2929 Storey Lane
 Dallas, TX 75220
 Office 972-224-1669
 Fax 214-352-1049



Attachment 1

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Delivery Date	10/06/16

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 1200 GERAULT ROAD

INDOOR POOL RENOVATIONS
 DOUG DEAN BID#52719

FLOWER MOUND, TX 75028
 972-874-6300

Fax: 972-874-6471

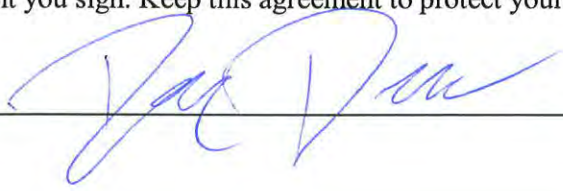
972-874-6283

QUOTE**TERMS**

The attached DCC Inc. standard terms and conditions on page four (4) of this proposal apply and are incorporated by reference. The parties agree that all disputes in anyway related to, arising out of, or connected with the sale of goods and /or services provided by DCC Inc. shall be litigated if at all, exclusively in Dallas County, Texas. Furthermore, the parties agree that Texas law shall govern all such disputes.

The customer agrees to pay: **0%** down, and **balance** at completion of our work. Service charges listed below become effective on all accounts 30 days after invoice date. Charges are computed at the lower of 1.5% per month or the maximum allowed by law.

Notice to Buyer: - do not sign the agreement before you read it, or if it contains blank spaces. You are entitled to a copy of the agreement you sign. Keep this agreement to protect your legal rights.

Submitted By:  Date: 10-6-16

Accepted By: _____ PO#: _____

Authorized Signature: _____ Date: _____

Printed Name: _____

DCC INC. STANDARD TERMS AND CONDITIONS

1. Engagement of Services:

Once work is authorized by the customer, DCC Inc. is committed to certain "ramp up" expenses, both direct and indirect (travel, parts, materials, supplies, etc.) which are generally priced into the entire scope of the project. If the project is canceled, delayed, terminated or significantly changed through no fault of DCC Inc. these expenses will be due and payable to DCC Inc. on a pro-rata basis. Any requests for reimbursement of these expenses will be itemized and defined.

2. Changes to Scope of Work:

DCC Inc. will notify the customer and submit a proposal if there is a required labor or material change not included in the scope of work highlighted on page one of the quote that will require DCC Inc. to expend more monies than budgeted. The customer agrees to pay DCC Inc. for such expenses plus reasonable profit and overhead (10%) if the customer desires to continue under the changed scope of work.

3. Permits and Taxes:

Permits are not included unless specifically noted otherwise. Permits, inspection fees, drawings, etc. will be provided by DCC Inc. at the cost of obtaining them. Taxes are not included in the proposal price unless specifically noted otherwise.

4. DCC Inc. Employees:

The customer agrees that they shall not hire or sub contract any DCC employee currently working on a project for the customer, or any employee of DCC Inc. who has worked on a service call or project for the customer within the last twelve (12) months.

5. Payment Terms:

Standard payment terms are net due in ten days from invoice date unless stated differently on the front of this proposal. A service charge may be charged on all past due amounts. Amounts will be considered past due 30 days after date of invoice. You may avoid a service charge or additional service charges upon payment at any time of the unpaid balance.

6. Warranty:

DCC Inc. will warranty labor for thirty (30) days. Also, installed equipment and parts are based on each manufacturer's warranty, however, labor will be charged for their warranty replacement requirements. However, DCC does not warranty labor, equipment or any items directly or indirectly that is not included in the original scope of work.

7. Indemnity:

The customer agrees to defend and indemnify DCC Inc. and its employees, agents, representatives, officers, directors, parents and subsidiaries from and against any and all claims, actions, causes of action, lawsuits, losses, damages, expenses, fees (including but not limited to attorney fees, expert fees and costs), judgments and awards (collectively, the "Indemnified Claims") arising from or relating to DCC work under this Agreement or the Scope of Work under this Agreement or under any Proposal, to the proportionate extent such Indemnified Claims are caused, in whole or in part, by fault, negligence, or wrongdoing of the customer (including its agents, employees, and/or subcontractors) or any third party.

8. Limitation of DCC Liability:

With respect to any of its work performed under this Agreement or the Scope of Work or any Proposal, DCC's liability shall be limited to repairing and replacing any defective work, regardless of whether it arises from a breach of warranty, a breach of contract or DCC's negligence. This "repair and replace" remedy shall be the customer's exclusive remedy for any claims or damages arising from or relating to any defective work performed by DCC, regardless of the reason, and the customer shall not be entitled to pursue or recover any other claim, remedy or damages arising from or relating to DCC's work, including but not limited to consequential damages. Customer agrees that this limitation of liability provision is commercially responsible in light of the risks involved in DCC performing the work.

9. Force Majeure:

No party shall be liable for any failure to perform its obligations in connection with any action described in the Agreement, if such failure results from any act of God, riot, war, civil unrest, flood, earthquake, fire or other cause beyond such party's reasonable control (including any mechanical, electronic, or communication failure, but excluding failure caused by a party's financial condition or negligence).

10. Attorney Fees:

If DCC Inc. is required to hire attorneys to collect amounts owed under this agreement, the customer agrees to reimburse DCC Inc. for all attorney fees, expert fees and other legal expenses that may incur to collect such amount.

11. Incorporation by Reference:

Unless expressly agreed in writing otherwise, these standard terms and conditions are part of, and hereby incorporated by reference, all proposals submitted by DCC Inc. to the customer or credit agreement signed by the customer, and all terms and conditions of any such proposal or credit agreements.

12. Fully Integrated Contract:

The party's hereby agree that this Agreement is an integrated contract that fully sets forth each and every term and condition to which the parties have agreed regarding the subject matter of the Agreement. The parties agree that they fully set forth all of the terms and conditions of the Agreement within the four corners of the Agreement, and that no other prior or contemporaneous writings or oral promises or representations shall be admissible to prove the terms of this Agreement for any reason. This Agreement may be modified or amended only by a writing signed by both parties.

By signing the proposal the signatures of the agreement warrant that they have the authority to enter into this contract or agreement and have read the standard terms and conditions and agree to abide by them:

DATE: _____

ACCEPTED BY: _____



TOWN COUNCIL AGENDA ITEM NO. 15

CONSENT ITEM

DATE: November 7, 2016

FROM: Brian Waltenburg, P.E., Senior Project Engineer

ITEM: Consider approval of a Professional Services Agreement for the design phase services for phase one of the Lift Station Improvements and Decommissioning project, with Alan Plummer Associates, Inc., for \$246,000.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Phase one of the Lift Station Improvements and Decommissioning project includes the evaluation and design of improvements and/or decommissioning of multiple lift stations throughout the Town. The project will reduce ongoing maintenance and operational costs of unnecessary lift stations by decommissioning them, converting flow to gravity, and improve the lift stations that will accept the redirected flow.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$246,000.00

Proposed Expenditure:	Account Number(s):
\$246,000.00	630-970-98580

Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve the Professional Services Agreement for the design phase services for phase one of the Lift Station Improvements and Decommissioning project, with Alan Plummer Associates, Inc., for \$246,000.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALAN PLUMMER ASSOCIATES, INC.**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Alan Plummer Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 14755 Preston Road, Suite 325, Dallas, Texas 75254.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Lift Station Improvements and Decommissioning Phase 1 project; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for the TOWN in exchange for fees hereinafter specified;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the architectural, engineering and planning professions, both public and private, currently practicing in the same locality under similar conditions including but not limited to the exercise of reasonable, informed judgments and prompt, timely action. If CONSULTANT has represented or is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Lift Station Improvements and Decommissioning Phase 1 project specifically including, but not necessarily limited to, the tasks enumerated more fully in Exhibit “A” hereto entitled “Scope of Work” (hereafter referred to as the “Project”). Attachment “A” is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Exhibit “A” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed two hundred forty-six thousand No/100 Dollars (\$246,000.00). This total payment for services includes CONSULTANT’s ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with Exhibit “B”; provided however that this Contract shall control in the event of any conflict between the language in Exhibit “B” and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for supporting the percentage for which payment is sought by CONSULTANT during the previous month for which payment is sought. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

Nothing contained in this Contract shall require TOWN to pay for any work that TOWN has determined has not been successfully completed or is unsatisfactory as determined by TOWN, or which is not otherwise submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which TOWN may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.

Revisions of the Scope of Services

TOWN reserves the right to revise or expand the scope of services after due approval by TOWN as TOWN may deem necessary, but in such event TOWN shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by TOWN under this Contract, TOWN must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Flower Mound Town Council approval and is subject to the current budget year limitations.

V.

Term

This Contract shall begin on the date first written above, and shall terminate when TOWN has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing

CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of TOWN and shall be delivered to TOWN without restriction on future use. CONSULTANT shall provide documents in any commonly-used electronic file format as requested by TOWN. CONSULTANT may retain in its files copies of all drawings, specifications and all other pertinent information for the work. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance

A. CONSULTANT shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT shall not commence work under this Contract until CONSULTANT has obtained all the insurance required under this Contract and such insurance has been approved by TOWN, nor shall CONSULTANT allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis save and except the Professional Liability Insurance which may be written on a "claims-made" basis, provided that "tail coverage" or continuation coverage is provided. The insurance requirements shall remain in effect throughout the term of this Contract.

The CONSULTANT shall furnish to TOWN certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the Project and be addressed as follows:

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flower-mound.com

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;
3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance 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 TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

B. Each insurance policy to be furnished by CONSULTANT shall include the following conditions by endorsement to the policy

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;

2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to TOWN is required. CONSULTANT shall also notify TOWN within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s);

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;
5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and
6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

C. Concerning insurance to be furnished by CONSULTANT, it is a condition precedent to acceptability thereof that:

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;
2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.

IX.

Right to Inspect Records

CONSULTANT agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions relating to this Contract. CONSULTANT agrees that TOWN shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. TOWN shall give CONSULTANT reasonable advance notice of intended audits.

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of the paragraph. TOWN shall give any such engineer or sub-contractor reasonable advance notice of intended audits.

X.

Successors and Assigns

TOWN and CONSULTANT each bind themselves and their successors, executors, administrators and assigns to the other party to this Contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither TOWN nor CONSULTANT shall assign or transfer its interest herein without the prior written consent of the other.

XI.

CONSULTANT's Liability

Acceptance of the final plans by the TOWN shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by TOWN for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants. In this regard, CONSULTANT acknowledges that TOWN is retaining CONSULTANT to provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS

OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of TOWN in the performance of this Contract. No term or provision of or act of CONSULTANT or TOWN under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV.

Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then TOWN shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract for cause. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at TOWN's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages.

**XV.
Provisions Surviving Termination**

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

**XVI.
Changes**

TOWN may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between TOWN and CONSULTANT shall be incorporated by written modification to this Contract.

**XVII.
Conflicts of Interest**

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

No officer or employee of TOWN shall have any personal, financial interest, direct or indirect, in this Contract nor have any direct financial interest in the sale to TOWN of any land, materials, supplies, or services under this Contract, except on behalf of TOWN as a TOWN officer or employee. Any violation of this prohibition with knowledge, expressed or implied, of the person or corporation contracting with TOWN shall render the Contract voidable by the Director or the Town Council.

**XVIII.
Confidential Information**

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein,

“Confidential Information” means all oral and written information concerning TOWN, its affiliates and subsidiaries, and all oral and written information concerning TOWN or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term “Confidential Information” shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority or by law, as determined by TOWN’s attorney.

XIX.
Notice Information

All notices and communications under this CONTRACT to be mailed to TOWN shall be sent to the address of TOWN’s agent as follows, unless and until CONSULTANT is otherwise notified:

Brian Waltenburg, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until TOWN is otherwise notified:

Ross Standifer, PE
Senior Project Manager
Alan Plummer Associates, Inc.
14755 Preston Road, Suite 325
Dallas, Texas 75254
972.996.5720

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and

federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XX.

Non-Discrimination

CONSULTANT shall not discriminate against any employee, applicant for employment, contractor, or sub-contractor because of the race, age, color, religion, sex, or national origin of such person. Engineer shall take affirmative action to insure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT fails to comply with the federal or state laws relating to Equal Employment Opportunity, it is agreed that TOWN, at its option, may do either or both of the following:

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or
- (b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXI.

Arbitration

CONSULTANT agrees not to enter into any agreement to arbitrate arising out of, or relating to, this Contract which would subject TOWN to being a party to any arbitration without TOWN's prior written consent.

XXII.

No Waiver of Governmental Immunity

Nothing in this Contract shall be construed as a waiver of TOWN'S governmental immunity, or of any applicable limitation on damages, or any other legal protection or defense or privilege of TOWN, except to the extent expressly provided otherwise herein.

XX.

Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXI.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

XXII.
Entire Agreement

This Contract embodies the entire agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by TOWN in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXIV.
Headings

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

XXV.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual

relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date first above written.

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Thomas E Hayden
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

Approved:

Town Attorney

CONSULTANT:
Alan Plummer Associates, Inc.

By: _____

Name:

Title:

Date Signed: _____

State of Texas §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____ in his capacity as _____ of _____, a _____ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF ____, 20____.

 Notary Public, State of Texas

My Commission Expires:

EXHIBIT A
Town of Flower Mound
Lift Station Improvements and Decommissioning Phase I
Scope of Services

Prepare initial evaluation and detail design documents for improvement of four lift stations and decommissioning of three lift stations.

Provide advertisement/award and construction phase services for the lift station improvements and decommissioning.

The ENGINEER agrees to furnish the TOWN the following specific services:

BASIC ENGINEERING SERVICES

ENGINEER agrees to perform BASIC ENGINEERING SERVICES for modifications to four existing lift stations to allow for improvements to Sanctuary, Justin, Wichita 1 and Yucca lift stations and the abandonment by conversion to gravity flow at Gerault, Simmons and Morriss lift stations, in accordance with the stipulations within this AGREEMENT. The ENGINEER shall perform BASIC ENGINEERING SERVICES necessary for the development of the PROJECT as follows:

A. EVALUATION PHASE SERVICES

1. The ENGINEER shall perform Evaluation Phase Services for the investigation, review, development and preliminary design required for the Lift Station Improvements and Decommissioning Project (the PROJECT) described in the following paragraphs. The Town will assist in access to the lift station sites and provide information of existing installations.
2. The evaluation will consider the follow lift station improvements or decommissioning activities:
 - a. A site investigation will be performed to determine the existing condition and needs for the following lift stations:
 - i. Sanctuary
 - ii. Justin
 - iii. Wichita 1
 - iv. Yucca
 - b. The investigation will include which sites can be abandoned and decommissioned by conversion to gravity flow. The investigation will include an evaluation to confirm adequate downstream capacity for the added gravity flows to Justin and Sanctuary Lift Stations, and an

evaluation of the line and manholes in the creek near Kipling for rehabilitation or rerouting. The following lift stations will be considered for decommissioning:

- i. Simmons
 - ii. Morriss
 - iii. Gerault Park
 - c. Site assessment will include topographic survey of the sites to assess site layout, site drainage, and recommendation will be made to prevent erosion. The wet well height will be reviewed for compatibility with drainage control.
 - d. Site assessment will include recommendation for landscape screening, driveway relocation, layout for control panel changes, emergency generator, SCADA location, and any additional appurtenances.
 - e. Site assessment will include what electrical and instrumentation improvements are needed including SCADA, control panels, flow meters, odor control and conversion or replacement of existing controls.
 - f. Site assessment will include review and recommendation for adding, replacing, or moving valves and associated vaults to meet TCEQ requirements and for flow and isolation control.
 - g. Any design for connecting gravity piping to abandoned lift stations will be limited to 1000 linear feet.
 - h. Assist in regulation compliance in abandonment and decommissioning of lift station with the TCEQ.
3. Conduct a project kick-off meeting at the beginning of the Project and hold progress review meetings with the TOWN on approximately a bi-monthly basis (approximately two meetings over four-month project duration). Provide Design Memoranda, which will include drawings, design concepts, and related work for various portions of the project for review and comment. The Town will provide all available drawings or related submittal information for all lift stations and associated piping.
 4. Provide an opinion of probable construction cost of the Project for budget purposes. The ENGINEER's projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost.

B. DESIGN PHASE SERVICES – LIFT STATION IMPROVEMENTS OR DECOMMISSIONING

1. Prepare detailed plans, technical specifications, contract documents, designs and layouts of improvements, decommissioning or additions, generally as indicated and approved in the preliminary design task. Specifications shall include provisions for submittals, testing plans, training and warranty, and documentation requirements. Items to be designed will generally consist of the following:
 - a. Site Plans showing location of recommended improvements or work.
 - b. Demolition and removal plans.
 - c. Civil Plans showing plan and profile of gravity lines required for decommissioning of lift stations.
 - d. Mechanical Plans showing connection of pumping units or pumping connections, where required.
 - e. Geotechnical investigation where required.
 - f. One-line diagrams showing modifications, where required.
 - g. Modifications to SCADA system to accept status, reporting, and operator override control of equipment.
 - h. Specifications.
2. Provide updated opinions of cost at approximately sixty percent (60%) and ninety percent (90%) complete milestones and prepare a detailed statement of final opinion of probable construction cost. The ENGINEER'S projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost;
3. Conduct up to two (2) in-house Quality Control (QC) workshops with TOWN staff. The ENGINEER'S QC review team shall consist of a senior staff member.
4. Furnish up to four (4) sets of interim plans (half-size), specifications, and contract documents at the sixty percent (60%) and ninety percent (90%) completion points to the TOWN. After receipt and following review, the TOWN's comments will be incorporated at each review stage.
5. Upon completion, ENGINEER will furnish five (5) half-sized sets. Provide a copy on CD of final documents in electronic file format such as PDF.
6. Assist the TOWN in the preparation of formal Contract Documents for Lift Station Improvements and Decommissioning.

C. BID PHASE SERVICES

1. The TOWN will secure bids, issue notice to bidders, and notify construction news publications of construction. The notice to bidders will be furnished by the

TOWN for publication in the local news media. The TOWN will distribute bidding documents.

2. Assist the prospective bidders in interpreting the construction plans and specifications through the preparation and issuance of addenda, and assist the TOWN in the analysis of the bids received and furnish recommendations on the award of the contracts or the appropriate actions to be taken by the TOWN.
3. Prepare for and participate in one (1) pre-bid conference at the Project site.
4. Prepare Conformed Executed Project Documents incorporating changes issued by Amendment during the bidding phases. Furnish up to four (4) full-size sets of plans and specifications and one on CD in electronic format to Contractor. Furnish up to six (6) either full-size sets, or half-sized sets, or a combination of plans and specifications and in electronic format to TOWN. Provide a copy of conformed documents on CD in electronic PDF file format and AutoCAD “dwg” format to TOWN.

D. CONSTRUCTION PHASE SERVICES

1. The ENGINEER agrees to perform the construction phase services in assisting the TOWN and Contractor during construction as described in the following paragraphs.
2. Review submittals, respond to requests for clarifications from the TOWN and the Contractor, review Proposed Contract Modifications, and assist in the preparation of change orders.
3. Review Contractor’s monthly pay estimates.
4. Attend periodic site visits (up to six), monthly, or construction meetings, for reviewing the construction and the general compliance with Project Documents, and submit field report on findings.
5. Do an inspection of the work at Substantial Completion and Final Completion for general compliance with the Project documents, prepare a punch list, and recommend funds to be withheld from payment for completion of the outstanding work.
6. Assist TOWN in preparation of Project closeout documentation and prepare Plans of Record based on the mark-up information provided by the CONTRACTOR and TOWN’s inspector.
7. Perform investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the plans and specifications for each Phase.

ADDITIONAL SERVICES

Additional services to be performed by the ENGINEER, if authorized by the TOWN, which are not included in the above-described Basic Engineering Services, are described as follows:

- A. Providing shop, mill, field or laboratory inspection of materials and equipment.
- B. Coordination with other consultants.
- C. Assisting the TOWN in claims disputes with Contractor(s).
- D. Assisting TOWN or Contractor in the defense of prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. ENGINEER shall furnish such services, if any, on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- E. Sampling, testing or analysis beyond that specifically included in Basic Services.
- F. Preparing copies of Computer-Aided Drafting (CAD) electronic databases, drawings, or files for the TOWN's use in a future CAD system.
- G. Attending additional meetings as requested by TOWN.
- H. Providing additional copies of plans and specifications or providing services for more than one construction project.
- I. Providing arrangements for all subsurface investigations, including but not limited to geotechnical borings, test pits, soil resistivity surveys, and other subsurface explorations beyond what is specifically included in basic services, and the TOWN making or arranging to have made the interpretations of data and reports resulting from such investigations.
- J. Corps of Engineer Permitting, SWPPP, Traffic Control Plans, Subsurface Utility Engineering.
- K. Providing design services to upsize the capacity of Justin or Sanctuary pumps, wet wells, force mains or gravity pipelines.
- L. Providing design and surveying services for easements or temporary construction easements.
- M. Providing design services for modeling any of the lift stations.

- N. Revisions to the plans, specifications, or bid proposal made after approval of the final documents by the TOWN.
- O. Any additional services that may be required by the TOWN for completion of the project that are not included in the Basic or Special Services.

END OF DOCUMENT

EXHIBIT B

COMPENSATION

Alan Plummer Associates will provide the Scope of Services for a lump sum fee.

A. Evaluation Services	\$ 50,000
B. Design Services	\$102,000
C. Bid Phase Services	\$ 15,000
D. Construction Phase Services	\$ 26,000
E. <u>Direct Reimbursable and Sub-Consultant Expenses*</u>	
a. Surveying Services	\$ 17,000
b. Geotechnical Services	\$ 5,000
c. Reimbursables (mileage, printing)	\$ 6,000
Subtotal	\$221,000
Additional Services	\$ 25,000
Total	\$246,000

*Direct Reimbursable and Sub-Consultant Expenses includes Survey Subcontractor fees for Spooner & Associates, Subcontractor fees for CMJ Engineering, Inc., Mileage, Reproduction, Print, and Postage and Freight fees.

The ENGINEER may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to the TOWN will be by task for the percentage of work actually completed. The TOWN shall make interim payments within 30 calendar days in response to ENGINEER's interim statements.

The budgetary allowance for Additional Services is \$25,000. Additional services must be authorized in writing by the TOWN. Time and materials billing for ENGINEER'S labor will be at the hourly rates provided in Exhibit D. ENGINEER's direct expenses, including subcontractor expenses, will include a multiplier of 1.15.

EXHIBIT C

TIME OF COMPLETION

Upon Receipt of a notice to proceed, we anticipate the following:

	<u>Calendar Days</u>
Evaluation Services	90
Design Services	120
Bid Phase Services	60
Construction Phase Services	210

EXHIBIT D
ALAN PLUMMER ASSOCIATES, INC.
HOURLY FEE SCHEDULE
2016

Staff Description	Staff Code	2016 Rate
Admin Staff	A1-A3	\$ 80.00
Senior Admin Staff	A4	\$ 105.00
Designer/Technician	C1-C2	\$ 90.00
Senior Designer/Technician	C3-C4	\$ 115.00
Engineer-in-Training/Scientist-in-Training	ES1-ES3	\$ 115.00
Project Engineer/Scientist	ES4	\$ 138.00
Senior Project Engineer/Scientist	ES5	\$ 153.00
Project Manager	ES6	\$ 185.00
Senior Project Manager	ES7	\$ 220.00
Principal	ES8-ES9	\$ 270.00

Billing rates may be adjusted by up to 4 percent annually (at the beginning of each calendar year) during the term of this agreement.

A multiplier of 1.15 will be applied to all direct expenses.



TOWN COUNCIL AGENDA ITEM NO. 16

CONSENT ITEM

DATE: November 7, 2016

FROM: John Habern, Parks, Trails and Landscape Specialist

ITEM: Consider acceptance of cash in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00, for Parkside at Woodlake Phase 2. *(Parks, Arts and Library Services Board recommended approval by a vote of 5 to 0 at its February 24, 2016, meeting.)*

BACKGROUND INFORMATION: On February 24th, 2016, the Parks, Arts and Library Services Board (PALS) met to discuss Park Land Dedication and Park Development Fee requirements for the Parkside at Woodlake Phase II residential development of 6 lots generally located west of Long Prairie Road and south of Rembert Drive. Since the February 24, 2016, meeting, the development has reduced their lot count by one lot. The fees have been adjusted to meet the current lot count of 5 lots.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Parks, Arts, and Library Services Board (PALS) at its February 24th, 2016, meeting. The PALS Board recommended to approve fees in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00.

A link to the PALS board meeting can be found at the following link:

<http://flowermoundtx.swagit.com/play/02242016-864>

ALTERNATIVES/OPTIONS: N/A

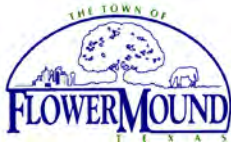
FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Parks, Arts and Library Services Board Agenda Item

RECOMMENDATION: Move to accept cash in lieu of land in the amount of \$12,600.00, in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$6,940.00, for Parkside at Woodlake Phase 2.



**Parks, Arts and Library Services
(PALS) Board
AGENDA ITEM NO. ____**

DATE: February 24, 2016

FROM: John Habern, Parks, Trails and Landscape Specialist

ITEM: Consider recommending to Planning and Zoning Commission and Town Council Park Land Dedication and Park Development Fee requirements for the Parkside at Woodlake, Phase II residential development generally located south of Flower Mound Rd on 2499 between Aberdeen Dr. and Spinks Rd.

Background Information: The proposed development has two applications in with the Town: a Master Plan Amendment (MPA15-0013) and a Zoning Planned Development (ZPD15-0020) in order to develop Phase II of Parkside at Woodlake Estates. The maximum residential density within the proposed phase II development is 6 single family dwelling units with a request to develop under the SF-5 District standards (minimum lot size of 5,000 square feet).

Alternatives or Options: The Board may wish to recommend land be dedicated for park use within the proposed development or receive cash in lieu of land.

Park Land Dedication and Park Development Fees:

Park Land Dedication is determined as follows:

- 3.36 acres of land per 100 dwelling unit lots = 0.0336 acres/dwelling unit lot
- 0.0336 acres/dwelling unit lot X 6 dwelling unit lots = .2016 acres of Park Land Dedication required

Payment of cash in lieu of the otherwise dedicated park land is determined as follows:

- **\$75,000.00** per acre is the fair market value of land within the development as determined by the Town and the developer
- **\$75,000.00** per acre X .2016 acres = **\$ 15,120.00** payment of cash in lieu of land to satisfy Park Land Dedication

The Park Development Fees are determined as follows:

- \$1,388.00 fee per dwelling unit lot X 6 dwelling unit lots = **\$8,328.00** in Park Development Fees

For further details of the Town's Land Development Regulations regarding Park Land Dedication and Park Development Fees, please review The Flower Mound Code of Ordinances; Subpart B - Land Development Regulations; Chapter 90 – Subdivisions; Article VI. – Standards; Division 8. - Parks and Recreational Areas; Sections 90-441 through 90-448.

For further details of the Town's Land Development Regulations regarding Single Family District - 5, please review The Flower Mound Code of Ordinances; Subpart B - Land Development Regulations; Chapter 98 – Zoning; Article III. – District Regulations; Division 8A. – SF-5, Single Family Residential District.



**Parks, Arts and Library Services
(PALS) Board
AGENDA ITEM NO. ____**

Link to the Flower Mound Code of Ordinances:

<http://library.municode.com/index.aspx?clientId=13329&stateId=43&stateName=Texas>

Fiscal Impact: N/A

Legal Issues: N/A

Attachments:

1. The Parkside at Woodlake Phase II Zoning Conceptual Plan

Recommendation:

Move to recommend approval to Planning and Zoning Commission and Town Council Park Land Dedication of **.2016 acres of land** and Park Development Fees in the amount of **\$8,328.00** for the Parkside at Woodlake, Phase II residential development located south of Flower Mound Rd on 2499 between Aberdeen Dr. and Spinks Rd.

- OR -

Move to recommend approval to Planning and Zoning Commission and Town Council **cash**, in the amount of **\$15,120.00**, be accepted **in lieu of** the otherwise required Park Land Dedication, and Park Development Fees in the amount of **\$8,328.00** for the Parkside at Woodlake, Phase II residential development located south of Flower Mound Rd on 2499 between Aberdeen Dr. and Spinks Rd.

The developer has indicated that he would prefer to pay fees in lieu of dedicating land.

The Community Service Department concurs with the developer's request.



TOWN COUNCIL AGENDA ITEM NO. 17

CONSENT ITEM

DATE: November 7, 2016

FROM: Tommy Dalton, Assistant Town Manager

ITEM: Consider approval of a Development Agreement for the River Walk at Central Park and authorization for the Mayor to execute same on behalf of the Town

BACKGROUND INFORMATION: During the October 20, 2016, work session the Town Council directed staff to work with the developers on a resolution that allows the River Walk at Central Park (the Development) to move forward with building permits while the floodplain Letter of Map Revision (LOMR) is being reviewed by the Federal Emergency Management Agency (FEMA).

The original zoning ordinance for the River Walk was approved on August 4, 2008, and contained a development standard regarding the floodplain on the property (Article X) that "In The River Walk CBD, it shall not be required that any floodplain be kept in its natural state, and construction and construction-related activities may occur in a floodplain pursuant to a development agreement between the town and the developer and approval of the Conditional Letter of Map Revision (CLOMR) from FEMA and receipt of the 404 Permit from USACE and EPA." Subsequent revisions of the River Walk Ordinance maintained this Article. The River Walk Ordinance did not distinguish between site work (construction and construction-related activities) and the building of structures.

A major component of the development has been the relocation of the existing floodplain to the water channel that is contained within the River Walk Amenity. This amenity is the focus of the development and key to creating the emphasis for the development. The process to relocate the floodplain is the CLOMR, LOMR process. The CLOMR provides the design details on the proposed improvements, and the LOMR reflects the actual improvements (grading and other site work that define the floodplain boundary) that have been constructed in the floodplain.

The Development received an approved CLOMR and 404 Permit in 2008 to begin the proposed improvements to create the river walk amenity. Those improvements have now been completed and the LOMR application has been finalized by the developer's hydraulic engineer, reviewed by the Town and submitted to FEMA for review. Once FEMA confirms the LOMR, the floodplain boundaries will be revised to reflect their actual locations.

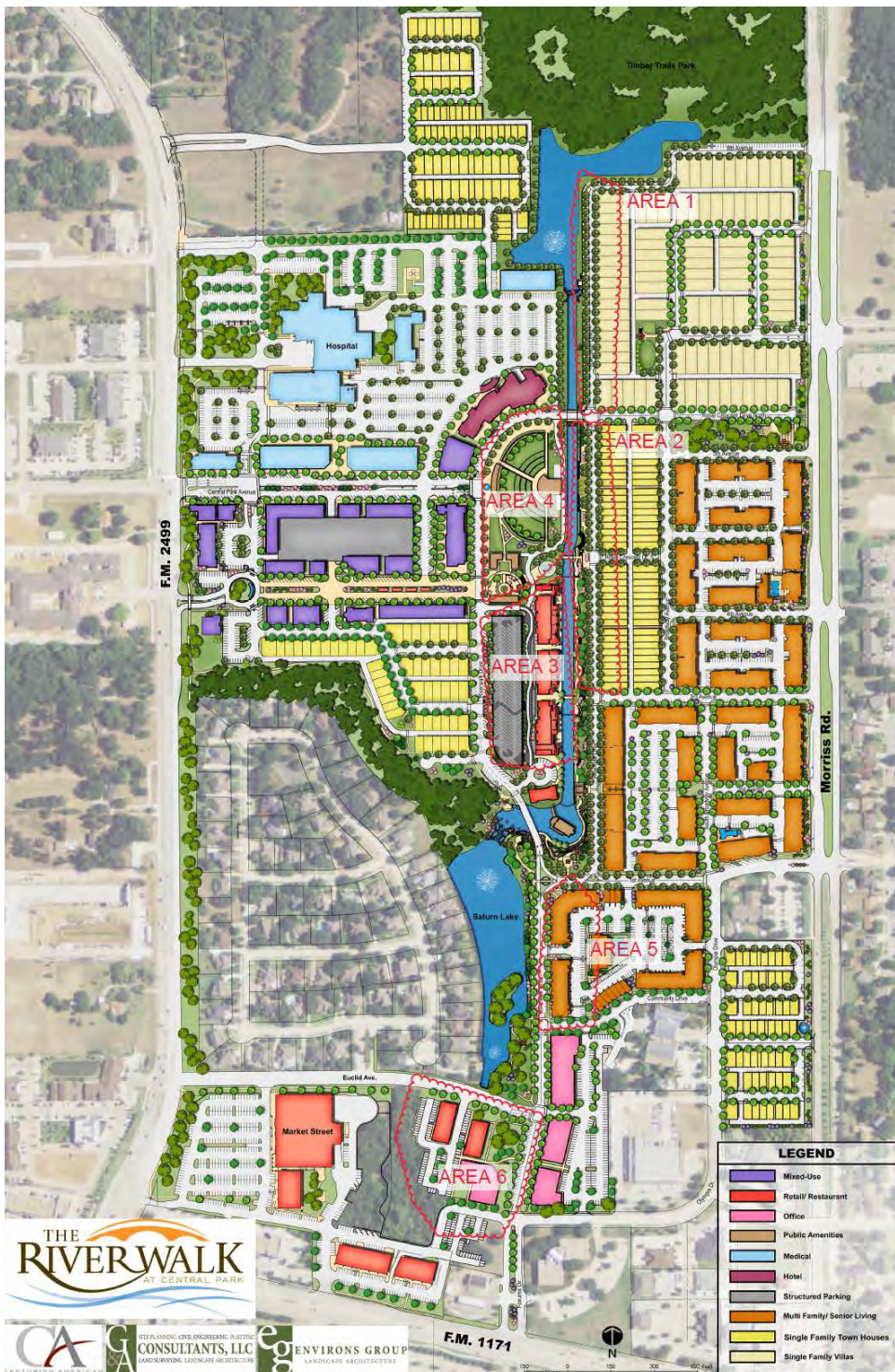
Recognizing that the Development is critical to providing housing, entertainment, and retail options to create economic vitality, the Town has negotiated several deal points that will allow vertical construction to begin while the LOMR is under review. It is also agreed by all parties that the sites being considered for vertical construction have little to no risk of flooding during the design storm event due to the extensive channel and grading that has already been completed. However, the Town does have four primary concerns with allowing vertical construction while the LOMR is under review.

1. Completion of the LOMR application
2. No adverse impacts to the surrounding properties
3. The developer is held responsible for, and mitigates, any adverse impacts at no risk to the Town
4. The development ultimately conforms to Town standards

Until the LOMR is approved by FEMA that changes the location of the floodplain lines on the Federal Insurance Rate Map (FIRM), the Town must enforce the current location of those lines. The improvements constructed have completely changed the location of the lines while creating a walkable amenity that contains and controls water flow during a storm event.

There are six main areas impacted by the location of the current floodplain lines which will no longer be impacted by those lines, once the LOMR is approved by FEMA, (depicted on the following map).

1. River Walk Villas
2. Riverside Town Homes
3. Restaurant Row
4. Amphitheater
5. LG River Walk Apartments
6. River Walk Market (retail on southwest corner of River Walk and Market Street)



The following are the negotiated deal points that will allow vertical construction to begin within the Development followed by a brief analysis.

1. REPLATS WITH FLOODPLAIN LOTS

- a. Developer will be allowed to include the Floodplain Lots in a subsequent replat application for consideration and possible approval by the Town's Planning and Zoning Commission and Town Council.

Analysis: This section allows the developer to replat properties showing floodplain within the lots.

2. NON-RESIDENTIAL BUILDING PERMITS

- a. Conditions for Non-Residential building permits. A non-residential building permit is defined as any permit that is not for a single-family dwelling, or townhome within the Property ("Non-Residential Permit").

Analysis: This section defines what a "non-residential" permit is and provides standards for the issuance of a building permit and certificate of occupancy.

- i. Prior to the issuance of a Non-Residential Permit, a certified registered professional engineer, retained by and on behalf of the Developer, shall stamp the Town's "no-rise certificate," which certifies that there shall be no rise in water surface elevation due to the actual modifications of the floodplain characteristics on and in the vicinity of the Property, and that there are no structures downstream or upstream of the LOMR project at risk of "adverse impacts." Adverse impacts shall be defined as a rise in water surface elevation, increase in velocities, and increase in the floodplain limits beyond existing conditions recognized or not by the current FEMA FIS and/or FIRM.

Sub-section "I" requires that the developer's hydraulic engineer certify that prior to a building permit being issued that the construction will not cause any adverse impacts (addresses primary concern number 2 above).

- ii. The Town agrees to issue Non-Residential Permits within Lot 2, Block A of the Riverwalk Market Addition, in accordance with the Town's Code of Ordinances. The Developer agrees that the Town shall not issue a certificate of occupancy for structures within said lots until FEMA issues a LOMR, which includes revisions to the FIRM, that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue certificates of occupancy in accordance with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

Sub-section "ii" allows vertical construction to begin east of Market Street. However, occupancy cannot occur until FEMA approves the LOMR.

- iii. The Town will issue Non-Residential Permits within Lots 3, 4, 5 and 1XR, Block A of the River Walk at Central Park 1/2016 Addition in accordance with the Town's Code of Ordinances. The Developer agrees that the Town shall not issue a certificate of occupancy for said lots until FEMA issues a LOMR including revisions to the FIRM that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue certificates of occupancy in accordance

with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

Sub-section "iii" allows vertical constriction to begin in the restaurant row area. However, occupancy cannot occur until FEMA approves the LOMR.

- iv. Prior to the issuance of the FEMA LOMR determination document, the Town agrees to issue Non-Residential Permits, and building finals, for multi-family buildings within Lot 1, Block G of the LG River Walk Addition in accordance with the Town's Code of Ordinances

Sub-section "iv" allows construction of the LG River Walk apartments. This property contains the smallest amount of existing floodplain compared to the other properties. Due to the nature of the exiting amenity improvements, it is agreed that this property is least likely impacted by any modifications to the LOMR that may be required by FEMA.

3. RESIDENTIAL BUILDING PERMITS

- a. Conditions for Residential building permits. A Residential building permit is defined as any permit for a single-family dwelling, or townhome within the Property ("Residential Permit").
 - i. The Developer agrees that no Residential Permits shall be issued by the Town until FEMA issues a LOMR including revisions to the FIRM that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue Residential Building Permits in accordance with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

Analysis: This section allows construction of the villas and townhomes only after the LOMR is approved by FEMA.

4. ADDITIONAL PROVISIONS

- a. Developer to replat FEMA floodplain Boundary. If FEMA issues a LOMR showing there are no adverse impacts on properties in or adjacent to the Property, the Developer, at the Developer's sole cost and expense, shall replat the Floodplain Lots to relocate the FEMA floodplain boundary line outside of the Floodplain Lots to reflect the revision to the FIRM and NFIP.

Sub-section "a" requires the developer to replat the properties after approval of the LOMR in order to reflect the new floodplain lines (addresses primary concern number 4 above).
- b. Developer to purchase flood insurance for Floodplain Lots. Notwithstanding anything to the contrary contained herein, prior to the issuance of a Non-Residential Permit, the Developer shall purchase flood insurance or a rider on the builder's risk policy for any structure impacted by the current floodplain.

Sub-section "b" requires the developer to purchase flood insurance on structures built within the current floodplain as may be required by a lender.
- c. FEMA Failure or Refusal to Issue LOMR. CADG Riverwalk, LLC, and 2M Riverwalk, LLC, shall be responsible for and must promptly construct any modifications required by FEMA, and mitigate adverse impacts on properties in or adjacent to the Property to ensure no adverse impacts on, downstream, or upstream of the Property. Such

modifications may include, but are not limited to, additional grading or improvements within or in the vicinity of the LOMR Project, and removal of any structures within the LOMR Project. Within 10 days of receipt of comments from FEMA requiring modifications of the LOMR Project, the Developer shall submit to the Town, for its review and approval, a proposed timeline for implementing such modifications.

Sub-section "c" requires the developer to be responsible for and complete any changes to the river walk amenity as may be required by FEMA. This section also requires the Developer's schedule to do so be reviewed any approved by the Town (addresses primary concerns 3, and 4 above).

- d. Agreement with hydraulic engineering firm. Within 15 days of the effective date of this Agreement, the Developer shall modify its existing agreement with its hydraulic engineering firm ("Engineering Agreement") to name the Town as third party beneficiary to the Engineering Agreement with all of the rights and privileges of the Developer to direct the hydraulic engineering firm to seek completion and acceptance of the LOMR by FEMA. The language added to the Engineering Agreement shall be subject to the prior written approval of the Town and shall release and hold harmless the Town from any liability associated with payment or the performance of the Engineering Agreement, or any direction given to the third party hydraulic engineering firm. The language shall also prohibit the termination of the Engineering Agreement by the Developer prior to the completion and acceptance of the LOMR by FEMA. The Town agrees not to interfere with or direct the hydraulic engineering firm unless and until the Town, in good faith, believes that the Developer is unable or unwilling to diligently pursue acceptance of the LOMR by FEMA. The Developer agrees to be solely responsible for any cost incurred as a result of the Town's direction to the hydraulic engineering firm to complete the LOMR acceptance by FEMA, which shall include any additional submittals to FEMA until the Property is in compliance with Town standards and shows no adverse impact on adjacent properties outside the LOMR Project.

Sub-section "d" requires that in the event the Developer refuses to complete the LOMR application, the Developer assign his contract with the hydraulic engineer responsible for the application to the Town. This ensures that the LOMR application is completed. The developer's contract already includes payment to complete the application (addresses primary concerns 2, and 4 above).

Staff has worked diligently to arrive at the terms above. The indemnification, hold harmless, and other legal clauses associated with the development agreement are contained in the draft development agreement (Attachment 1).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: The Town Council may approve the deal points; modify them, or direct staff to seek alternative deal points with the developer.

FISCAL IMPACT: N/A

LEGAL REVIEW: Bryn Meredith of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the development agreement.

ATTACHMENTS:

1. Development Agreement

RECOMMENDATION: Move to approve a Development Agreement for the River Walk at Central Park and authorize the Mayor to execute same on behalf of the Town, subject to Town Manger and Town Attorney approval of the final wording of the agreement.

DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into to be effective this ___ day of November, 2016, by the Town of Flower Mound, Texas (the "Town"), SGI-Flower Mound-I, LTD., CADG Riverwalk, LLC., LG River Walk Apartments, LLC., and 2M Riverwalk, LLC.,(collectively, the "Developer"). The Developer and the Town are individually referred to as a "Party" and collectively, the "Parties".

1. RECITALS

1.1 WHEREAS, the RECITALS contained in this Section 1 are true and correct, are incorporated as part of this Agreement for all purposes, and establish the basis upon which the Parties entered into this Agreement;

1.2 WHEREAS, capitalized terms that are defined in this Agreement shall have the meanings given to them in this Agreement unless the context in which they are used clearly requires a different meaning;

1.3 WHEREAS, unless otherwise specified, (1) all references in this Agreement to a "Section" shall mean a section of this Agreement, and (2) all references in this Agreement to an "Exhibit" shall mean an exhibit attached to and incorporated as part of this Agreement for all purposes;

1.4 WHEREAS, the Town is a Texas home-rule municipal corporation;

1.5 WHEREAS, SGI-Flower Mound-I, LTD. is a Texas limited partnership, and each of CADG Riverwalk, LLC., LG River Walk Apartments, LLC., and 2M Riverwalk, LLC.;

1.6 WHEREAS, the Developer owns approximately 49.314 acres within the corporate limits of the Town at the intersection of FM 1171 (Cross Timbers Road) and FM 2499 (Long Prairie Road, which property is described and depicted by plats in **Exhibit A** (The River Walk at Central Park Villas Lot 1X, Block A; Lots 1-3 and 14-32, Block B), **Exhibit B** (Riverside Point Lots 1-2; 17-18 Block B), **Exhibit C** (The River Walk at Central Park 8/2014 Lot 1X, Block I), **Exhibit D** (Parkmont Place Lots 7-8, Block B; Lots 24-27 Block C; Lot 1X, Block D), **Exhibit E** (Riverwalk Market Addition Lot 2, Block A), **Exhibit F** (The River Walk at Central Park 1/2016 Lots 1XR, 2XR, 3-5, Block A), **Exhibit G** (LG River Walk Addition Lot 1, Block G), **Exhibit H** (Timber Trails Park Lot 1X, Block A) collectively known as the "Property";

1.7 WHEREAS, The original zoning ordinance for the Property ("River Walk Ordinance") was approved on August 4, 2008, and contained the following standard regarding development in the floodplain: (Article X) "In The River Walk CBD, it shall not be required that any floodplain be kept in its natural state, and construction and construction-related activities may occur in a floodplain pursuant to a development agreement between the town and the developer and approval of the Conditional Letter of Map Revision (CLOMR) from FEMA and receipt of the 404 Permit from USACE and EPA." Subsequent revisions of the River Walk Ordinance maintained this development standard;

1.8 WHEREAS, The River Walk Ordinance did not distinguish between site work and the building of structures;

1.9 WHEREAS, the developer has submitted multiple applications for approval of replats for the development of certain property situated within the River Walk at Central Park Central Business District (the "Replats");

1.10 WHEREAS, The Town's Land Development Regulations do not permit the issuance of

building permits within the floodplain until a Letter of Map Revision ("LOMR") is approved by the Federal Emergency Management Agency ("FEMA");

1.11 WHEREAS, the Developer has previously submitted an application and received a Conditional Letter of Map Revision ("CLOMR") from FEMA that provides conditional approval of a project that will modify the floodplain characteristics on and in the vicinity of the Property ("CLOMR Project");

1.12 WHEREAS, the CLOMR Project is complete and the Developer has submitted a LOMR to FEMA for review of the actual modifications of the floodplain characteristics on and in the vicinity of the Property ("LOMR Project");

1.13 WHEREAS, completion of the LOMR Project in accordance with its terms will result in the issuance of a LOMR by FEMA that officially changes the Flood Insurance Rate Map ("FIRM") as well as certain other maps and reports;

1.14 WHEREAS, the Developer has committed to complete the LOMR Project in order to obtain a LOMR and related FIRM revisions from FEMA;

1.15 WHEREAS, the Replats include both residential and non-residential lots within the Property, which contain areas that are currently designated as being within the FEMA floodplain and which areas will be removed from the FEMA floodplain upon issuance of a LOMR from FEMA (the "Floodplain Lots");

1.16 WHEREAS, the Town's Design Criteria and Construction Standards Manual prohibits the platting of residential lots containing areas that are identified as being within the FEMA floodplain;

1.17 WHEREAS, the Developer has requested and received permission to include the Floodplain Lots in the Replats rather than platting the lots as x-lots or omitting the lots from the Replats thereby avoiding a subsequent replat of the Floodplain Lots upon completion of the LOMR Project based upon the assurances granted herein below;

1.18 WHEREAS, the Parties desire to proceed with replatting and the issuance of building permits while ensuring that all issues are adequately addressed in compliance with Town codes and ordinances;

1.19 WHEREAS, the Parties desire to address in this Agreement various development issues related to the Project including, but not limited to: (1) the timing of building permit issuance and the issuance of certificates of occupancy; (2) the completion of the LOMR Project in conformance with FEMA regulations; (3) avoiding adverse impacts to adjacent properties; and (4) replatting the Property to reflect the revised floodplain;

1.20 WHEREAS, due to the unique nature of the Project, the Parties acknowledge that it is in the best interests of the Parties that these issues be addressed in this Agreement while acknowledging that the Project, as contemplated by this Agreement, will be developed over several years.

NOW THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

2. REPLATS WITH FLOODPLAIN LOTS

2.1 Developer will be allowed to include the Floodplain Lots in a subsequent replat application for consideration and possible approval by the Town's Planning and Zoning Commission and Town Council.

3. NON-RESIDENTIAL BUILDING PERMITS

3.1 Conditions for Non-Residential building permits. A non-residential building permit is defined as any permit that is not for a single-family dwelling or townhome within the Property ("Non-Residential Permit").

3.1.1 Prior to the issuance of a Non-Residential Permit, a certified registered professional engineer, retained by and on behalf of the Developer, shall stamp the Town's "no-rise certificate," which certifies that there shall be no rise in water surface elevation due to the actual modifications of the floodplain characteristics on and in the vicinity of the Property, and that there are no structures downstream or upstream of the LOMR project at risk of "adverse impacts." Adverse impacts shall be defined as a rise in water surface elevation, increase in velocities, and increase in the floodplain limits beyond existing conditions recognized or not by the current FEMA FIS and/or FIRM.

3.1.2 The Town agrees to issue Non-Residential Permits within Lot 2, Block A of the Riverwalk Market Addition, in accordance with the Town's Code of Ordinances. The Developer agrees that the Town shall not issue a certificate of occupancy for structures within said lots until FEMA issues a LOMR, which includes revisions to the FIRM, that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue certificates of occupancy in accordance with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

3.1.3 The Town will issue Non-Residential Permits within Lots 3, 4, 5 and 1XR, Block A of the River Walk at Central Park 1/2016 Addition in accordance with the Town's Code of Ordinances. The Developer agrees that the Town shall not issue a certificate of occupancy for said lots until FEMA issues a LOMR including revisions to the FIRM that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue certificates of occupancy or building finals in accordance with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

3.1.4 Prior to the issuance of the FEMA LOMR determination document, the Town agrees to issue Non-Residential Permits, and building finals, for multi-family buildings within Lot 1, Block G of the LG River Walk Addition in accordance with the Town's Code of Ordinances.

4 RESIDENTIAL BUILDING PERMITS

4.1 Conditions for Residential building permits. A Residential building permit is defined as any permit for a single-family dwelling or townhome within the Property ("Residential Permit").

4.1.1 The Developer agrees that no Residential Permits shall be issued by the Town until FEMA issues a LOMR including revisions to the FIRM that removes the Floodplain Lots from the FEMA floodplain. The Town agrees to issue Residential Building Permits in accordance with the Town's Code of Ordinances before the LOMR effective date, but not prior to issuance of the FEMA LOMR determination document.

5 ADDITIONAL PROVISIONS

5.1 Developer to replat FEMA floodplain Boundary. If FEMA issues a LOMR showing there are no adverse impacts on properties in or adjacent to the Property, the Developer, at the Developer's sole cost and expense, shall replat the Floodplain Lots to relocate the FEMA floodplain boundary line outside of the Floodplain Lots to reflect the revision to the FIRM and NFIP.

5.2 Developer to purchase flood insurance for Floodplain Lots. Notwithstanding anything to the contrary contained herein, prior to the issuance of a Non-Residential Permit, the Developer shall purchase flood insurance or a rider on the builder's risk policy for any structure impacted by the current floodplain.

5.3 FEMA Failure or Refusal to Issue LOMR. CADG Riverwalk, LLC, and 2M Riverwalk, LLC, shall be responsible for and must promptly construct any modifications required by FEMA, and mitigate adverse impacts on properties in or adjacent to the Property to ensure no adverse impacts on, downstream, or upstream of the Property. Such modifications may include, but are not limited to, additional grading or improvements within or in the vicinity of the LOMR Project, and removal of any structures within the LOMR Project. Within 10 days of receipt of comments from FEMA requiring modifications of the LOMR Project, the Developer shall submit to the Town, for its review and approval, a proposed timeline for implementing such modifications.

5.4 Agreement with hydraulic engineering firm. Within 15 days of the effective date of this Agreement, the Developer shall modify its existing agreement with its hydraulic engineering firm ("Engineering Agreement") to name the Town as third party beneficiary to the Engineering Agreement with all of the rights and privileges of the Developer to direct the hydraulic engineering firm to seek completion and acceptance of the LOMR by FEMA. The language added to the Engineering Agreement shall be subject to the prior written approval of the Town and shall release and hold harmless the Town from any liability associated with payment or the performance of the Engineering Agreement, or any direction given to the third party hydraulic engineering firm. The language shall also prohibit the termination of the Engineering Agreement by the Developer prior to the completion and acceptance of the LOMR by FEMA. The Town agrees not to interfere with or direct the hydraulic engineering firm unless and until the Town, in good faith, believes that the Developer is unable or unwilling to diligently pursue acceptance of the LOMR by FEMA. The Developer agrees to be solely responsible for any cost incurred as a result of the Town's direction to the hydraulic engineering firm to complete the LOMR acceptance by FEMA, which shall include any additional submittals to FEMA until the Property is in compliance with Town standards and shows no adverse impact on adjacent properties outside the LOMR Project.

5.5 Indemnification.

5.5.1 For the purposes of this Section 5.5 only and with respect to CADG Riverwalk, LLC, and 2M Riverwalk, LLC., the phrase "FEMA FLOODPLAIN" expressly excludes the real

property and any development thereon identified in Exhibits E and G to this Agreement. For the purposes of this Section 5.5 only and with respect to SGI-Flower Mound-I, LTD., the phrase "FEMA FLOODPLAIN" is limited to the real property and any development thereon identified in Exhibit E to this Agreement. For the purposes of this Section 5.5 only and with respect to LG River Walk Apartments, LLC., the phrase "FEMA FLOODPLAIN" is limited to the real property and any development thereon identified in Exhibit G to this Agreement.

5.5.2 DEVELOPER COVENANTS TO FULLY INDEMNIFY, SAVE, AND HOLD HARMLESS THE TOWN OF FLOWER MOUND, ITS OFFICERS, EMPLOYEES, OR AGENTS ("INDEMNITEES") FROM, AND AGAINST, ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LOSSES, COSTS, LIABILITIES, EXPENSES, AND JUDGMENTS RECOVERED FROM OR ASSERTED AGAINST TOWN ON ACCOUNT OF INJURY OR DAMAGE TO PERSON OR PROPERTY LOSS OR DAMAGE OF ANY KIND WHATSOEVER, TO THE EXTENT ANY DAMAGE OR INJURY MAY BE INCIDENT TO, ARISE OUT OF, BE CAUSED BY, OR BE IN ANY WAY CONNECTED WITH, EITHER PROXIMATELY OR REMOTELY, WHOLLY OR IN PART, THE CONSTRUCTION, USE, OPERATION, MAINTENANCE, ALTERATION, REPAIR, OR REMOVAL OF ANY STRUCTURE WITHIN THE FEMA FLOODPLAIN; THE PERFORMANCE OF THIS AGREEMENT; AN ACT OR OMISSION, NEGLIGENCE, OR MISCONDUCT ON THE PART OF DEVELOPER OR ANY OF ITS AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, PATRONS, GUESTS, LICENSEES, SUBLESSEES, INVITEES, OR OTHER PERSONS, WHICH CAUSES OR CONTRIBUTES TO THE FLOODING OR THE INUNDATION OF PROPERTY WITHIN THE DEVELOPER'S DEVELOPMENT/PROPERTY OR UPSTREAM OR DOWNSTREAM OF THE DEVELOPER'S DEVELOPMENT/PROPERTY, WHETHER OR NOT AUTHORIZED WITH THE EXPRESSED OR IMPLIED INVITATION OR PERMISSION OF DEVELOPER (COLLECTIVELY "DEVELOPER'S INVITEES"); INCLUDING ANY INJURY OR DAMAGE RESULTING, PROXIMATELY OR REMOTELY, FROM THE VIOLATION BY DEVELOPER, OR DEVELOPER'S INVITEES OF ANY LAW, ORDINANCE, OR GOVERNMENTAL ORDER OF ANY KIND; AND INCLUDING INJURY, LOSS, OR DAMAGE CAUSED BY THE SOLE OR CONTRIBUTORY NEGLIGENCE OF THE INDEMNITEES OR ANY OF THEM.

5.5.3 DEVELOPER COVENANTS AND AGREES THAT IF THE TOWN IS MADE A PARTY TO ANY LITIGATION AGAINST DEVELOPER OR ANY LITIGATION COMMENCED BY ANY PARTY, OTHER THAN DEVELOPER, RELATING TO THIS AGREEMENT, DEVELOPER SHALL, UPON RECEIPT OF REASONABLE NOTICE REGARDING COMMENCEMENT OF LITIGATION, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND THE TOWN IN ALL ACTIONS, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, AND ACTIONS.

5.6 Captions and Headings. The captions and headings of the sections of this Agreement are for convenience and reference only and shall not affect, modify or amplify the provisions of this Agreement, nor shall they be employed to interpret or aid in the construction of this Agreement.

5.7 Covenants Running with the Land. This Agreement shall be deemed a covenant that runs with the land and is binding on all heirs, successors, assigns, grantees, vendors, trustees, representatives of Developer and all others holding any interest now or in the future, and it is the intent of this Agreement, and the parties so acknowledge, that all phases of the Project shall be subject to this section of this Agreement.

5.8 Notices. Any notice or communication (a "Notice") required by or given in connection with this Agreement shall be in writing and shall be deemed given: (1) five business days after the Notice is deposited with the US Postal Service for delivery by CERTIFIED MAIL RETURN

RECEIPT REQUESTED to the addresses set forth below; or (2) when delivered to the addresses set forth below by a nationally recognized delivery service (e.g., UPS or FedEx) with evidence of delivery signed by any person at the delivery address whether or not such person is the named recipient of the Notice.

If to the **Town:** **Town of Flower Mound, Texas**
 Attn: Town Manager
 2121 Cross Timbers Road
 Flower Mound, Texas 75028

With a copy to:

Attn: _____

If to the **Developer:** **SGI-Flower Mound-I, LTD.**

Attn: Eric Seitz
 1110 Cowan Road
 Celina, TX 75009

With a copy to:

Attn: _____

LG River Walk Apartments, LLC

Attn: David Cocanougher
 2301 Cedar Springs, Suite 200
 Dallas, TX 75201

With a copy to:

Attn: _____

CADG Riverwalk, LLC

Attn: Mehrdad Moayed
 1800 Valley View LN STE 300
 Farmers Branch, TX 75234

With a copy to:

Attn: _____

2M Riverwalk, LLC

Attn: Mehrdad Moayed
 1800 Valley View LN STE 300
 Farmers Branch, TX 75234

With a copy to:

Attn: _____

5.9 **Applicable Laws and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in Denton County, Texas.

5.10 **Default.** No party shall be in default of provisions under this Agreement until notice of the alleged failure of such party to perform has been given as provided herein (which notice

shall set forth in reasonable detail the nature of the alleged failure) and until such party has been given ten (10) days after the written notice in the case of the default of a payment obligation, and in all other cases a reasonable time, to cure the alleged failure (such reasonable time determined based upon the nature of the alleged failure, but in no event less than ten (10) days after written notice of the alleged failure has been given).

5.11 Attorneys' Fees. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this Agreement and the parties agree that this Agreement is not subject to Subchapter 1 of Chapter 271 of the Texas Local Government Code.

5.12 Assignment. Except as provided in this section, neither Party may assign, in whole or in part, its rights or obligations under this Agreement without the prior written consent of the other Party, which consents shall not be unreasonably withheld, delayed, or conditioned.

5.13 Entire Agreement. This Agreement contains the entire agreement between the Parties with regard to the subject matter hereof and supersedes all prior agreements, oral or written, with regard to the subject matter hereof. The provisions of this Agreement shall not be construed strictly for or against any Party.

5.14 Severability. In the event any provision of this Agreement is determined by any court to be unenforceable for any reason, this remainder of this Agreement, to the extent reasonably possible, shall remain in full force and effect as if such unenforceable provision had never been part of this Agreement.

5.15 Term. The term of this Agreement shall commence on the effective date stated in the introductory paragraph of this Agreement and shall continue until the earlier to occur of the date on which: (1) all duties and obligations of the Parties under this Agreement have been fully performed; or (2) the Parties agree, in writing, to terminate this Agreement.

5.16 Application of Town Ordinances. Except as otherwise provided in this Agreement, the Parties shall be subject to all applicable ordinances of the Town.

5.17 Exhibits. The following exhibits are attached to and made a part of this Agreement for all purposes:

- | | |
|------------------|--|
| 5.17.1 Exhibit A | The River Walk at Central Park Villas Lot 1X, Block A; Lots 1-3 and 14-32, Block B |
| 5.17.2 Exhibit B | Riverside Point Lots 1-2; 17-18 Block B |
| 5.17.3 Exhibit C | The River Walk at Central Park 8/2014 Lot 1X, Block I |
| 5.17.4 Exhibit D | Parkmont Place Lots 7-8, Block B; Lots 24-27 Block C; Lot 1X, Block D |
| 5.17.5 Exhibit E | Riverwalk Market Addition Lot 2, Block A |
| 5.17.6 Exhibit F | The River Walk at Central Park 1/2016 Lots 1XR, 2XR, 3-5, Block A |
| 5.17.7 Exhibit G | LG River Walk Addition |
| 5.17.8 Exhibit H | Timber Trails Park Lot 1X, Block A |

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date set forth in the introductory paragraph of this Agreement.

ATTEST:

TOWN OF FLOWER MOUND, TEXAS

_____, Town Secretary

_____, Mayor

APPROVED AS TO FORM:

_____, Town Attorney

STATE OF TEXAS)

)

COUNTY OF DENTON)

This instrument was acknowledged before me on the ____ day of _____, 2016, by _____, Mayor, Town of Flower Mound, Texas, a home-rule, Texas municipal corporation, on behalf of said municipal corporation.

—

Notary Public, State of Texas

My Commission Expires:

SGI-Flower Mound-I, LTD. a Texas limited
partnership

By: SGI - FLOWER MOUND GP, LLC,
a Texas corporation, its general partner

By: _____

Name: Robert E. Seitz

Title: President

STATE OF TEXAS)

)

COUNTY OF DENTON)

This instrument was acknowledged before me on the ____ day of _____, 2016, by
Robert E. Seitz, President of SGI - FLOWER MOUND GP, LLC, on behalf of said corporation on
behalf of said limited partnership.

Notary Public, State of Texas

My Commission Expires:

LG River Walk Apartments, LLC

A Texas limited liability company

By: LG Capital, LLC

A Texas limited liability company,

By_____

Name: David Cocanougher

Title: Managing Director

STATE OF TEXAS)

)

COUNTY OF DENTON)

This instrument was acknowledged before me on the ____ day of _____, 2016, by David Cocanougher, Managing Director of LG Capital, LLC, on behalf of said corporation on behalf of said limited partnership.

Notary Public, State of Texas

My Commission Expires:

2M Riverwalk, LLC,
a Texas limited liability company

By: 2M Strategic Investments, LLC,
a Texas limited liability company
Its Sole Manager and Member

By: MMM Ventures, LLC,
a Texas limited liability company
Its Manager

By: 2M Ventures, LLC,
a Delaware limited liability company
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS)
)
COUNTY OF DENTON)

This instrument was acknowledged before me on the _____ day of _____, 2016, by Mehrdad Moayed, Manager of 2M Ventures, LLC, as manager of MMM Ventures, LLC, as manager of 2M Strategic Investments, LLC, as sole manager and member of 2M Riverwalk, LLC on behalf of said limited liability company.

Notary Public, State of Texas

CADG Riverwalk, LLC,
a Texas limited liability company

By: CADG Holdings, LLC,
a Texas limited liability company
Its Sole Managing Member

By: MMM Ventures, LLC,
a Texas limited liability company,
Its Manager

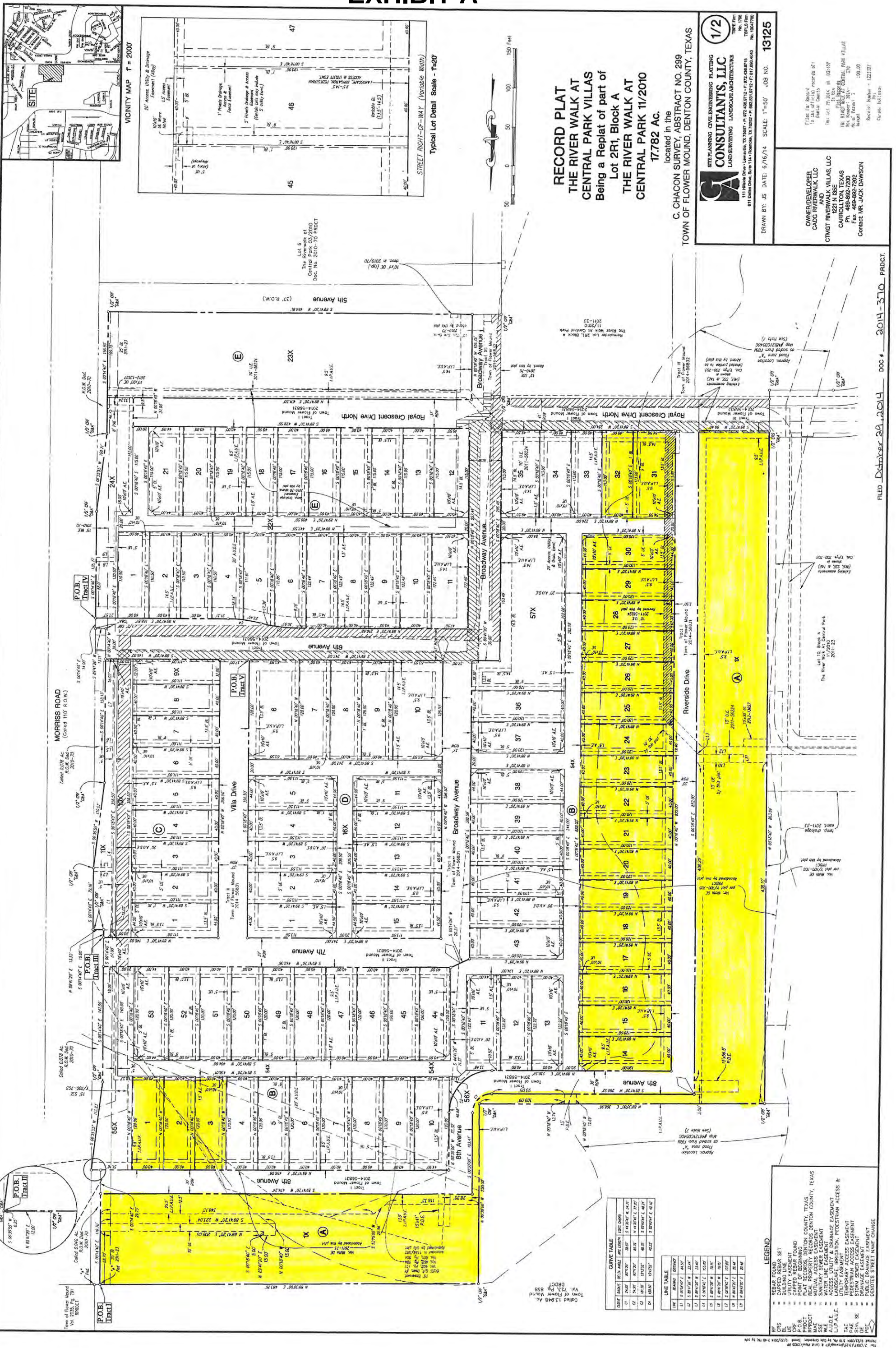
By: 2M Ventures, LLC,
a Delaware limited liability company,
Its Manager

By: _____
Name: Mehrdad Moayed
Its: Manager

STATE OF TEXAS)
)
COUNTY OF DENTON)

This instrument was acknowledged before me on the _____ day of _____, 2016, by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of CADG Holdings, LLC, as Sole Managing Member of CADG Riverwalk, LLC, a Texas limited liability company on behalf of said company.

Notary Public, State of Texas



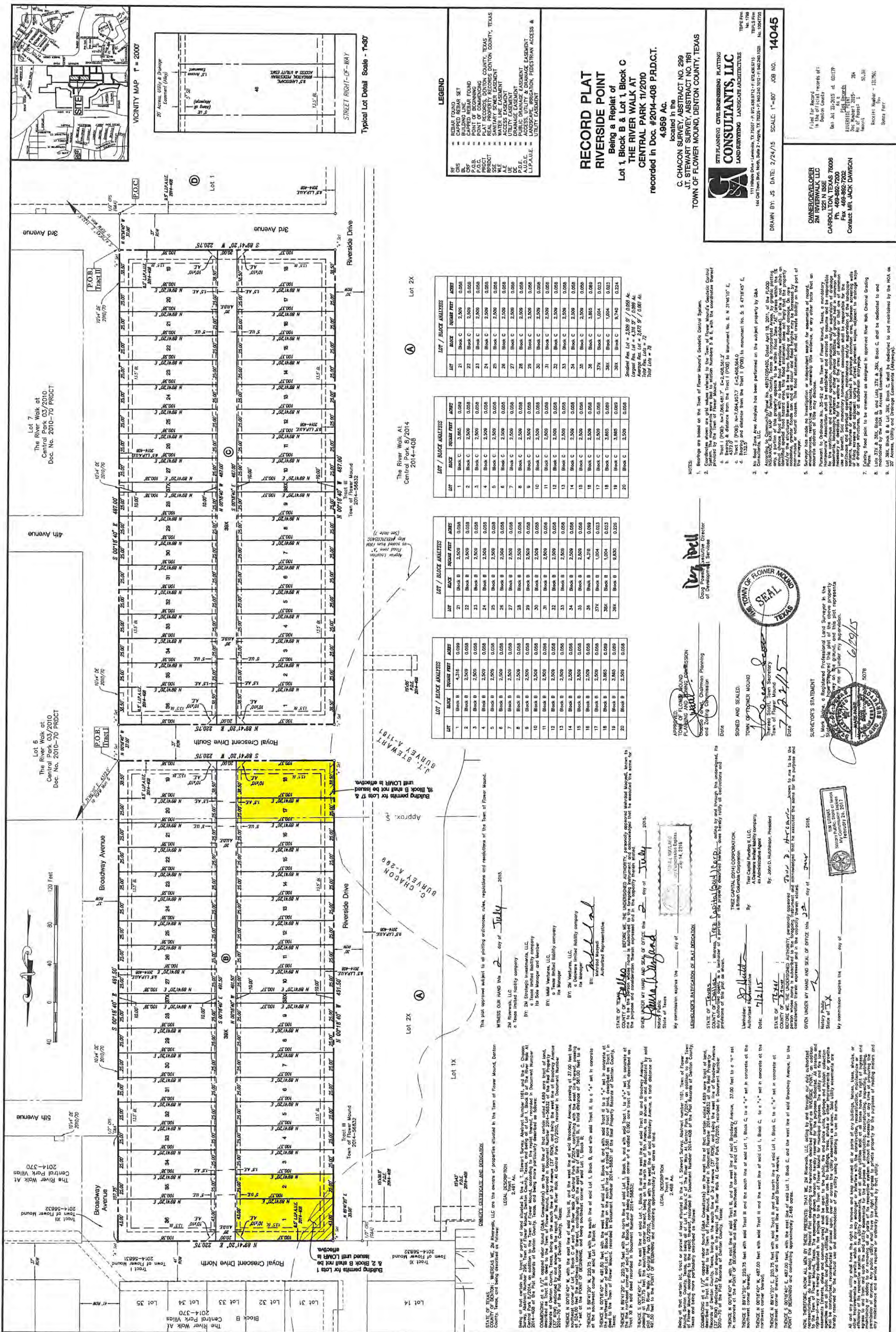
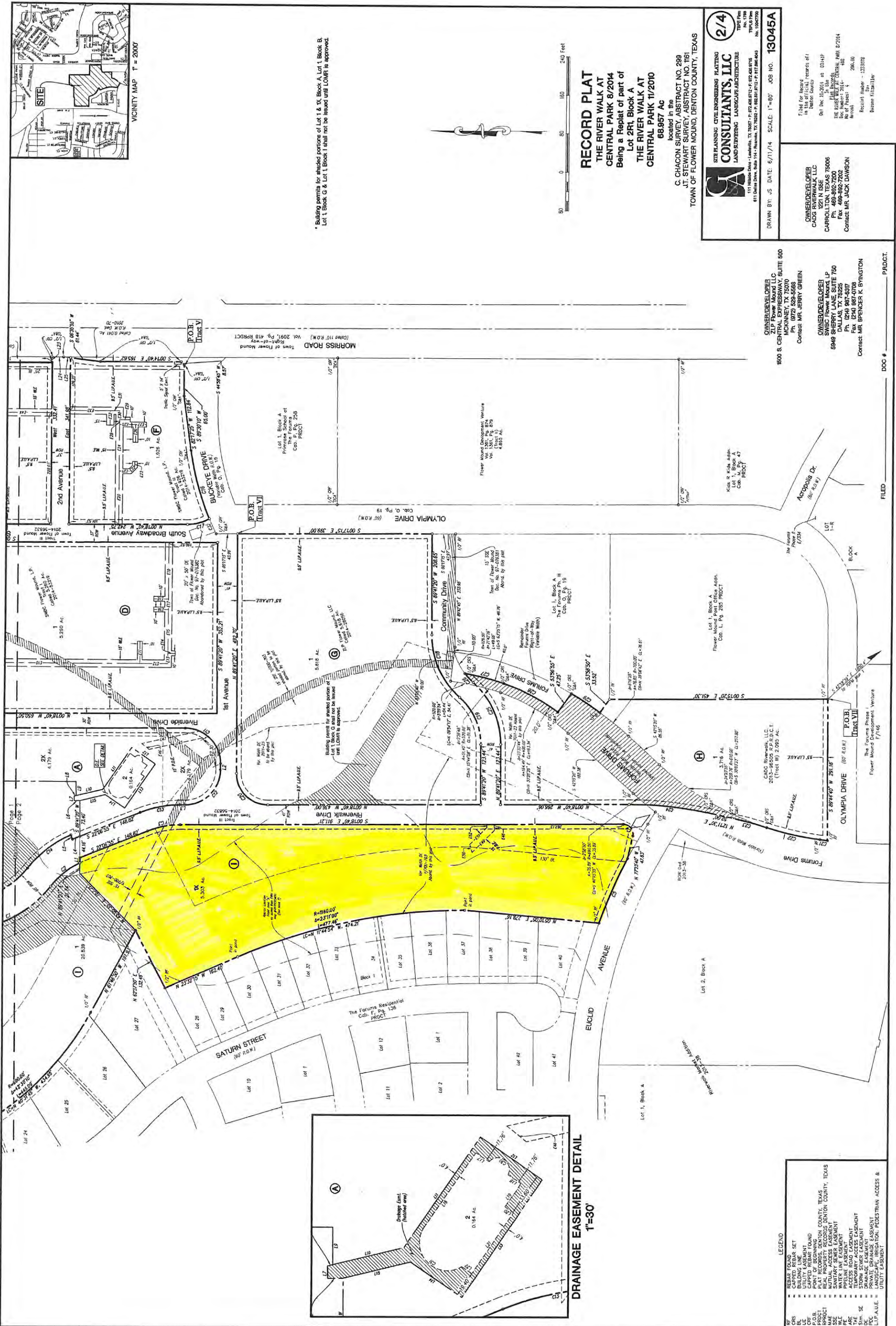


EXHIBIT C



* Building permits for shaded portions of Lot 1 & 2, Block A, Lot 1, Block B, Lot 1, Block G & Lot 1, Block I shall not be issued until LOMR is approved.



RECORD PLAT
THE RIVER WALK AT
CENTRAL PARK 8/2014
Being a Replat of part of
Lot 2R1, Block A
THE RIVER WALK AT
CENTRAL PARK 11/2010
68.957 AC

located in the
C. CHACON SURVEY, ABSTRACT NO. 299
J.T. STEWART SURVEY, ABSTRACT NO. 161
TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS

SITE PLANNING CIVIL ENGINEERING PLANNING CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE
111 Dallas Drive • Lewisville, TX 76047 • P: 972.408.9712 • F: 972.408.9715
811 Dallas Drive, Suite 114 • Rowlett, TX 75082 • P: 982.251.9712 • F: 972.986.4043
No. 50047700

2/4
TYPE: Plan
No. 1798
THIS PLAT IS THE
FINAL PLAT
No. 50047700

DRAWN BY: JS DATE: 6/11/14 SCALE: 1"=80' JOB NO. **13045A**

OWNER/DEVELOPER
CADD RIVERWALK, LLC
1221 N. 158E
CARROLLTON, TEXAS 75006
TEL: 972.488.7200
FAX: 469.895.7202
Contact: MR. JACK DAWSON

Filed for Record
in the official records of:
Denton County

Set Dec. 10, 2011 at 03:14P
FILED
THE RIVER WALK AT CENTRAL PARK 8/2014
No. of Pages: 4
Replat
Record Number: 1233978
Book: 112411e

OWNER/DEVELOPER
ZIP POWER FLOWERS, LLC
1500 S. CENTRAL EXPRESSWAY, SUITE 500
MCKINNEY, TX 75070
Contact: MR. JERRY GREEN

OWNER/DEVELOPER
The Flower Mound LP
5946 SHERBORN DRIVE, SUITE 750
DALLAS, TX 75226
PH: (214) 987-8377
FAX: (214) 987-0708
Contact: MR. SPENCER K. BYINGTON

FILED _____ DOC # _____ PROJECT _____

RECORD PLAT
***ADDITIONAL**
OR
PARKMOUNT PLACE
 Being a Replat of part of
 Lot 1, Block 1
THE RIVER VALLEY TRACT
CENTRAL PARK #2014
 Located in the
 TOWN OF FLOWER MOUND
 DENTON COUNTY, TEXAS



**SITE PLANNING CIVIL ENGINEERING PLANNING
CONSULTANTS, LLC**
LAND SURVEYING LANDSCAPE ARCHITECTURE

1/2

TYPE Form
No. 1704
TRIPLE T's
No. 1004700

11110 Industrial Lane, Louisville, KY 40263 • P: 502.438.9115 • F: 502.438.9111
 10000 South Gate, Suite 114 • Louisville, KY 40253 • P: 502.331.3712 • F: 502.438.6463

15003

JS DATE: 9/30/15 SCALE: 1"=60' JOB NO.

OWNER/DEVELOPER
CADG RIVERWALK, LLC
 1221 N I35E
 CARROLLTON, TEXAS 75006
 Ph 469-892-7200
 Fax 469-892-7202
 Contact: MR. JACK DAWSON

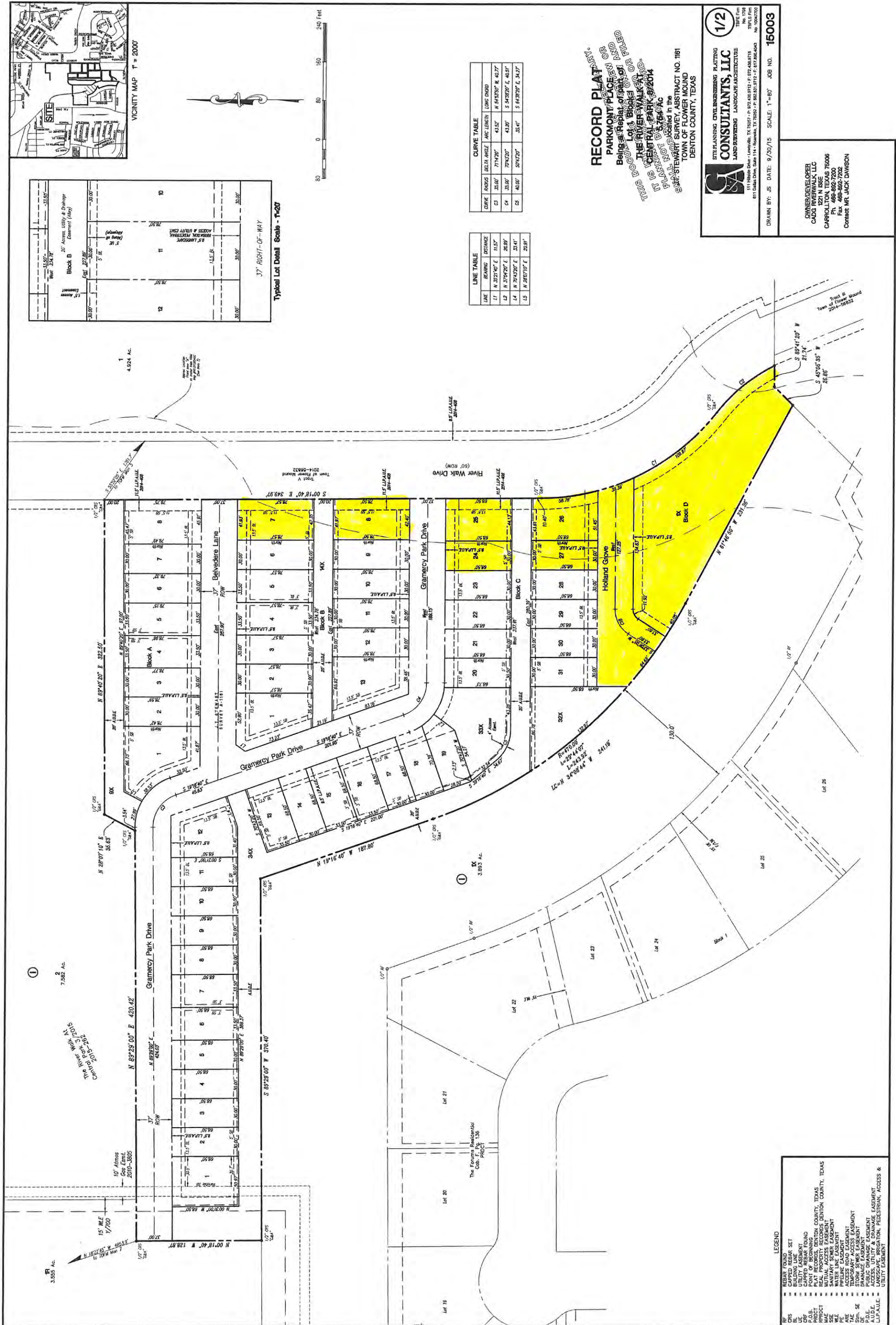


EXHIBIT E

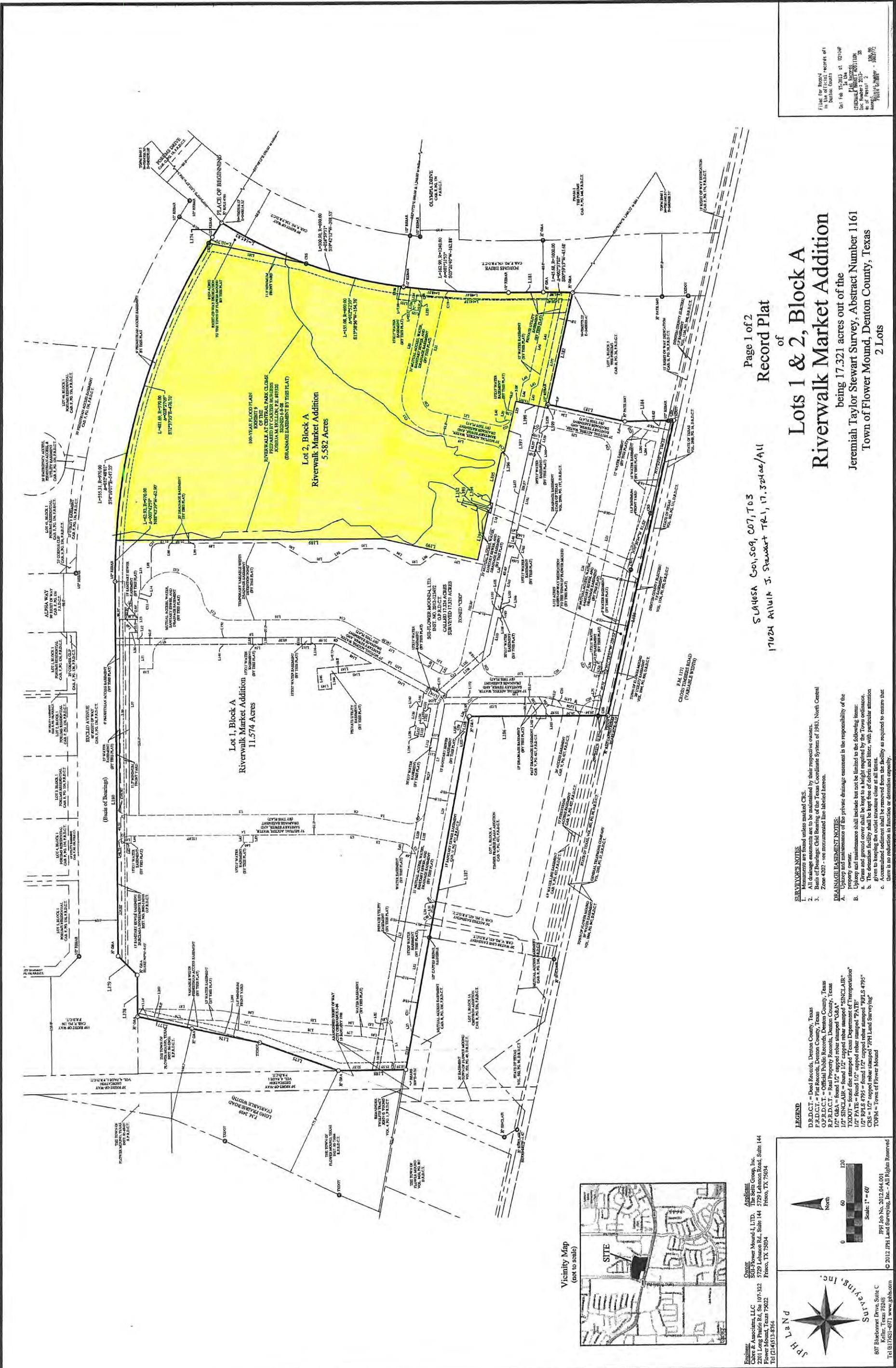
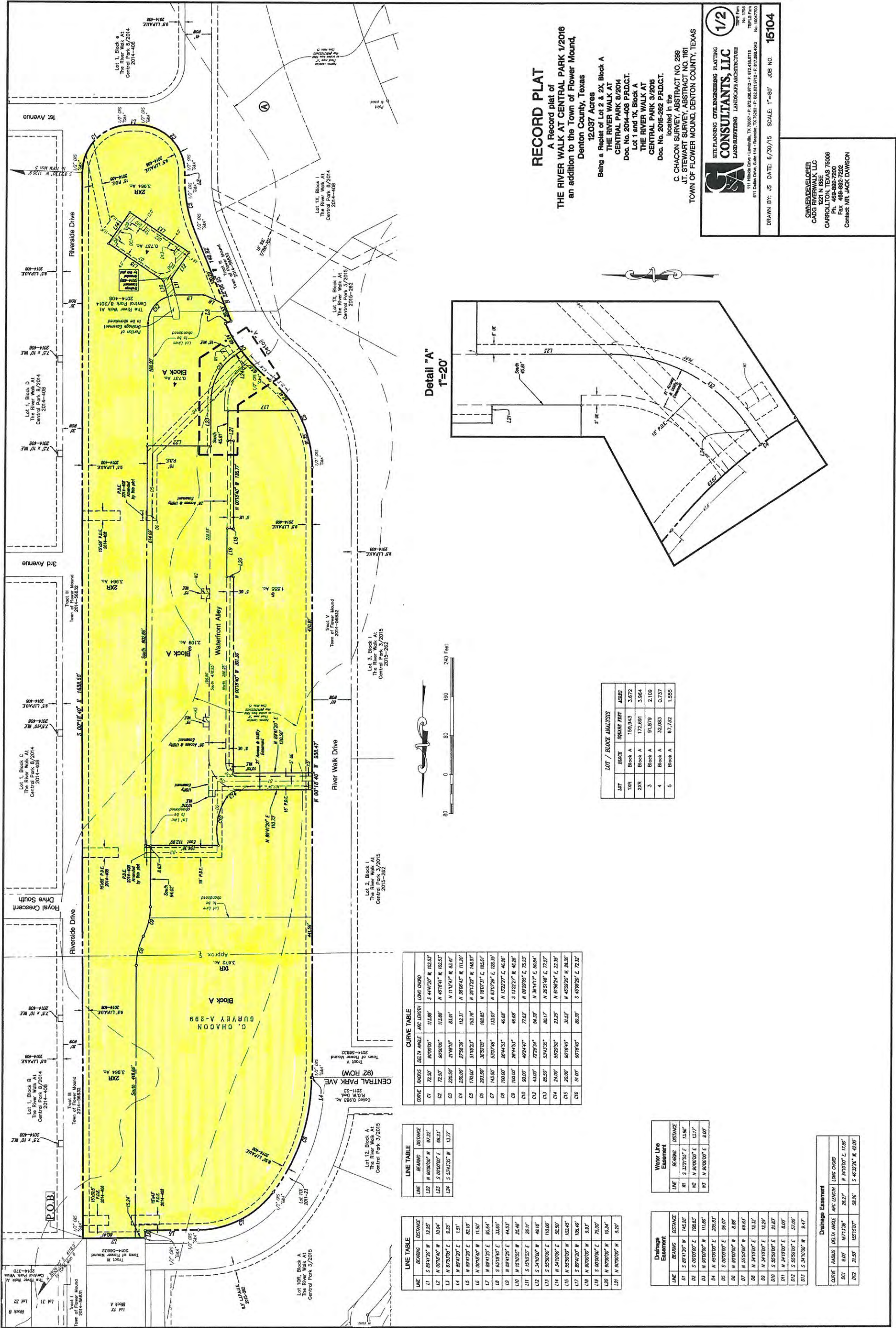


EXHIBIT F





TOWN COUNCIL AGENDA ITEM NO. 18

REGULAR ITEM

DATE: November 7, 2016

FROM: Matthew Woods, Director of Environmental Services

ITEM: Public Hearing to consider an application for a tree removal permit for two (2) specimen trees on property proposed for development as The Preserve at Flower Mound. The property is generally located on the northwest corner of Chaparral Lane and Long Prairie Road. *(The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its October 4, 2016, meeting).*

BACKGROUND INFORMATION: The Preserve at Flower Mound development is generally located on the northwest corner of Chaparral Lane and Long Prairie Road. The site is approximately 41.50 acres in size. The site is currently master planned for Medium Density Residential and zoned for Planned Development District-113 (PD-113) with Single-Family District-10 (SF-10). The applicant is requesting to remove two (2) specimen trees from separate residential lots (2608 Leafsray Lane and 2816 Winding Path Way) to build new homes. The specimen trees proposed for removal are both in good condition and are located within the proposed buildable area.

The following specimen trees are being requested for removal: Tree #678 – 30" post oak; and Tree #2171– 26" pecan.

The Town's tree ordinance requires that specimen trees removed from the site be replaced at a rate of two times their caliper inches. Based on their sizes, 112" of replacement trees, equaling 38 three-inch caliper trees, will be required for the removal of the two (2) specimen trees on this site. In addition, a few protected trees will need to be removed from the buildable area, which will also require replacement at a tree-for-tree rate.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its October 4, 2016, meeting. The ECC recommended approval of the requested permit to remove the specimen trees. A link to the ECC meetings can be found at: <https://tx-flowermound.civicplus.com/index.aspx?NID=969>

CITIZEN FEEDBACK: As of October 26, 2016, staff has not received feedback related to this item.

ALTERNATIVES/OPTIONS: The Town Council may approve or deny the requested tree removal permit, or may choose to approve the permit with conditions or changes.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter from the applicant indicating the reason(s) for the tree removal permit request.
2. Specimen tree removal permit application.
3. Photographs of the specimen trees proposed for removal.
4. Project tree surveys and plot plans.

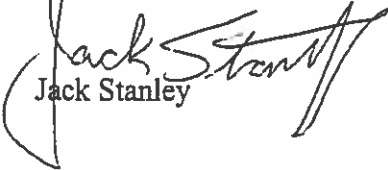
RECOMMENDATION: The ECC recommended approval of the requested permit for the removal of two (2) specimen trees on property proposed for development as The Preserve at Flower Mound. The property is generally located on the northwest corner of Chaparral Lane and Long Prairie Road.

Tree Removal Request

This is a request from Toll Brothers, Inc. to allow the removal of two Specimen trees on two lots in The Preserve at Flower Mound. The first tree is on 2608 Leafsray Ln. City Lot 6 Block A. The tree is a 30" Post Oak sitting 36" from foundation and in the middle of driveway. The 2nd. Tree is a 26" Pecan tree at 2816 Winding Path Way City Lot 14 Block F setting 30" from corner of house.

Both home sites are sold and both houses are on plot plans as shown see attached. Both homes maxing out home sites and cannot be moved / relocated. As much as we would like to maintain and keep these trees we can't build homes on these sites without removing the trees.

Toll Brothers Inc, Thanks you for your understanding on these requests.


Jack Stanley

The Preserve at Flower Mound – Specimen trees proposed for removal

Tree #678 – 30" post oak



Tree #2171 – 26" pecan



Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 10/6/08 - present)

Check one: ☐ Protected Tree ☒ Specimen Tree ☐ Historic Tree

1. Applicant- Note: Must be a licensed Landscape Architect or Registered Arborist

Name:

CHRIS GRAEBER

Address:

1925 VALLEY VIEW LN
FARMERS BRANCH, TX 75234

Phone:

214-350-2525

Applicant's Legal Interest in the Property:

NONE

2. Property Owner(s)

Name(s): ToH Brothers

Address: 2557 SW Grapevine Parkway Suite 100
Grapevine TX 76092

3. Location and Legal Description of Property:

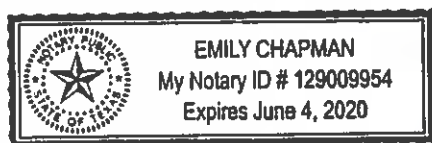
1) THE PRESERVE at Flower Mound
CITY LOT 6 Block A
2608 LEAFSPRAY LN.

2) THE PRESERVE at Flower Mound
CITY LOT 14 Block F
2816 WINDING PATH WAY

Page 2 of 3.

4. Owner's Authorization of Representation

I, Toll Brothers/Jack Stanley the owner of the above described real property, do hereby authorize Jack Stanley to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Trees), of the Land Development Regulations of the Town of Flower Mound, Texas Code of Ordinances.



Jack W. Stanley
Signature of Owner

Given Under My Hand and Seal of Office
This the 10 Day of September 2016
Emily Chapman
Notary Public
In and For Denton County, Texas.

5. Applicants Affidavit- Note: Applicant must be a licensed Landscape Architect or Registered Arborist.

Subject to criminal penalties contained in Subpart B, the Land Development Regulations of the Town of Flower Mound, Texas Code of Ordinances, I Lorrie Foster, do hereby swear or affirm that all of the Information contained herein and submitted herein is, to the best of my knowledge, true, correct and complete and that no false, misleading or incomplete information has been intentionally provided or submitted with this Application for a Tree Removal Permit.



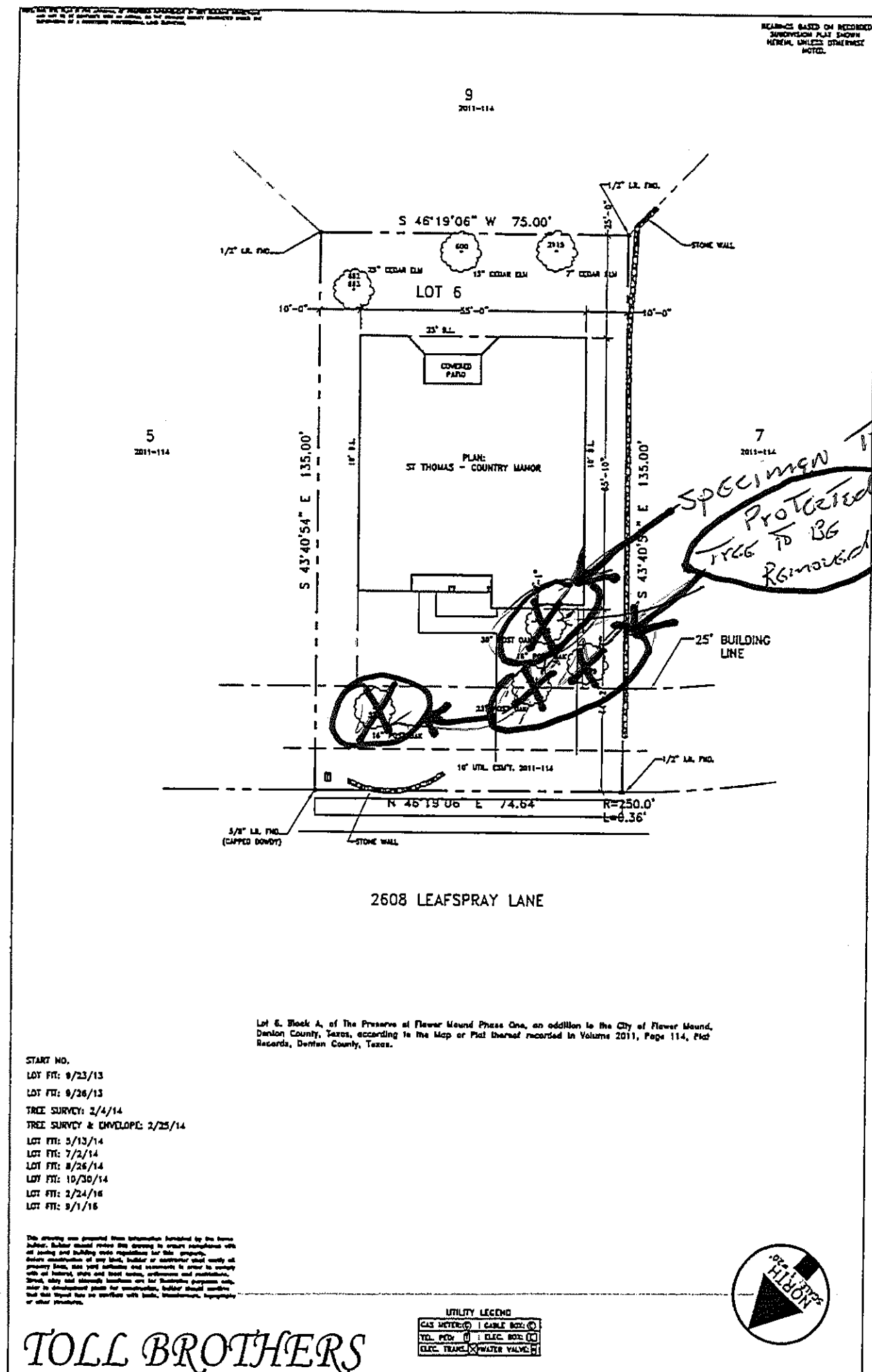
CLH
Signature of Applicant

Landscape Architect License No. 760
State of Licensure TEXAS
Or ISA Certified Arborist No. _____

Given Under My Hand and Seal of Office
This the 7 Day of SEPTEMBER 2016
Lorrie Foster
Notary Public
In and For DALLAS County, Texas

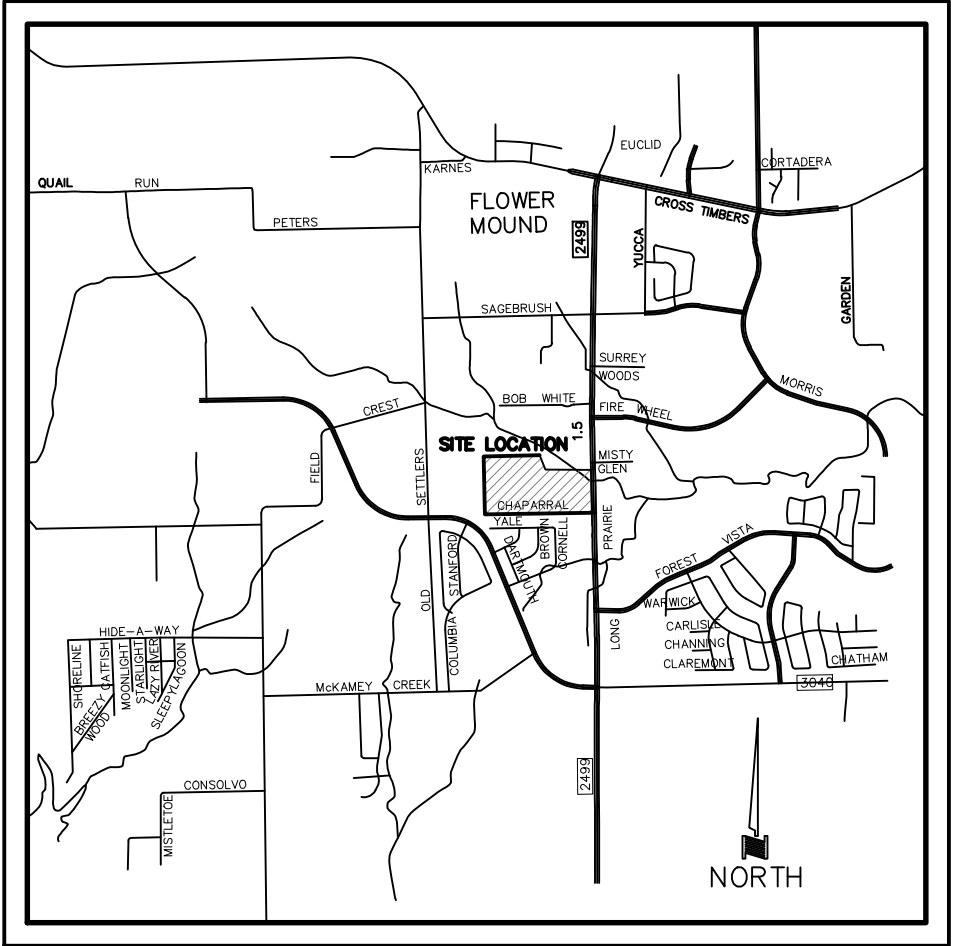
6. Received by Town of Flower Mound on (Date) 9/6/16 by (initials) JSF





Plotted by: Colhoun Plot Date: 7/5/2011 8:28 AM

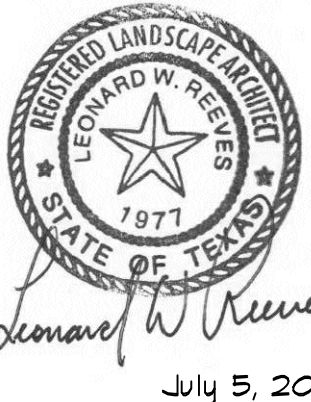
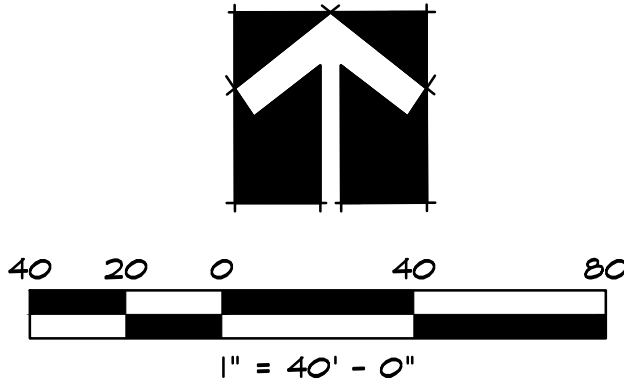
Drawing: Si: \Projects\TBI002\DWG\TBI002Tr Phase One Only.dwg Saved By: Colhoun Save Time: 7/5/2011 8:27 AM



- NOTES:
- 1) DOWDEY, ANDERSON & ASSOCIATES, INC. SURVEYED TREES FOR HORIZONTAL AND VERTICAL LOCATION. THE SPECIES, SIZE AND CONDITION OF THE TREE IS BASED ON INFORMATION PROVIDED BY STUDIO 13.
 - 2) SEE SHEET TR3 FOR TREE INFORMATION.
 - 3) 76 SPECIMEN TREES EXIST ON SITE.
 - 4) 10 SPECIMEN TREES ARE LOCATED IN THE BUILDABLE AREAS/RIGHTS-OF-WAY AND NEED TO BE REMOVED.
 - 5) 1100 PROTECTED TREES EXIST ON SITE.
 - 6) OWNER/DEVELOPER SHALL PRESERVE AS MANY PROTECTED TREES AS POSSIBLE DURING CONSTRUCTION.

TREE INFORMATION (PHASE I ONLY)

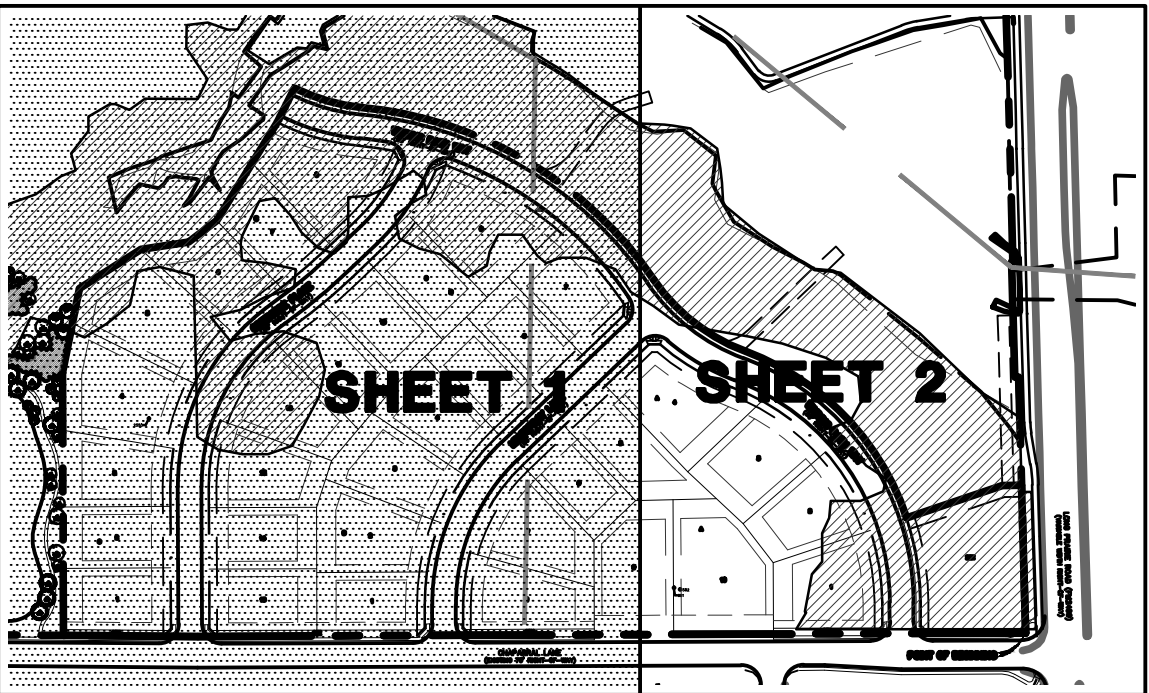
NUMBER OF SPECIMEN TREES ON PHASE ONE	26
NUMBER OF SPECIMEN TREES PROPOSED TO BE REMOVED	0
NUMBER OF PROTECTED TREES ON PHASE ONE	506
TOTAL CALIPER INCHES OF TREES ON PHASE ONE	6,471.3
CALIPER INCHES OF MITIGATION REQUIRED FOR REMOVAL OF TREES WITHIN BUILDING AREA.	81.0
CALIPER INCHES OF POSITIVE CREDITS FOR TREE PRESERVATION WITHIN THE BUILDING AREA.	123.0
TOTAL CALIPER INCHES OF POSITIVE CREDITS TO BE CARRIED INTO PHASE 2	42.0
CALIPER INCHES OF MITIGATION REQUIRED FOR REMOVAL OF TREE OUTSIDE THE BUILDING AREA. THIS MITIGATION SHALL BE SATISFIED WITH STREET TREE PLANTING. REFER TO LANDSCAPE PLANS FOR TREE MITIGATION PLANTING, SHEET L3.	60.0



STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
519 Bennett Lane, Suite 203
Lewisville, Texas 75057
469-635-1900

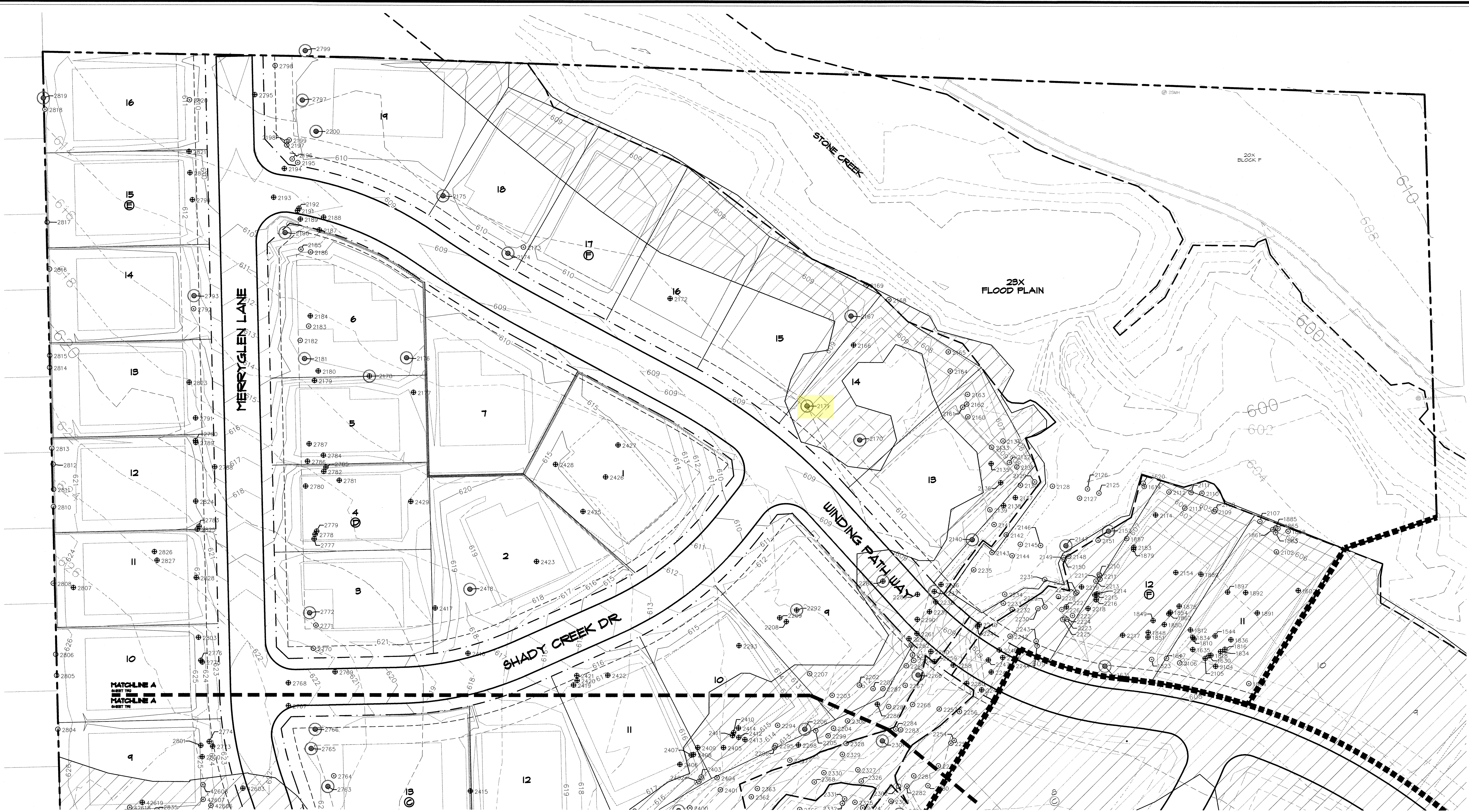
THE FOLLOWING REPRESENTS THE
APPROVED DOCUMENT / GRAPHIC
P & Z July 11, 2011
T C N/A
SEE FILE FOR CONDITIONS RP 02-11



#	PLAN REVIEW REVISIONS	BY	DATE
1	REVISED PER CITY COMMENTS	GEB	9-13-2010
2	REVISED PER CITY COMMENTS	LWR	9-30-2010
3	REVISED PER CITY COMMENTS	LWR	12-12-2010
4	REVISED PER CITY COMMENTS	CLJ	01-28-2011
5	REVISED PER CITY COMMENTS	CLJ	02-8-2011
6	REVISED PER CITY COMMENTS	CLJ	02-21-2011
7	REVISED PER CITY COMMENTS	CLJ	05-31-2011
8	REVISED PER CITY COMMENTS	CLJ	06-16-2011
9	REVISED PER CITY COMMENTS	CLJ	07-5-2011
#	CONSTRUCTION REVISIONS	BY	DATE

TREE SURVEY	PROJECT
TREE REMOVAL PLAN	TBI002
The Preserve at Flower Mound	SHEET
Town of Flower Mound, Denton Co., TX	TR1

<u>Tree #</u>	<u>Size</u>	<u>Species</u>	<u>Condition</u>	<u># of Trunks</u>	<u>Status</u>	<u>Location</u>	<u>Prot.</u>	<u>Spec.</u>	<u>Specific Plan Area (SPA)</u>	<u>Mitigation in BLDG Area (cal. In.)</u>	<u>Mitigation Not in BLDG Area (cal. In.)</u>	<u>Positive Credits for Preservation (cal. In.)</u>
639	18	Post Oak	C,D		Remove	ROW	yes			0	0	0
640	7	Hackberry			Remove	ROW	no			0	0	0
641	8	Hackberry			Remove	ROW	no			0	0	0
642	7.5	Hackberry			Remove	ROW	no			0	0	0
643	16	Post Oak			Remove	ROW	yes			0	0	0
644	7	Hackberry			Remove	ROW	no			0	0	0
645	24	Post Oak			Remain		yes			0	0	0
646	17	Bois D'arc			Remain		no			0	0	0
647	11.5	Cedar Elm			Remove	Bldg Area	yes			3	0	0
648	8	Ash			Remove	ROW	yes			0	0	0
649	20	Cedar Elm	C,D		Remain		yes	YES		0	0	0
650	8.5	Ash	E,G		Remain		yes			0	0	0
651	18	Post Oak	A,C		Remove	Bldg Area	yes			3	0	0
652	10	Hackberry	A		Remain		no			0	0	0
653	11	Cedar Elm			Remove	ROW	yes			0	0	0
654	23	Post Oak	C,D		Remove	Bldg Area	yes			3	0	0
655	15	Post Oak	E		Remove	Bldg Area	yes			3	0	0
656	18	Post Oak	A,C		Remove	Bldg Area	yes			3	0	0
657	10	Post Oak			Remove	Bldg Area	yes			3	0	0
658	17	Post Oak			Remove	Bldg Area	yes			3	0	0
659	6	Post Oak	C		Remove	Bldg Area	yes			3	0	0
660	9	Black Jack Oak	A,G		Remove	Bldg Area	yes			3	0	0
661	20	Post Oak	A,B		Remove	Bldg Area	yes			3	0	0
663	16	Hackberry	C		Remain	Bldg Area	no			0	0	9
665	21	Post Oak	A		Remove	Bldg Pad	yes			3	0	0
666	14.5	Post Oak	A		Remove	Bldg Pad	yes			3	0	0
668	15	Post Oak	C		Remove	ROW	yes			3	0	0
669	25	Post Oak	B	2	Remain	Bldg Area	yes	YES		0	0	15
670	16	Post Oak	A		Remove	ROW	yes			0	0	0
671	19	Bois D'arc	A,B	3	Remove	ROW	no			0	0	0
672	21	Post Oak	A,B,F		Remove	ROW	yes			0	0	0
673	18	Post Oak	B	2	Remain		yes			0	0	0
674	18	Post Oak			Remove		yes			0	27	0
675	10	Post Oak	G		Remove		yes		yes	0	0	0
676	9	Post Oak			Remove		yes		yes	0	0	0
677	10	Post Oak			Remove		yes		yes	0	0	0
678	30	Post Oak	A,B,C,D,G		Remain		yes	YES	yes	0	0	0
679	16	Post Oak	G		Remain		yes		yes	0	0	0
680	15	Hackberry	A		Remove		no		yes	0	0	0
681	7	Post Oak	C		Remove		yes		yes	0	0	0
682	10	Post Oak			Remove		yes		yes	0	0	0
683	14	Post Oak	B		Remove	Bldg Area	yes		yes	0	0	0
684	12	Post Oak			Remove		yes		yes	0	0	0
685	17	Post Oak	C,D		Remove		yes		yes	0	0	0
686	20	Post Oak			Remove	Bldg Area	yes		yes	0	0	0
687	12	Post Oak			Remove	Bldg Area	yes		yes	0	0	0
688	0				Remove	Bldg Area	yes		yes	0	0	0



LEGEND

- 628 PROTECTED TREE TO REMAIN
- 2621 PROTECTED TREE TO BE REMOVED
- 2237 SPECIMEN TREE TO BE REMOVED
- 2469 SPECIMEN TREE TO REMAIN

TREE INFORMATION (PHASE III ONLY)

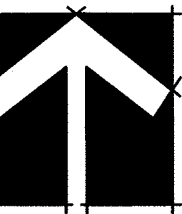
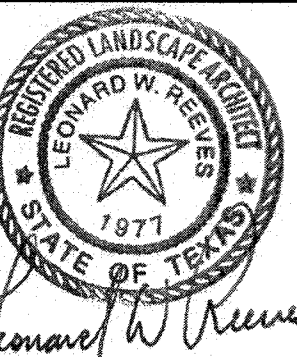
NUMBER OF SPECIMEN TREES ON PHASE THREE	50
NUMBER OF SPECIMEN TREES PROPOSED TO BE REMOVED	8
NUMBER OF PROTECTED TREES ON PHASE THREE	106
TOTAL CALIPER INCHES OF TREES ON PHASE THREE	4,947.5
CALIPER INCHES OF POSITIVE CREDITS FOR TREE PRESERVATION WITHIN THE BUILDING AREA	207.0
CALIPER INCHES OF NEGATIVE CREDITS FOR TREES REMOVED INSIDE OF THE BUILDING AREA	40.0
CALIPER INCHES OF NEGATIVE CREDITS FOR TREES REMOVED NOT IN THE BUILDING AREA	154.0
CALIPER INCHES OF POSITIVE CREDITS CARRIED OVER FROM PHASES ONE AND TWO	42.0
NET NEGATIVE CREDITS TO BE MITIGATED IN PHASE THREE	0.0

THE UPLAND HABITAT AREA THAT IS IMPACTED BY PHASE THREE IS 161,418 SQUARE FEET OR 3.70 ACRES. PER THE TOWN OF FLOWER MOUND REQUIREMENTS, A FEE OF \$15,000.00 PER ACRE SHALL BE OWED TO THE TOWN'S TREE PRESERVATION FUND. A TOTAL PAYMENT OF \$55,500 SHALL BE OWED TO THE TOWN AT THE PRE-CONSTRUCTION MEETING FOR PHASE THREE.

NOTES:
1) DOWDEY, ANDERSON & ASSOCIATES, INC. SURVEYED TREES FOR HORIZONTAL AND VERTICAL LOCATION, THE SPECIES, SIZE AND CONDITION OF THE TREE IS BASED ON INFORMATION PROVIDED BY STUDIO 13.
2) OWNER/DEVELOPER SHALL PRESERVE AS MANY PROTECTED TREES AS POSSIBLE DURING CONSTRUCTION.

STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
519 Bennett Lane, Suite 203
Lewisville, Texas 75057
469-635-1900



40 20 0 40
1" = 40' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

TREE SURVEY PLAN

Tree Survey Plan

Preserve at Flower Mound, PH. III

Town of Flower Mound, Denton County, Texas

PLAN REVIEW REVISIONS	BY	DATE

PROJECT
TBI002A

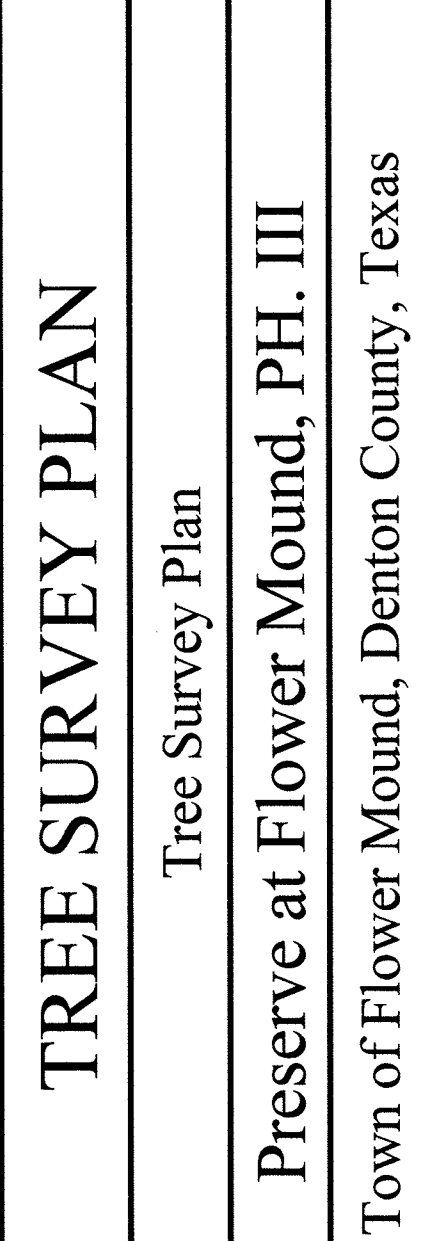
SHEET

TR2 of 5

STUDIO
DESIGN GROUP

Studio 13 Design Group, PLLC.
519 Bennett Lane, Suite 203
Lewisville, Texas 75057
469-635-1000


Louann W. News
February 25, 2013



#	PLAN REVIEW REVISIONS	BY	DATE
0			

PROJECT TBI002A

SHEET TR5 of 5



TOWN COUNCIL AGENDA ITEM NO. 19

REGULAR ITEM

DATE: November 7, 2016

FROM: Brian Waltenburg, P.E., Senior Project Engineer

ITEM: Consider approval of the award of Bid No. 2016-77 to Tiseo Paving Company, for the 2015 Street Reconstruction, McKamy Creek Road Reconstruction and McKamy Creek Right Turn Lane projects, in the amount of \$1,453,874.98; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On September 9, 2016, bids were received and opened (Bid # 2016-77) for the 2015 Street Reconstruction project (Superior Place, Canterbury Lane, McKamy Creek Road) and McKamy Creek Right Turn Lane project. Tiseo Paving Company submitted the only qualified total bid of \$2,735,025.11. In an effort to provide the most cost effective prioritization of projects, Town Staff recommends the award of base bid items McKamy Creek Road and McKamy Creek Turn Lane at a bid total of \$1,453,874.98. The remaining projects, Superior Place and Canterbury Lane will be re-bid at a later date.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$1,453,874.98

Proposed Expenditure:	Account Number(s):
\$1,018,874.98	316-560-78023 McKamy Creek Road
\$185,000.00	630-970-78023 McKamy Sewer
\$250,000.00	531-220-78028 McKamy Turn Lane

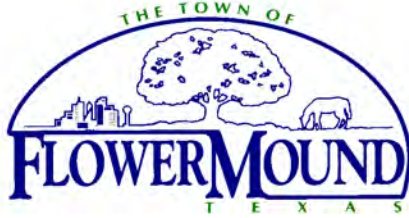
Finance Review by: Tammy Wilson, Executive Director of Financial Services *tw*

LEGAL REVIEW: The Town's standard construction agreement form documents, prepared by Taylor, Olson, Adkins, Sralla, & Elam L.L.P., were used to draft this agreement. No alteration to the legal content of this form document was made in preparation of these documents.

ATTACHMENTS:

1. Bid Tabulation
2. Construction Agreement

RECOMMENDATION: Move to award Bid No. 2016-77 to Tiseo Paving Company, for the 2015 Street Reconstruction, McKamy Creek Road Reconstruction and McKamy Creek Right Turn Lane projects, in the amount of \$1,453,874.98; and authorize the Mayor to execute same on behalf of the Town.



**Town of Flower
Mound
Bid Tabulation**

Bid No: 2016-77 - 2015 Street Reconstruction

Bid Opening: Friday, September 09, 2016

Company	Total Bid
Tiseo Paving Company	\$ 2,735,025.11

****** All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified By:	Marquita Shamlin	09/21/2016
	Administrative Assistant	
	Town of Flower Mound, Texas	

TOWN OF FLOWER MOUND**2015 STREET RECONSTRUCTION
~~CANTERBURY LANE, SUPERIOR PLACE &~~
MCKAMY CREEK ROAD****Bid # 2016-77****CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this 7th day of November, 2016, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and Tiseo Paving Company, a Corporation, hereinafter referred to as the "Contractor." For and in consideration of the payment, agreements, and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

2015 STREET RECONSTRUCTION
~~CANTERBURY LANE, SUPERIOR PLACE &~~
MCKAMY CREEK ROAD
Bid # 2016-77

in the Town of Flower Mound, Texas, and all extra work in connection therewith, under the terms as stated in this Agreement, and under the terms of the Contract Documents; and at his, her, or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools, and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Conditions and Specifications as prepared by the Town or its consultant hereinafter called "Engineer", who has been identified by the endorsement of the Contractor's written proposal, and the General Conditions, Supplemental Conditions, and Special Provisions of this Agreement, and the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

ARTICLE 1. The Contract Documents shall consist of the following documents:

- A. The Construction Agreement;
- B. Properly executed Change Orders and Field Orders in writing and executed by the Town, the last in time being first in precedence;

- C. Any listed and numbered addenda;
- D. Special Provisions;
- E. Supplementary Conditions;
- F. Construction Drawings or Plans;
- G. Technical Specifications;
- H. Town's Standard Construction Details;
- I. The most current edition of the *Town of Flower Mound Design Criteria and Construction Standards* (by reference);
- J. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);
- K. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference);
- L. The General Conditions;
- M. *Public Works Construction Standards - North Central Texas, as amended* (by reference);
- N. Notice to Bidders;
- O. Instructions to Bidders;
- P. The Town's written notice to proceed to Contractor;
- Q. The Contractor's Bid Proposal;
- R. The Performance Bond, Payment Bond and Maintenance Bond; and
- S. Bid materials distributed by the Town that relate to the Project.

These Contract Documents are incorporated by reference into this Agreement as if set out in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided; however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the

project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair, and/or correct that component of the project.

ARTICLE 2. For performance of the Work in accordance with the Contract Documents, the Town shall pay the Contractor in current funds an amount not to exceed **One Million Four Hundred Fifty-Three Thousand Eight Hundred Seventy-Four Dollars and Ninety-Eight Cents (\$1,453,874.98)** taking into consideration additions to or deductions from the Total Bid through properly executed change orders by reason of alterations or modifications of the original quantities or by reason of "Extra Work" authorized under this Agreement in accordance with the provisions of the Contract Documents. It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the Contractor by the Town, the said Contractor shall furnish all labor, equipment, and material (except as otherwise specified above) and shall perform all work necessary to complete the improvements in a good and workmanlike manner, ready for use, within the specified time for substantial completion of ONE HUNDRED EIGHTY (180) calendar days, and final completion of TWO HUNDRED FORTY (240) calendar days ready for final payment, as measured from the Effective Start Date shown in the Notice to Proceed. The work shall be in strict accordance with this Agreement, a copy of which is filed pursuant to law in the office of the legal representative of the Town.

ARTICLE 3. Before commencing work, the Contractor shall, at its own expense, procure, pay for, and maintain the insurance coverage required by the Contract Documents written by companies approved by the State of Texas and acceptable to the Town of Flower Mound. Contractor shall provide the Town Purchasing Manager with certificates of insurance indicating coverage's required by the Contract Documents. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

ARTICLE 4. The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment, and maintenance bonds shall be issued on the forms attached to this Construction Agreement. Other performance, payment, and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment, and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall

supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon Town request. In addition to the foregoing requirements if the amount of the bond exceeds One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

ARTICLE 5. It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Town shall pay the Contractor the compensation due him by reason of said faithful performance of the work in accordance with the provisions of this Agreement. As it completes portions of the Work, the Contractor may request progress payments from the Town. Progress payments shall be made by the Town based on the Town's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Town satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Town:

1. copies of documents reasonably necessary to aid the Town in preparing an estimate of the value of Work properly completed;
2. full releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Town releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
3. an updated and current schedule clearly detailing the project's critical path elements; and
4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Town determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment

to Contractor. If the Town determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Town the overpayment amount specified by the Town within thirty (30) calendar days after it receives written demand from the Town.

The fact that the Town makes a progress payment shall not be deemed to be an admission by the Town concerning the quantity, quality, or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Town shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set depending upon the value of the Contract Work on the effective date of the Contract:

<u>Contract Amount</u>	<u>Retainage Percentage</u>
Up to \$25,000.00	15%
\$25,000.00 to \$400,000.00	10%
Over \$400,000.00	5%

Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Town may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
2. ensure timely completion of the Work. The Town may use retained funds to pay liquidated damages; and
3. provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Town in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

ARTICLE 6. The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Town may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents. Amounts withheld under this section shall be in addition to any retainage.

ARTICLE 7. When the erosion control measures have been completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

ARTICLE 8. When the Work is completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Town's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Town's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Town may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

ARTICLE 9. After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and

3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens, or other evidence satisfactory to the Town to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Town may, but is not obligated to, issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Town copies of all documents that the Town determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Town has satisfied its obligation to administer the Agreement in accordance with applicable law.

Subject to the requirements of the Contract Documents, the Town shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

ARTICLE 10. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN, ITS TOWN COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK OR WHICH ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS, OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Town shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Town. Contractor shall

retain approved counsel for the Town within seven business days after receiving written notice from the Town that it is invoking its right to indemnification under this Agreement. If Contractor does not retain counsel for the Town within the required time, then the Town shall have the right to retain counsel and the Contractor shall pay the attorneys' fees and expenses.

The Town retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Town elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Town for such costs.

ARTICLE 11. The Contractor understands and agrees that time is of the essence in performing and completing the Work. The Town and Contractor acknowledge that the actual damages the Town may sustain if the Contractor fails to complete the Work on time are uncertain and will be difficult to ascertain. The Contractor agrees that the sum of Two Hundred Forty and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of Two Hundred Forty and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages for each calendar day or portion thereof the work has not been finally completed by the Contractor beyond the Contract time for final completion, or within such extra time as may have been allowed by an extension approved by the Town. The Town and the Contractor agree that this amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

ARTICLE 12. For a two-year period after the date specified in a written notice of acceptance of Work and authorization to make final payment by the Flower Mound Town Council, Contractor shall provide and pay for all labor and materials that the Town determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Town may make a warranty inspection of the Work. The Town shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Town shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Town may pay for necessary labor and

materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Town determines that a hazard exists because of defective materials and workmanship, then the Town may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Town to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Town may make as many warranty inspections as it deems appropriate.

ARTICLE 13. The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

ARTICLE 14. The Contractor shall sign the Construction Agreement, and deliver signed performance, payment, and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within fifteen (15) calendar days after the Town makes available to the Contractor copies of the Contract Documents for signature. Six copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided; however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Town delivers to the Contractor a copy of this Construction Agreement that bears the

signature of the Mayor or Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure that:

1. the Contractor timely delivers to the Town all bonds and insurance documents; and
2. the Town retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST THE TOWN, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE TOWN BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE TOWN DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

Contractor stipulates that the Town is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, the Town does not waive any of its immunities from suit and/or liability, except as otherwise expressly and specifically provided herein or as specifically provided by law.

Payments under this Contract are due and payable in accordance with the provisions of Texas Government Code Section 2251.022. Interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Contractor and any subcontractor shall pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of this Agreement. The Town has determined the general prevailing rate of per diem wages in the locality in which the public work is to be constructed by using the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as applicable to this Project. Contractor or a subcontractor who violates this provision shall be liable for the penalty specified in Texas Government Code Section 2258.023, which as of the date of this Agreement is \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. Town reserves the right to receive and review payroll records, payment records, and earnings statements of employees of Contractor, and of Contractor's Subcontractors, and of Sub-Subcontractors to verify payments made to same. However, no Claim for additional compensation shall be considered by Town because of payments of wage rates in excess of the applicable rate provided herein.

It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialmen, artisan, laborer, or subcontractor, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the project of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas.

The Contractor represents and warrants the following to the Town (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Town to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

1. that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
2. that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
3. that it is authorized to do business in the State of Texas and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
4. that the execution of the Contract and its performance thereof are within its duly-authorized powers.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Denton County, Texas.

Although the Construction Agreement has been drafted by the Town, should any portion of the Construction Agreement be disputed, the Town and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Town and Contractor and shall inure to their benefit as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Mayor or Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Mayor or Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

IN WITNESS WHEREOF, the Town and the Contractor, respectively, have caused this Agreement to be duly executed in the day and year first herein written in six copies, all of which to all intents and purposes shall be considered as the original.

This Agreement will be effective on the 7th day of November, 2016.

TOWN OF FLOWER MOUND

CONTRACTOR

Thomas E. Hayden, MAYOR

(Signature)

(Printed Name)

(Position)

(CORPORATE SEAL)

(CORPORATE SEAL)

ATTEST: _____
Theresa Scott, TOWN SECRETARY

ATTEST: _____ (Signature)

(Position)

APPROVED AS TO FORM AND
LEGALITY:

TOWN ATTORNEY

Town Council Future Agenda Items



SCHEDULED	11/17/2016	Work Session	Presentation and discussion regarding public transportation options by the Denton County Transportation Authority and other public transit considerations.
		Work Session	Joint Work Session with Transportation Commission and presentation and discussion involving the Town's Land Development Regulations for undergrounding of overhead utilities
	11/21/2016	Presentation	Small Business Saturday (November 26, 2016) Proclamation
		Presentation	PLACEHOLDER: Check presentation from Denton County Sheriff Will Travis
		Consent	Consider approval of an Interlocal Agreement with Lewisville Independent School District for Construction and Maintenance of Hike and Bike Trail on School Property behind Forest Vista Elementary School; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.
		Consent	Consider approval of a Professional Services Agreement with MESA Design Consultants, Inc., to provide design services associated with Canyon Falls Park, in the amount of \$44,000.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of the award of RFP No. 2017-3 for Employee Basic Life Insurance, Employee Long Term Disability Insurance, Employee and Dependent Optional Life Insurance, and Employee & Dependent Optional Accident Death and Dismemberment Insurance to CIGNA Group Insurance, in the estimated annual amount of \$\$, totaling \$\$\$, for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town
		Consent	Consider approval of the Professional Services Agreement with Urban Engineers Group, Inc., to provide professional engineering services, for the Rippy Road Water Line Improvements project, for an amount not to exceed \$78,300.00; and authorization for the Mayor to execute same on behalf of the Town
		Consent	Consider approval of final acceptance of the Heritage Park of Flower Mound Phase II project, for Northstar Construction LLC., and authorization for final payment to Northstar Construction, in the amount of \$73,434.44.

SCHEDULED 11/21/2016 Consent

Consider approval of a Professional Services Agreement for design phase services for the Waketon Road project, with Halff Associates, Inc., for \$243,225.00; and authorization for the Mayor to execute same on behalf of the Town.

Regular

Regular

Public Hearing to consider a request for a Master Plan Amendment (MPA16-0013 - Land Use Definitions) to amend Section 1, Land Use Plan, by modifying the Medium Density and High Density definitions, and by creating two new residential land use categories, "Medium High Density" and "High Density Single-Family Detached", and to consider adopting an ordinance providing for said amendment. (Planning and Zoning Commission recommended by a vote of to at its November 14, 2016, meeting.)

Regular

Public Hearing to consider a request for rezoning (ZPD16-0008 - Prairie Plaza) from Agricultural District (A) uses to Planned Development District No. 150 (PD-150) with Office District (O) uses, with an exception to Section 90-423, "Underground utilities," of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Cross Timbers Road and west of Long Prairie Road. (The Planning and Zoning Commission recommended by a vote of to at its November 14, 2016, meeting.)

Regular

Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees" of the Land Development Regulations (LDR16-0006 - Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-34, entitled "Tree removal permit" and Section 94-37, entitled "Review of application." (The Planning and Zoning Commission recommended by a vote of to at its November 14, 2016, meeting.) (The Environmental Conservation Commission recommended denial by a vote of 6 to 0 at its November 1, 2016, meeting.)

Regular

Consider approval of an ordinance canvassing and declaring the results of a special election held November 8, 2016, for charter amendments.

Regular

Regular

Public Hearing to consider approval of an ordinance amending Chapter 94, "Trees" of the Land Development Regulations (LDR16-0006 - Tree Ordinance Amendments) of the Code of Ordinances by amending Section 94-34, entitled "Tree removal permit" and Section 94-37, entitled "Review of application." (The Environmental Conservation Commission recommended denial by a vote of 6 to 0 at its November 1, 2016, meeting.) (The Planning and Zoning Commission recommended by a vote of to at its November 14, 2016, meeting.)

12/5/2016 Consent

Consider approval of a resolution authorizing the adoption of the Program Year 2015 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

SCHEDULED	12/5/2016	Consent	Sidewalk Links Construction Award.
		Consent	Bruton Orand Elevated Tank Rehab Construction Award.
		Consent	Consider approval of the purchase of pavement marking services, in the estimated annual amount of \$150,000.00, from Stripe-A-Zone, through a City of Grand Prairie contract.
		Consent	Consider approval of an ordinance for MISC16-0003 street name change for Lake Ridge Drive to Lake Ridge Road. (The Transportation Commission recommended changing of this street name change by a vote of 6 to 0 at its October 11, 2016, meeting.)
		Consent	FM 1171 @ Kirkpatrick & FM 1171 @ Timber Creek Traffic Signals Change Order 1 and Final Acceptance.
		Consent	Consider approval to purchase materials and installation for the Inflow & Infiltration Evaluation and Repair (2016 Manhole Rehabilitation) project, from Fuquay, Inc., a Buy Board participant; in the amount of \$488,154.00.
		Consent	Pintail Pump Station Capacity Improvements Change Order No. 1.
		Consent	Bakersfield Park Pedestrian Bridge Final Acceptance.
	12/15/2016	Work Session	Presentation and discussion regarding the Parks and Trails Master Plan
	12/19/2016	Consent	Inflow/Infiltration Evaluation and Repair (2016 Manhole Rehabilitation) Testing Award.
		Consent	Heritage Park Phase III Construction Award.
		Consent	High Road Water Line Design Award.
		Consent	Oak Drive Water Main Replacement CO 3 and Final Acceptance.
		Consent	Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code - Section 42.041 and to adopt an ordinance providing for said Standards.
		Consent	Consider approval of a contract with TBD in the amount of \$\$\$ for reinsurance coverage for the Town's Group Health Plan.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2016 and ending on September 30, 2017, as adopted by Ordinance No. __-16 for adjustments to the _____ Fund, _____ Fund, _____ Fund, _____ Fund, _____ Fund, and _____ Fund.

SCHEDULED	12/19/2016	Consent	Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the 2017 Independence Fest.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2015 and ending on September 30, 2016, as adopted by Ordinance No. 52-15 and amended by Ordinance No. 70-15, No. 04-16, No. 09-16, No. 13-16 and No. 29-16 for an adjustment to the _____ Fund and _____ Fund.
		Consent	Western O&M Facility (Temporary Fire Station No.6) Final Acceptance.
		Consent	Timber Creek Road Paving Improvements (Kirkpatrick Lane to Glen Hollow) Change Order No.1 and Final Acceptance.
		Consent	Heritage Park Phase IV Design Award.
	1/17/2017	Consent	FM 1171 @ FM 2499 Eastbound Right Turn Lane Construction Award.
		Consent	Oak Street Lift Station and Force Main Change Order No. 3 and Final Acceptance.
		Consent	FM 2499 / Gerault Drainage and Intersection Construction Award.
	1/19/2017	Work Session	Discuss and receive direction on Community Support funding policy
	2/16/2017	Work Session	PLACEHOLDER: Joint Work Session with ECC to include a presentation and discussion involving the Town's Sustainability Plan
FUTURE		Presentation	Public Information Act and Open Records Request review and discussion.
		Consent	Waketon Road Drainage Study
		Consent	Consider approval of the award of RFP No. 2017-2 for Administrative Services Only (ASO) for Medical, Dental, Vision, Preferred Provider Organization (PPO) Network Services, and Pharmacy Network Services to Blue Cross Blue Shield of Texas in the estimated annual amount of \$\$ totaling \$\$\$ for the initial three-year contract term; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	PLACEHOLDER: Modern Geosciences PSA
		Regular	Public Hearing to consider an application for a tree removal permit for nineteen (19) specimen trees on property proposed for development as The Lakes. The property is generally located west of Shiloh Road and north of Cross Timbers Road. (The Environmental Conservation Commission recommended approval by a vote of 4-2-0 at its June 7, 2016, meeting).
		Regular	PLACEHOLDER Consider approval of Exotic Animal Ordinance