

AGENDA

**FLOWER MOUND TOWN COUNCIL REGULAR MEETING;
TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION,
AND EMERGENCY MEDICAL SERVICES DISTRICT SPECIAL MEETING;
AND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING**

8/21/2017

**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. Proclamation for National Senior Center Month.

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

Update and discussion on:

1. Capital improvement projects
2. Economic Development projects
3. 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 regular meeting is scheduled for Tuesday, September 5, 2017.

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 8/4-** Consider approval of the minutes from the strategic planning session held on August, 4, 2017.
2. **Minutes 8/7-** Consider approval of the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on August 7, 2017.
3. **Strategic Planning Summary Report-** Consider adoption of the Town Council 2017 Strategic Planning Session Summary Report.
4. **Small Cell Ordinance-** Consider an ordinance amending the Town's Code of Ordinances by adding a new Division regulating wireless network facilities within the public right-of-way.
5. **PARM Revision-** Consider approval of a revision to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 5, Leave effective immediately.
6. **SPAN, Inc. Annual Agreement-** Consider approval of a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc., in an amount not-to-exceed \$46,725.12, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.
7. **Desk Officer Reporting System-** Consider approval of an agreement with LexisNexis for the Desk Officer Reporting System in the amount of \$24,750.00; and authorization for the Mayor to execute same on behalf of the Town.
8. **Pintail Pump Station-** Consider approval of Change Order No. 2 and final acceptance of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., for an increase to the contract in the amount of \$5,995.10, and authorization of final payment to Felix Construction Company, Corp., in the amount of \$58,824.72; and authorization for the Mayor to execute same on behalf of the Town.
9. **Surrey Lane Speed Limit-** 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 lowering the prima facie speed limit on Surrey Lane between Solano Drive and Lakeside Parkway to 25 mph (The Transportation Commission recommended approval of the exception request for Surrey Lane by a vote of 7 to 0 at its July 11, 2017, meeting.)

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10. **Pond dredging project-** Consider approval of purchase and sale agreement with Big Woods on the Trinity Mitigation Bank for the Rheudasil, Wilkerson & Cortadera Parks - Pond Dredging and Bank Stabilization project, for \$18,500.00; and authorization for the Mayor to execute same on behalf of the Town.
11. **Twin Coves Improvements-** Consider approval of Change Order No. 2 and final acceptance for the Twin Coves Park Improvements project, through the Construction Manager at Risk (CMR) Agreement with Dean Electric, Inc., dba, Dean Construction, in the amount of not to exceed \$37,464.00 and final payment of \$224,302.49, for a total CMR contract value of \$ 33,357,193.95; and authorization for the Mayor to execute same on behalf of the Town.

K. REGULAR ITEMS

12. **Public Hearing-ZPD-Southgate-Northeast Tract-** Public Hearing to consider a request for rezoning (ZPD17-0008 – Southgate-Northeast Tract) to amend Planned Development District No. 134 (PD-134) by modifying the development standard related to minimum side setbacks applicable only to detached residential structures within the SG-R1 subzone on the Northeast Tract, and to consider adopting an ordinance providing for said amendment. The property is generally located east of Gerault Road and north of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 14, 2017, meeting.)
13. **Public Hearing - Town Budget-** Public Hearing to consider the proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.
14. **Public Hearing - Crime District Budget-** Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.
15. **Public Hearing - Fire District Budget-** Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.
16. **First Public Hearing - Tax Rate-** Public Hearing to consider a tax rate of \$0.4390 per \$100 assessed valuation.
17. **Woodbine Street Construction Award-** Consider approval to award Bid No. 2017-88 to Tiseo Paving Company for the Woodbine Street Reconstruction project, in the amount of \$1,937,088.50; and authorization for the Mayor to execute same on behalf of the Town.

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

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: **Animal Services Board, Cultural Arts Commission, Environmental Conservation Commission, Parks 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, 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, 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, and/or other municipal purposes and all matters incident and related thereto.

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 also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: August 18, 2017, 2017, at 1:00 p.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

The Flower Mound Town Hall and Council Chambers are wheelchair accessible. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting by contacting Theresa Scott, Town Secretary, at (972) 874-6076.



TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: August 21, 2017

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from the strategic planning session held on August 4, 2017.

BACKGROUND INFORMATION: The Town Council held a strategic planning session on August 4, 2017.

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

DRAFT MOTION: Move to approve the minutes from a strategic planning session of the Town Council held on August 4, 2017.

THE FLOWER MOUND TOWN COUNCIL STRATEGIC PLANNING SESSION HELD ON THE 4th DAY OF AUGUST 2017, IN THE FLOWER MOUND OPERATIONS AND MAINTENANCE FACILITY, LOCATED AT 201 SPINKS ROAD, IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 4:00 P.M.

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

Tom Hayden	Mayor (arrived at 5:05 p.m.)
Don McDaniel	Mayor Pro Tem
Kevin Bryant	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2 (arrived at 4:22)
Claudio Forest	Councilmember Place 5

And the following members absent:

Jason Webb	Councilmember Place 1
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Constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works
Andrea Roy	Economic Development Director
JP Walton	Intern, Town Manager's Office
Kurt Labhart	Police Captain
Wess Griffin	Police Captain
Matt Hoteling	Traffic Engineer
Eric Greaser	Fire Chief

A. CALL MEETING TO ORDER

Mayor Pro Tem McDaniel called the strategic planning session to order at 4:00 p.m.

B. AGENDA ITEMS

Presentation and discussion of the Town's Strategic Plan including discussion of objectives, action items, targets, and performance for the goals of:

- 1) Safety and Security
- 2) First Rate Infrastructure
- 3) Financial Soundness and Operational Excellence
- 4) Superior Quality of Life
- 5) Dynamic Economic Environment
- 6) Regional Cooperation
- 7) Community Engagement
- 8) Quality Workforce

And including discussion involving:

- Finance, budget, and fleet maintenance
- Town Council Strategic Initiatives
- Town facilities, programs, services, communication, and customer service, also including:
 - Public/employee engagement
 - Town Hall
 - Senior Center
 - Public library, including the library master plan
 - Police services, and police and courts building
 - Parks and recreation services, including the parks and trails master plan, and parkland dedication
 - Citizen survey
 - Fire and emergency medical services, and fire stations
 - Code enforcement
 - Economic development
 - Public art
 - Board and commission input
- Town infrastructure (transportation, sidewalks/connectivity, lighting, water, and wastewater), also including:
 - Traffic Impact Analysis process
 - Overhead utilities
 - Cellular coverage within Town
- Development processes/standards/fees, neighborhood planning, growth, housing, SMARTGrowth, Master Plan, and zoning regulations, also including:
 - Sustainability initiatives, tree farm, and tree ordinance
 - Town's Code of Ordinance
- Town Charter
- State Legislation

A strategic planning session report is scheduled to come forward for Council approval on August 21, 2017. Once adopted by Council the report will be posted to the Town Council section of the Town's website.

I. ADJOURN SPECIAL MEETING

Mayor Hayden adjourned the strategic planning session at 11:20 p.m. August 7, 2017 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: August 21, 2017

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on August 7, 2017.

BACKGROUND INFORMATION: The Town Council held a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting on August 7, 2017.

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

DRAFT MOTION: Move to approve the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on August 7, 2017.

FLOWER MOUND TOWN COUNCIL MEETING OF AUGUST 7, 2017

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THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 7TH DAY OF AUGUST 2017, 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.

Meeting Video Link: <http://flowermoundtx.swagit.com/play/08072017-1194> (subject to change)

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

Tom Hayden	Mayor
Don McDaniel	Mayor Pro Tem
Kevin Bryant	Deputy Mayor Pro Tem
Bryan Webb	Councilmember Place 2
Claudio Forest	Councilmember Place 5

With the following member absent:

Jason Webb	Councilmember Place 1
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Doug Powell	Executive Director of Development Services
Ken Parr	Executive Director of Public Works

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 Henry Meeks gave the invocation and Mayor Hayden led the pledges.

D. 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 (as written on the form)
1.	Daryn Eudaly, CEO New Era Companies, 2003 Caspian Ln, Colleyville, Tx	Hotel Parking Garage - Riverwalk
2.	Katie Mayer, 3612 Burlington Dr	Tennis center
3.	Jim Engel, 5110 Bayberry St	Tax Rates and auto hail damage

E. ANNOUNCEMENTS

Councilmember Bryan Webb reported on the Texas Legislature special session and the negative impact of decisions being considered at this time, and the associated consequences on municipalities. He encouraged Flower Mound residents to contact their state representatives to let them know their thoughts.

F. TOWN MANAGER'S REPORT

Mr. Stathatos gave an update on the following projects:

1. Capital improvement projects.
 - FM 2499 roadway improvements
 - Rheudasil, Wilkerson, and Cortadera Park pond dredging projects and he announced there will be a public meeting on August 8th at 6:30 at the Community Activity Center to discuss the details of those projects.
2. Economic Development projects:
 - So far this year 72 new businesses opened in Flower Mound and 28% of the jobs created are professional office employers

G. FUTURE AGENDA ITEMS

1. After item 18 failed, there was Council consensus to revisit the topic of moving the boundary lines of the CTCD at the next possible Council meeting, which would include a discussion about redrawing those lines to where they run along Flower Mound Road and link up with Lusk Lane in a contiguous line. It was also noted that several factors would need to be considered (i.e. density changes, sewer capacity for that area). It was also suggested to include a notification component for the residents that live in that area.

H. COORDINATION OF CALENDARS

1. Mayor Hayden announced that the next Town Council meeting is a work session on August 17th.
2. Discuss and consider date options (3) for board and commission applicant interviews.
There was Council consensus to proceed with conducting board interviews on September 21, September 26, and September 28 if needed.

I. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on July 17, 2017.

RECOMMENDATION: Move to approve Consider approval of the minutes from a regular meeting of the Town Council held on July 17, 2017.

2. Consider approval of a revision to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 1, Section 1.11 Definitions.

RECOMMENDATION: Move to approve a revision to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 1, Section 1.11 Definitions.

3. Consider approval of an ordinance establishing the 2017 certified appraisal roll.

RECOMMENDATION: Move to approve an ordinance establishing the 2017 certified appraisal roll.

ORDINANCE NO. 26-17

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING THE 2017 APPRAISAL ROLL; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

4. Consider accepting the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2017, and ending September 30, 2018.

RECOMMENDATION: Move to approve the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2017, and ending September 30, 2018.

5. Consider proposing a maximum tax rate of \$0.4390 per \$100 valuation for the fiscal year beginning October 1, 2017, and ending September 30, 2018; scheduling the August 21, 2017, public hearings on the budget and tax rate, September 5, 2017, public hearing on the tax rate, and scheduling the September 18, 2017, adoption of said budget and tax rate; with each meeting to be held at 6:00 p.m., at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Move to approve proposing a maximum tax rate of \$0.4390 per \$100 valuation for the fiscal year beginning October 1, 2017, and ending September 30, 2018; scheduling the August 21, 2017, public hearings on the budget and tax rate, September 5, 2017, public hearing on the tax rate, and scheduling the September 18, 2017, adoption of said budget and tax rate; with each meeting to be held at 6:00 p.m., at Town Hall, located at 2121 Cross Timbers Road.

6. Consider accepting the submission of the notice of an effective tax rate of \$0.426847 per \$100 assessed valuation and a rollback tax rate of \$0.448423 per \$100 assessed valuation for the fiscal year beginning October 1, 2017, and ending September 30, 2018.

RECOMMENDATION: Move to approve Consider accepting the submission of the notice of an effective tax rate of \$0.426847 per \$100 assessed valuation and a rollback tax rate of \$0.448423 per \$100 assessed valuation for the fiscal year beginning October 1, 2017, and ending September 30, 2018.

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7. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to schedule a public hearing for August 21, 2017, on the Flower Mound Crime Control and Prevention District budget and to schedule a meeting for September 18, 2017, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District move to schedule a public hearing for August 21, 2017, on the Flower Mound Crime Control and Prevention District budget, and schedule a meeting for September 18, 2017, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

8. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to schedule a public hearing for August 21, 2017, on the Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget and to schedule a meeting for September 18, 2017, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

RECOMMENDATION: Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District move to schedule a public hearing for August 21, 2017, on the Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget, and schedule a meeting for September 18, 2017, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

9. Consider approval of a resolution authorizing the adoption of the Program Year 2017 Action Plan for the Community Development Block Grant and authorizing the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

RECOMMENDATION: Move to approve a resolution authorizing the adoption of the Program Year 2017 Action Plan for the Community Development Block Grant and authorizing the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

RESOLUTION NO. 12-17

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF THE PROGRAM YEAR 2017 ACTION PLAN UNDER THE TOWN'S COMMUNITY DEVELOPMENT BLOCK GRANT; AUTHORIZING THE MAYOR TO EXECUTE THE ACTION PLAN ON BEHALF OF THE TOWN AND SUBMIT IT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

10. Consider approval of a resolution finding that Oncor Electric Delivery Company LLC's ("Oncor" or "Company") application to change rates with the Town should be denied; finding that the Town's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the Company and legal counsel.

RECOMMENDATION: Move to approve a resolution finding that Oncor Electric Delivery Company LLC's ("Oncor" or "Company") application to change rates with the Town should be denied; finding that the Town's reasonable rate case expenses shall be reimbursed by the Company; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the Company and legal counsel.

RESOLUTION NO.11-17

RESOLUTION OF THE TOWN OF FLOWER MOUND FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S ("ONCOR" OR "COMPANY") APPLICATION TO CHANGE RATES WITHIN THE TOWN SHOULD BE DENIED; FINDING THAT THE TOWN'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

11. Consider approval of the purchase and installation of play equipment for the 2016-17 Playground Replacements project, at Bluebonnet Park, from Park & Play Structures of North Texas, through the Texas Local Government Purchasing Cooperative, in the amount of \$214,377.85.

RECOMMENDATION: Move to approve the purchase and installation of play equipment for the 2016-17 Playground Replacements project, at Bluebonnet Park, from Park & Play Structures of North Texas, through the Texas Local Government Purchasing Cooperative, in the amount of \$214,377.85.

12. Consider approval of the purchase and installation of the 2016-17 Playground Replacements project, for the Oak Park Playground, from Playwell Group, Inc., and PlayWorks, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$263,077.88.

RECOMMENDATION: Move to approve the purchase and installation of the 2016-17 Playground Replacements project, for the Oak Park Playground, from Playwell Group, Inc., and PlayWorks, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$263,077.88.

13. Consider approval of a Construction Agreement with Construction Rent-A-Fence, Inc., for Landscaping and Fencing at the Western Operations and Maintenance Facility (Temporary Fire Station No. 6) project, in the amount of \$236,921.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Construction Agreement with Construction Rent-A-Fence, Inc., for Landscaping and Fencing at the Western Operations and Maintenance Facility (Temporary Fire Station No. 6) project, in the amount of \$236,921.00; and authorization for the Mayor to execute same on behalf of the Town.

14. Consider approval of a Construction Agreement with Wildstone Construction LLC, for the Shady Point Acres Water Line Replacement project, in the amount of \$916,507.00; and authorization for the Mayor to execute same on behalf of the Town.

RECOMMENDATION: Move to approve a Construction Agreement with Wildstone Construction LLC, for the Shady Point Acres Water Line Replacement project, in the amount of \$916,507.00; and authorization for the Mayor to execute same on behalf of the Town.

15. Consider approval of the purchase of street leveling services from Nortex Concrete Lift & Stabilization, Inc., through a City of Grand Prairie contract, in the estimated annual amount of \$75,000.00

RECOMMENDATION: Move to approve the purchase of street leveling services from Nortex Concrete Lift & Stabilization, Inc., through a City of Grand Prairie contract, in the estimated annual amount of \$75,000.00.

16. 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 for reduced school speed zones for the Lewisville Independent School District locations.

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 for reduced school speed zones for the Lewisville Independent School District locations.

ORDINANCE NO. 27-17

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.

Mayor Pro Tem McDaniel moved to approve by consent Items 1 – 16 and Deputy Mayor Pro Tem Bryant 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.

FLOWER MOUND TOWN COUNCIL MEETING OF AUGUST 7, 2017

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VOTE ON MOTION:*Motion passed***AYES: FOREST , BRYANT, MCDANIEL, B. WEBB****NAYS: NONE****ABSENT: J. WEBB****J. REGULAR ITEMS**

17. Consider approval of issuing a purchase order for repairs to Town vehicles that have external body and/or hail damage from the March and April 2017 storms, in the amount of \$290,407.26 (This item was postponed to 8/7/17 at the 7/17/17 town council meeting).

Mayor Hayden pointed out there was an in depth discussion on this topic at the strategic planning session.

Staff Presentation

Ms. Wallace pointed out the Town's fleet services manager will be taking a look at what is coming up in the next year or two for replacement.

There was Council discussion as follows:

- Consideration should be given to a paired down list relative to exactly what is needed and particularly those that are highly visible to the public
- For the vehicles that don't need to be repaired, those funds could be used to buy new vehicles when the replacement need comes up

Councilmember Bryan Webb moved to approve issuing a purchase order for repairs to Town vehicles that have external body and/or hail damage from the March and April 2017 storms, in the amount of \$290,407.26. Councilmember Forest seconded the motion.

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

Mayor Hayden opened items 18, 19, and 20 at the same time.

18. Public Hearing to consider a request for a Master Plan Amendment (MPA16-0012 – RES Flower Mound) to amend Section 9.0, Wastewater Plan, to expand the boundary of the Long Prairie Wastewater Service District Map to include the subject property, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Cross Timbers Road and east of Flower Mound Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its July 10, 2017, meeting.)

The Town Council convened into closed session for consultation with the Town Attorney on items 18, 19, and 20 at 6:25 and reconvened at 6:39 p.m.

Prior to the staff presentation Mayor Hayden offered the suggestion that the item be postponed to allow for a change to the Cross Timbers Conservation District (CTCD) boundary line, which would include redrawing it so it runs along Flower Mound Road and links up with Lusk Ln so it is a contiguous line.

There was some discussion regarding the Mayor's proposal to postpone the item; however, there was Council consensus to proceed with considering it tonight.

Staff Presentation

Mr. Powell gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- Photos of the site
- Site plan
- Trees requested to be removed, as well as those that will be retained
- Phasing
- Building elevations

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

- What is the linear feet for the stacking on the site plan
- Zoning regulations as it relates to the land being designated agriculture designation
- Sewer capacity

Applicant Presentation

Von Beougher, G & A Consultants and Terry Wright, Wright Group Architects

Mr. Beougher gave a presentation identifying or noting the site plan.

And he responded to questions from Council regarding:

- Can they proceed with the project if they were unable to access the sewer
- What is the anticipated capacity of water and wastewater
- If the 2nd phase building is part of the total capacity identified
- What is the typical output of a house
- Would they be willing to enter into an agreement in which no one else would tie into their sewer

Mayor Hayden opened the Public Hearing for items 18 and 19 at 7:15 p.m.

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/Questions

1.	Michael Carrizales, 824 Silverthorne Trl, Highland Village
2.	Parag Modi, 2524 Towne View Ct (didn't come forward when called)

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3.	Odette Beasley, 4601 Morningstar Dr
4.	Mrs. McDonald, 1052 Grove Dr, Lewisville
5.	Brittany Kretz, 5329 Baker Ct (someone in audience said had to leave early)
6.	Jason Caros, 2004 Annabel Ave (indicated on card defer time to another speaker but that name not provided)
7.	Michael Walsie, 115 N Woodland Trl, Double Oak
8.	Holly Fox 3905 Sonoma Bend
9.	John Fox, 3905 Sonoma Bend
10.	Gena Burrow, 740 Sheldon Rd, Argyle
11.	Sonny Gee, 1509 Acacia St
12.	Angela McCulley, 3009 Autumn Sage
13.	Bret Chance, 2409 Natchez Trace, Denton
14.	Sam Vanderplas, 1280 Bonham Pkwy, Lantana
15.	Sam Howard, 3718 White Bud Ct
16.	Sarah Aho, 1324 Brazos Blvd, Lewisville
17.	Mani Subramanian, 3521 Leanne Dr
18.	Doug McCulley, 3009 Autumn Sage Tr (someone in audience said had to leave)
19.	Kamil Kuroda, 1732 Landsdale
20.	Whitney Lopas, 2830 Waterview Dr
21.	WenLing Chiu, 116 Andrea Ct, Lewisville
22.	Kris Wise, 1504 Holly Oak
23.	Chris Baumann, 2404 Candlebrook Dr
24.	Joli Watkins, 2800 London Way
25.	Warner Watkins, 2800 London Way
26.	Clifford Gould, 613 Gentry Ln
27.	Becky San Juan, 708 Sweet Gum, Lewisville
28.	Brooke Terry, 2129 Stevenson Ln
29.	Elizabeth Smith, 2736 Skinner Dr
30.	Tony Gallizzi, 1829 Chisolm Tr, Lewisville
31.	Gus Ortiz, 4701 Hampshire Dr
32.	David Scott, 4704 Christopher Ct
33.	Paul Cristina, 2724 Stanford Dr
<i>With the following individuals indicating they do not wish to speak:</i>	
34.	John Gardner, 2512 Katina Dr
35.	Melissa Gardner, 2512 Katina D
36.	Howard Stroud, 1672 Castle Rock Dr, Lewisville
37.	Kathy Stroud, 1672 Castle Rock Dr
38.	Arefeayne Fekadu, 1612 Hidden Brook Trl
39.	Jason James, 2104 Stevenson Ln
40.	Sharon Kroser, 9051 Charles St
41.	No speaker name on card, 2400 Surrey Ct
42.	Deepa Iyer, 2524 Towne View Ct

Opposition (Comments and Questions)

1.	Cathy Blair, 5113 Forest Hill Dr
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Questions, Comments Only, or unknown whether for/against:

1.	Carol Kohankie, 4312 Lauren Way
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Mayor Hayden closed the Public Hearing at 8:32 p.m.

There was Council discussion and deliberation regarding:

- How tonight's agenda item is not about the school; however, it's about policy and the future direction of the Town of Flower Mound
- A summary about past discussions regarding making changes in the CTCD and a similar request
- Environmentally responsible options need to consider
- How the school has done a great job at protecting the site lines for open space
- How the school can move forward without septic
- How sewer shouldn't be a factor in dictating zoning
- How they intend to plant 100+ trees
- Losing the open spaces will cause the Town to lose its uniqueness
- How many people hold the mindset that with sewer density will follow
- How the school is a permissible use at the location presented
- The main question before Council is simply how to deal with the waste
- A summary of past discussions about the CTCD lines being in the wrong place and those lines should have been moved a long time ago
- How when the CTCD was created there is a perception that it was more about stopping growth than conserving space when the lines were initially drawn
- How in the future there may be church near this same location with a similar request to connect to the sewer

Councilmember Bryan Webb moved to approve a Master Plan Amendment (MPA16-0012 – RES Flower Mound) to amend Section 9.0, Wastewater Plan, to expand the boundary of the Long Prairie Wastewater Service District Map to include the subject property, and adopt an ordinance providing for said amendment. Deputy Mayor Pro Tem Bryant seconded the motion.

VOTE ON MOTION:*Motion failed***AYES: FOREST, BRYANT, B WEBB****NAYS: MCDANIEL****ABSENT: J WEBB**

Administrative Note: The motion failed due to the Town requirement of a supermajority (4) vote for Master Plan Amendments.

19. Public Hearing to consider an application for a tree removal permit for seven (7) specimen tree on property proposed for development as Responsive Education Solutions. The property is generally located at the southeast corner of Cross Timbers Road and Flower Mound Road. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its May 2, 2017, meeting).

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Councilmember Bryan Webb moved to approve the requested permit for the removal of seven (7) specimen trees on property proposed for development as Responsive Education Solutions. The property is generally located at the southeast corner of Cross Timbers Road and Flower Mound Road. Mayor Pro Tem McDaniel seconded the motion.

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

20. Consider a request for a Site Plan (SP17-0001 – RES Flower Mound) to develop an elementary/secondary school, with an exception to the access management policy and criteria regarding deceleration lanes as set forth in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. The property is generally located at the southeast corner of Cross Timbers Road and Flower Mound Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its July 10, 2017, meeting.)

Councilmember Bryan Webb moved to approve a request for a Site Plan (SP17-0001 - RES Flower Mound) to develop an elementary/secondary school with an exception to the access management policy and criteria regarding deceleration lanes as set forth in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances. Councilmember Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: FOREST, BRYANT, MCDANIEL, B WEBB****NAYS: NONE****ABSENT: J. WEBB****K. 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 Board, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), and Transportation Commission.

L./M. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:10 p.m. on August 7, 2017, 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, and reconvened into an open meeting at 9:59 p.m. on August 7, 2017, to take action on the items as follows:

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- a. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, and performance related to certain incentive agreements.

No action taken.

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

No action taken.

- c. Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.

No action taken.

N. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 9:59 p.m. on Monday, August 7, 2017, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: August 21, 2017

FROM: Tommy Dalton, Assistant Town Manager

ITEM: Consider adoption of the Town Council 2017 Strategic Planning Session Report.

BACKGROUND INFORMATION: The Town of Flower Mound is guided by its vision statement: “The vision of Flower Mound is to preserve our unique country atmosphere, heritage, and quality of life while cultivating a dynamic economic environment.” This vision statement is embraced by the Town Council, Town Manager, and Executive Team, and underpins the Town’s strategic planning and daily operations. The Town’s strategic plan to achieve this vision is set by the Town Council during long-term planning sessions held annually. The Town has been conducting strategic planning since 1997 when it first adopted its vision statement.

Upon adoption of the report, staff will update the Town Council Strategic Plan and begin preparation for adoption following Fiscal Year 2017-2018 Budget approval. Adoption of the report ensures that the Town Council and staff are in alignment with the direction.

The Town Council met on August 4, 2017 to discuss the following topics during their Strategic Planning Session ([packet](#)). The attached report provides responsibility, scope of discussion, considerations, provided direction, timing and next steps for each topic below.

1. Morriss Road	2. Public Transit Study	3. Park Land Dedication / Fee Ordinance	4. Town land designation
5. Fleet Maintenance	6. Development Regulations	7. Code / Dev. Process Review	8. Cellular Service
9. Lakeside Business District	10. Development Project Communication		

BOARD REVIEW/CITIZEN FEEDBACK: At the beginning of each year, staff solicits topics for discussion from various boards and commissions. This year, the Transportation Commission, elected to provide input.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. August 4, 2017, Town Council Strategic Planning Session Summary Report

DRAFT MOTION: Move to adopt the Town Council 2017 Strategic Planning Session Report.

August 4, 2017 Town Council Strategic Planning Session Summary Report

ITEM	TOPIC	RESPONSIBILITY	SCOPE OF DISCUSSION	CONSIDERATIONS	DIRECTION	TIMING	NEXT STEPS
1.	Morriss Road	PW	Update on Morriss-Gerault Phase 2 Capacity Improvement Project, reconstruction project, and necessary water line improvements	Grouping the projects together will save time and money.	The Council requested information during the consideration of the FY 2017-2018 Budget.	Consideration with the budget	1. Gather information to be submitted with the budget
2.	Public Transit Study	PW	Overview of the NCTCOG’s DRAFT report on “Considering Public Transportation Options and Opportunities”	None	- Finalize the report - Engage DCTA on Mobility-on-Demand options that are eligibility based	Depends on DCTA timing	1. Finalize the draft report 2. Engage DCTA 3. Provide DCTA option to Council for consideration and discussion
3.	Parkland dedication / development fees	ATM/CFO	Discussed the Town’s parkland dedication and fee ord.	- Comparisons with benchmark cities - Cost to develop a five-acre park - Impact on development	No action	None	None
4.	Town Land Designation	ATM/CFO Parks	Discussed what to designate the recently purchased property adjacent to the Library	Pros and Cons of a Park designation vs. open space designation and the use of CDC funds for improvements	Proceed with designating the land as a park	January	1. Prepare for consideration by the Parks Board 2. Present to Council
5.	Fleet Maintenance / Replacement	Finance / Fleet Services	Review of insurance claim for recently damaged fleet vehicles	Reviewed the Town’s vehicle replacement program	Consider on August 7, 2017	N/A	1. Consider on August 7, 2017
6.	Development Regulations	DS	Reviewed various regulations that we’re raised by Council and/or staff	Discussed adequacy of certain codes and those that are obsolete.	Bring forward amendments as necessary	As needed	N/A
7.	Code / Dev. Review Process	DS	Discussed scope of code and process review	Third party engagement and staff capacity	Directed staff to bring forward necessary changes as they come up.	Ongoing	N/A
8.	Cellular Service	DS	Overview of SB 1004	SB goes into effect on Sept. 1, 2017. Texas municipalities must have small cell design guidelines adopted prior to the effective date of the SB in order to have any say on the development on small cell technology	Proceed with ordinance and design guidelines	August 21, 2017	1. Finalize ordinance and guidelines
9.	Lakeside Business District	DS	Reviewed current Master Plan language and development interest in the area	Review of the district as a whole and focus on jobs and tax base	Reaffirmed current Master Plan that focuses on job creation, place making, and walkability. Use limited residential as a tool to demand jobs and expansion of tax base	N/A	N/A
10.	Development Project Communication	ATM	Discussed providing the Council with updates on development projects	Providing high level information on major projects	Create concise report	“BETA” test in August	Send report to Council



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: August 21, 2017

FROM: JP Walton, Town Manager's Intern

ITEM: **Consider an ordinance amending the Town's Code of Ordinances by adding a new Division regulating wireless network facilities within the public right-of-way.**

BACKGROUND INFORMATION: Small cellular network facilities (small cell antennas) encompass numerous technologies that are used to address cellular network capacity issues in a small area. Small cell antennas are generally used to supplement large cell towers, specifically by handling data demand. Small cell antennas are intended to support more users in a concentrated area, which should result in fewer dropped calls and better data speeds. Small cell antennas are smaller and shorter, but are typically distributed in clusters. Small cell antennas can be collocated on existing utility, light, and traffic poles.

The Governor of Texas signed S.B. 1004 (Attachment 1) on June 9, 2017 with an effective date of September 1, 2017. The Bill creates Chapter 284 of the Texas Local Government Code, which imposes strict limitations and prohibitions on municipality's regulation of network nodes, network support poles, and transport facilities within the public right-of-way (commonly referred to as "small cell antennas") to include general construction and maintenance requirements and the maximum amount of compensation municipalities can demand from wireless providers. The bill allows attachments to any existing pole in the public right-of-way (ROW) and allows new poles in the public right-of-way with few limitations.

The Bill does allow cities to adopt standards to establish guidelines in order to influence the location and appearance of these facilities in the public right-of-way.

Many Texas cities have scrambled to understand the provisions of the Bill, and draft appropriate regulations in response. Staff has worked with the Town Attorney and other area cities as well as utilizing model documents from the Texas Municipal League to draft the regulations contained in Attachment 2. The Town Council approved a comprehensive update of the Town's ROW ordinance on March 2, 2015 (Ord. 12-15). Obviously, that update did not contemplate the impact of S.B. 1004. This proposal is to add a new Division 5 to the ROW ordinance to address small cell antennas, as well as adopt a "Small Wireless Facility Design Manual."

In addition to mirroring the requirements of the Bill, the ordinance requires a license agreement with any cellular provider looking to locate small cell facilities within the ROW. The Bill preempts zoning consideration and approval by the Town Council. As a result, the review and approval of small cell antennas within the ROW is a permitting process which is administered by staff. To that effect, the proposed ordinance outlines provisions for permitting, installation requirements, mitigating impacts upon Town signals and communication equipment, inspections, equipment dimensions, abandonment, removal, among others.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. S.B. 1004
2. Small Cell ROW Ordinance

DRAFT MOTION: Move to approve an ordinance amending the Town's Code of Ordinances by adding a new Division regulating wireless network facilities within the public rights-of-way.

S.B. No. 1004

1 AN ACT
2 relating to the deployment of network nodes in public right-of-way;
3 authorizing fees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 9, Local Government Code, is
6 amended by adding Chapter 284 to read as follows:

7 CHAPTER 284. DEPLOYMENT OF NETWORK NODES IN PUBLIC RIGHT-OF-WAY

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 284.001. FINDINGS AND POLICY. (a) The legislature
10 finds that:

11 (1) network nodes are instrumental to increasing
12 access to advanced technology and information for the citizens of
13 this state and thereby further an important public policy of having
14 reliable wireless networks and services;

15 (2) this state has delegated to each municipality the
16 fiduciary duty, as a trustee, to manage the public right-of-way for
17 the health, safety, and welfare of the public, subject to state law;

18 (3) network nodes often may be deployed most
19 effectively in the public right-of-way;

20 (4) network providers' access to the public
21 right-of-way and the ability to attach network nodes to poles and
22 structures in the public right-of-way allow network providers to
23 densify their networks and provide next-generation services;

24 (5) expeditious processes and reasonable and

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1 nondiscriminatory terms, conditions, and compensation for use of
2 the public right-of-way for network node deployments are essential
3 to state-of-the-art wireless services and thereby further an
4 important public policy of having reliable wireless networks and
5 services;

6 (6) network nodes help ensure that this state remains
7 competitive in the global economy;

8 (7) the timely permitting of network nodes in the
9 public right-of-way is a matter of statewide concern and interest;

10 (8) requirements of this chapter regarding fees,
11 charges, rates, and public right-of-way management, when
12 considered with fees charged to other public right-of-way users
13 under this code, are fair and reasonable and in compliance with 47
14 U.S.C. Section 253;

15 (9) to the extent this state has delegated its
16 fiduciary responsibility to municipalities as managers of a
17 valuable public asset, the public right-of-way, this state is
18 acting in its role as a landowner in balancing the needs of the
19 public and the needs of the network providers by allowing access to
20 the public right-of-way to place network nodes in the public
21 right-of-way strictly within the terms of this chapter; and

22 (10) as to each municipality, including home-rule
23 municipalities, this state has determined that it is reasonable and
24 necessary to allow access to the public right-of-way for the
25 purposes of deploying network nodes to protect and safeguard the
26 health, safety, and welfare of the public as provided by this
27 chapter.

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1 (b) In order to safeguard the health, safety, and welfare of
2 the public, it is the policy of this state to promote the adoption
3 of and encourage competition in the provision of wireless services
4 by reducing the barriers to entry for providers of services so that
5 the number and types of services offered by providers continue to
6 increase through competition.

7 (c) It is the policy of this state, subject to state law and
8 strictly within the requirements and limitations prescribed by this
9 chapter, that municipalities:

10 (1) retain the authority to manage the public
11 right-of-way to ensure the health, safety, and welfare of the
12 public; and

13 (2) receive from network providers fair and reasonable
14 compensation for use of the public right-of-way and for collocation
15 on poles.

16 Sec. 284.002. DEFINITIONS. In this chapter:

17 (1) "Antenna" means communications equipment that
18 transmits or receives electromagnetic radio frequency signals used
19 in the provision of wireless services.

20 (2) "Applicable codes" means:

21 (A) uniform building, fire, electrical,
22 plumbing, or mechanical codes adopted by a recognized national code
23 organization; and

24 (B) local amendments to those codes to the extent
25 not inconsistent with this chapter.

26 (3) "Collocate" and "collocation" mean the
27 installation, mounting, maintenance, modification, operation, or

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1 replacement of network nodes in a public right-of-way on or
2 adjacent to a pole.

3 (4) "Decorative pole" means a streetlight pole
4 specially designed and placed for aesthetic purposes and on which
5 no appurtenances or attachments, other than specially designed
6 informational or directional signage or temporary holiday or
7 special event attachments, have been placed or are permitted to be
8 placed according to nondiscriminatory municipal codes.

9 (5) "Design district" means an area that is zoned, or
10 otherwise designated by municipal code, and for which the city
11 maintains and enforces unique design and aesthetic standards on a
12 uniform and nondiscriminatory basis.

13 (6) "Historic district" means an area that is zoned or
14 otherwise designated as a historic district under municipal, state,
15 or federal law.

16 (7) "Law" means common law or a federal, state, or
17 local law, statute, code, rule, regulation, order, or ordinance.

18 (8) "Macro tower" means a guyed or self-supported pole
19 or monopole greater than the height parameters prescribed by
20 Section 284.103 and that supports or is capable of supporting
21 antennas.

22 (9) "Micro network node" means a network node that is
23 not larger in dimension than 24 inches in length, 15 inches in
24 width, and 12 inches in height, and that has an exterior antenna, if
25 any, not longer than 11 inches.

26 (10) "Municipally owned utility pole" means a utility
27 pole owned or operated by a municipally owned utility, as defined by

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1 Section 11.003, Utilities Code, and located in a public
2 right-of-way.

3 (11) "Municipal park" means an area that is zoned or
4 otherwise designated by municipal code as a public park for the
5 purpose of recreational activity.

6 (12) "Network node" means equipment at a fixed
7 location that enables wireless communications between user
8 equipment and a communications network. The term:

9 (A) includes:

10 (i) equipment associated with wireless
11 communications;

12 (ii) a radio transceiver, an antenna, a
13 battery-only backup power supply, and comparable equipment,
14 regardless of technological configuration; and

15 (iii) coaxial or fiber-optic cable that is
16 immediately adjacent to and directly associated with a particular
17 collocation; and

18 (B) does not include:

19 (i) an electric generator;

20 (ii) a pole; or

21 (iii) a macro tower.

22 (13) "Network provider" means:

23 (A) a wireless service provider; or

24 (B) a person that does not provide wireless
25 services and that is not an electric utility but builds or installs
26 on behalf of a wireless service provider:

27 (i) network nodes; or

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1 (ii) node support poles or any other
2 structure that supports or is capable of supporting a network node.

3 (14) "Node support pole" means a pole installed by a
4 network provider for the primary purpose of supporting a network
5 node.

6 (15) "Permit" means a written authorization for the
7 use of the public right-of-way or collocation on a service pole
8 required from a municipality before a network provider may perform
9 an action or initiate, continue, or complete a project over which
10 the municipality has police power authority.

11 (16) "Pole" means a service pole, municipally owned
12 utility pole, node support pole, or utility pole.

13 (17) "Private easement" means an easement or other
14 real property right that is only for the benefit of the grantor and
15 grantee and their successors and assigns.

16 (18) "Public right-of-way" means the area on, below,
17 or above a public roadway, highway, street, public sidewalk, alley,
18 waterway, or utility easement in which the municipality has an
19 interest. The term does not include:

20 (A) a private easement; or

21 (B) the airwaves above a public right-of-way with
22 regard to wireless telecommunications.

23 (19) "Public right-of-way management ordinance" means
24 an ordinance that complies with Subchapter C.

25 (20) "Public right-of-way rate" means an annual rental
26 charge paid by a network provider to a municipality related to the
27 construction, maintenance, or operation of network nodes within a

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1 public right-of-way in the municipality.

2 (21) "Service pole" means a pole, other than a
3 municipally owned utility pole, owned or operated by a municipality
4 and located in a public right-of-way, including:

5 (A) a pole that supports traffic control
6 functions;

7 (B) a structure for signage;

8 (C) a pole that supports lighting, other than a
9 decorative pole; and

10 (D) a pole or similar structure owned or operated
11 by a municipality and supporting only network nodes.

12 (22) "Transport facility" means each transmission
13 path physically within a public right-of-way, extending with a
14 physical line from a network node directly to the network, for the
15 purpose of providing backhaul for network nodes.

16 (23) "Utility pole" means a pole that provides:

17 (A) electric distribution with a voltage rating
18 of not more than 34.5 kilovolts; or

19 (B) services of a telecommunications provider,
20 as defined by Section 51.002, Utilities Code.

21 (24) "Wireless service" means any service, using
22 licensed or unlicensed wireless spectrum, including the use of
23 Wi-Fi, whether at a fixed location or mobile, provided to the public
24 using a network node.

25 (25) "Wireless service provider" means a person that
26 provides wireless service to the public.

27 Sec. 284.003. LIMITATION ON SIZE OF NETWORK NODES.

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1 (a) Except as provided by Section 284.109, a network node to which
2 this chapter applies must conform to the following conditions:

3 (1) each antenna that does not have exposed elements
4 and is attached to an existing structure or pole:

5 (A) must be located inside an enclosure of not
6 more than six cubic feet in volume;

7 (B) may not exceed a height of three feet above
8 the existing structure or pole; and

9 (C) may not protrude from the outer circumference
10 of the existing structure or pole by more than two feet;

11 (2) if an antenna has exposed elements and is attached
12 to an existing structure or pole, the antenna and all of the
13 antenna's exposed elements:

14 (A) must fit within an imaginary enclosure of not
15 more than six cubic feet;

16 (B) may not exceed a height of three feet above
17 the existing structure or pole; and

18 (C) may not protrude from the outer circumference
19 of the existing structure or pole by more than two feet;

20 (3) the cumulative size of other wireless equipment
21 associated with the network node attached to an existing structure
22 or pole may not:

23 (A) be more than 28 cubic feet in volume; or

24 (B) protrude from the outer circumference of the
25 existing structure or pole by more than two feet;

26 (4) ground-based enclosures, separate from the pole,
27 may not be higher than three feet six inches from grade, wider than

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three feet six inches, or deeper than three feet six inches; and

(5) pole-mounted enclosures may not be taller than five feet.

(b) The following types of associated ancillary equipment are not included in the calculation of equipment volume under Subsection (a):

(1) electric meters;

(2) concealment elements;

(3) telecommunications demarcation boxes;

(4) grounding equipment;

(5) power transfer switches;

(6) cut-off switches; and

(7) vertical cable runs for the connection of power and other services.

(c) Equipment attached to node support poles may not protrude from the outer edge of the node support pole by more than two feet.

(d) Equipment attached to a utility pole must be installed in accordance with the National Electrical Safety Code, subject to applicable codes, and the utility pole owner's construction standards.

SUBCHAPTER B. USE OF PUBLIC RIGHT-OF-WAY

Sec. 284.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to activities related to transport facilities for network nodes, activities of a network provider collocating network nodes in the public right-of-way or installing, constructing, operating, modifying, replacing, and maintaining node support

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1 poles in a public right-of-way, and municipal authority in relation
2 to those activities.

3 Sec. 284.052. EXCLUSIVE USE PROHIBITED. A municipality may
4 not enter into an exclusive arrangement with any person for use of
5 the public right-of-way for the construction, operation,
6 marketing, or maintenance of network nodes or node support poles.

7 Sec. 284.053. ANNUAL PUBLIC RIGHT-OF-WAY RATE. (a) A
8 public right-of-way rate for use of the public right-of-way may not
9 exceed an annual amount equal to \$250 multiplied by the number of
10 network nodes installed in the public right-of-way in the
11 municipality's corporate boundaries.

12 (b) At the municipality's discretion, the municipality may
13 charge a network provider a lower rate or fee if the lower rate or
14 fee is:

15 (1) nondiscriminatory;

16 (2) related to the use of the public right-of-way; and

17 (3) not a prohibited gift of public property.

18 Sec. 284.054. PUBLIC RIGHT-OF-WAY RATE ADJUSTMENT. (a) In
19 this section, "consumer price index" means the annual revised
20 Consumer Price Index for All Urban Consumers for Texas, as
21 published by the federal Bureau of Labor Statistics.

22 (b) A municipality may adjust the amount of the public
23 right-of-way rate not more often than annually by an amount equal to
24 one-half the annual change, if any, in the consumer price index.
25 The municipality shall provide written notice to each network
26 provider of the new rate, and the rate shall apply to the first
27 payment due to the municipality on or after the 60th day following

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1 that notice.

2 Sec. 284.055. USE OF PUBLIC RIGHT-OF-WAY AND APPLICABLE
3 RATE. (a) A network provider that wants to connect a network node
4 to the network using the public right-of-way may:

5 (1) install its own transport facilities subject to
6 Subsection (b); or

7 (2) obtain transport service from a person that is
8 paying municipal fees to occupy the public right-of-way that are
9 the equivalent of not less than \$28 per node per month.

10 (b) A network provider may not install its own transport
11 facilities unless the provider:

12 (1) has a permit to use the public right-of-way; and

13 (2) pays to the municipality a monthly public
14 right-of-way rate for transport facilities in an amount equal to
15 \$28 multiplied by the number of the network provider's network
16 nodes located in the public right-of-way for which the installed
17 transport facilities provide backhaul unless or until the time the
18 network provider's payment of municipal fees to the municipality
19 exceeds its monthly aggregate per-node compensation to the
20 municipality.

21 (c) A public right-of-way rate required by Subsection (b) is
22 in addition to any public right-of-way rate required by Section
23 284.053.

24 Sec. 284.056. COLLOCATION OF NETWORK NODES ON SERVICE
25 POLES. A municipality, subject to an agreement with the
26 municipality that does not conflict with this chapter, shall allow
27 collocation of network nodes on service poles on nondiscriminatory

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1 terms and conditions and at a rate not greater than \$20 per year per
2 service pole.

3 Sec. 284.057. PROHIBITION ON OTHER COMPENSATION. A
4 municipality may not require a network provider to pay any
5 compensation other than the compensation authorized by this chapter
6 for the right to use a public right-of-way for network nodes, node
7 support poles, or transport facilities for network nodes.

8 SUBCHAPTER C. ACCESS AND APPROVALS

9 Sec. 284.101. RIGHT OF ACCESS TO PUBLIC RIGHT-OF-WAY.

10 (a) Except as specifically provided by this chapter, and subject
11 to the requirements of this chapter and the approval of a permit
12 application, if required, a network provider is authorized, as a
13 permitted use, without need for a special use permit or similar
14 zoning review and not subject to further land use approval, to do
15 the following in the public right-of-way:

16 (1) construct, modify, maintain, operate, relocate,
17 and remove a network node or node support pole;

18 (2) modify or replace a utility pole or node support
19 pole; and

20 (3) collocate on a pole, subject to an agreement with
21 the municipality that does not conflict with this chapter.

22 (b) A network provider taking an action authorized by
23 Subsection (a) is subject to applicable codes, including applicable
24 public right-of-way management ordinances.

25 Sec. 284.102. GENERAL CONSTRUCTION AND MAINTENANCE
26 REQUIREMENTS. A network provider shall construct and maintain
27 network nodes and node support poles described by Section 284.101

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1 in a manner that does not:

2 (1) obstruct, impede, or hinder the usual travel or
3 public safety on a public right-of-way;

4 (2) obstruct the legal use of a public right-of-way by
5 other utility providers;

6 (3) violate nondiscriminatory applicable codes;

7 (4) violate or conflict with the municipality's
8 publicly disclosed public right-of-way design specifications; or

9 (5) violate the federal Americans with Disabilities
10 Act of 1990 (42 U.S.C. Section 12101 et seq.).

11 Sec. 284.103. GENERAL LIMITATION ON PLACEMENT OF POLES. A
12 network provider shall ensure that each new, modified, or
13 replacement utility pole or node support pole installed in a public
14 right-of-way in relation to which the network provider received
15 approval of a permit application does not exceed the lesser of:

16 (1) 10 feet in height above the tallest existing
17 utility pole located within 500 linear feet of the new pole in the
18 same public right-of-way; or

19 (2) 55 feet above ground level.

20 Sec. 284.104. INSTALLATION IN MUNICIPAL PARKS AND
21 RESIDENTIAL AREAS. (a) A network provider may not install a new
22 node support pole in a public right-of-way without the
23 municipality's discretionary, nondiscriminatory, and written
24 consent if the public right-of-way is in a municipal park or is
25 adjacent to a street or thoroughfare that is:

26 (1) not more than 50 feet wide; and

27 (2) adjacent to single-family residential lots or

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1 other multifamily residences or undeveloped land that is designated
2 for residential use by zoning or deed restrictions.

3 (b) In addition to the requirement prescribed by Subsection
4 (a), a network provider installing a network node or node support
5 pole in a public right-of-way described by Subsection (a) shall
6 comply with private deed restrictions and other private
7 restrictions in the area that apply to those facilities.

8 Sec. 284.105. INSTALLATION IN HISTORIC OR DESIGN DISTRICTS.

9 (a) A network provider must obtain advance approval from a
10 municipality before collocating new network nodes or installing new
11 node support poles in an area of the municipality zoned or otherwise
12 designated as a historic district or as a design district if the
13 district has decorative poles. As a condition for approval of new
14 network nodes or new node support poles in a historic district or a
15 design district with decorative poles, a municipality may require
16 reasonable design or concealment measures for the new network nodes
17 or new node support poles. A municipality may request that a
18 network provider comply with the design and aesthetic standards of
19 the historic or design district and explore the feasibility of
20 using certain camouflage measures to improve the aesthetics of the
21 new network nodes, new node support poles, or related ground
22 equipment, or any portion of the nodes, poles, or equipment, to
23 minimize the impact to the aesthetics in a historic district or on a
24 design district's decorative poles.

25 (b) This section may not be construed to limit a
26 municipality's authority to enforce historic preservation zoning
27 regulations consistent with the preservation of local zoning

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1 authority under 47 U.S.C. Section 332(c)(7), the requirements for
2 facility modifications under 47 U.S.C. Section 1455(a), or the
3 National Historic Preservation Act of 1966 (54 U.S.C. Section
4 300101 et seq.), and the regulations adopted to implement those
5 laws.

6 Sec. 284.106. EQUIPMENT CABINETS. A network provider shall
7 ensure that the vertical height of an equipment cabinet installed
8 as part of a network node does not exceed the height limitation
9 prescribed by Section 284.003, subject to approval of the pole's
10 owner if applicable.

11 Sec. 284.107. COMPLIANCE WITH UNDERGROUNDING REQUIREMENT.
12 (a) A network provider shall, in relation to installation for
13 which the municipality approved a permit application, comply with
14 nondiscriminatory undergrounding requirements, including
15 municipal ordinances, zoning regulations, state law, private deed
16 restrictions, and other public or private restrictions, that
17 prohibit installing aboveground structures in a public
18 right-of-way without first obtaining zoning or land use approval.

19 (b) A requirement or restriction described by Subsection
20 (a) may not be interpreted to prohibit a network provider from
21 replacing an existing structure.

22 Sec. 284.108. DESIGN MANUAL. (a) A municipality may adopt
23 a design manual for the installation and construction of network
24 nodes and new node support poles in the public right-of-way that
25 includes additional installation and construction details that do
26 not conflict with this chapter. The design manual may include:

27 (1) a requirement that an industry standard pole load

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1 analysis be completed and submitted to the municipality indicating
2 that the service pole to which the network node is to be attached
3 will safely support the load; and

4 (2) a requirement that network node equipment placed
5 on new and existing poles be placed more than eight feet above
6 ground level.

7 (b) A network provider shall comply with a design manual, if
8 any, in place on the date a permit application is filed in relation
9 to work for which the municipality approved the permit application.
10 A municipality's obligations under Section 284.154 may not be
11 tolled or extended pending the adoption or modification of a design
12 manual.

13 Sec. 284.109. EXCEPTIONS. Subject to Subchapter D, a
14 network provider may construct, modify, or maintain in a public
15 right-of-way a network node or node support pole that exceeds the
16 height or distance limitations prescribed by this chapter only if
17 the municipality approves the construction, modification, or
18 maintenance subject to all applicable zoning or land use
19 regulations and applicable codes.

20 Sec. 284.110. DISCRIMINATION PROHIBITED. A municipality,
21 in the exercise of the municipality's administrative and regulatory
22 authority related to the management of and access to the public
23 right-of-way, must be competitively neutral with regard to other
24 users of the public right-of-way.

25 SUBCHAPTER D. APPLICATIONS AND PERMITS

26 Sec. 284.151. PROHIBITION OF CERTAIN MUNICIPAL ACTIONS.
27 (a) Except as otherwise provided by this chapter, a municipality

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1 may not prohibit, regulate, or charge for the installation or
2 collocation of network nodes in a public right-of-way.

3 (b) A municipality may not directly or indirectly require,
4 as a condition for issuing a permit required under this chapter,
5 that the applicant perform services unrelated to the installation
6 or collocation for which the permit is sought, including in-kind
7 contributions such as reserving fiber, conduit, or pole space for
8 the municipality.

9 (c) A municipality may not institute a moratorium, in whole
10 or in part, express or de facto, on:

11 (1) filing, receiving, or processing applications; or
12 (2) issuing permits or other approvals, if any, for
13 the installation of network nodes or node support poles.

14 Sec. 284.152. AUTHORITY TO REQUIRE PERMIT. (a) Except as
15 otherwise provided by this chapter, a municipality may require a
16 network provider to obtain one or more permits to install a network
17 node, node support pole, or transport facility in a public
18 right-of-way if the permit:

19 (1) is of general applicability to users of the public
20 right-of-way;

21 (2) does not apply exclusively to network nodes; and

22 (3) is processed on nondiscriminatory terms and
23 conditions regardless of the type of entity submitting the
24 application for the permit.

25 (b) A network provider that wants to install or collocate
26 multiple network nodes inside the territorial jurisdiction of a
27 single municipality is entitled to file a consolidated permit

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1 application with the municipality for not more than 30 network
2 nodes and receive permits for the installation or collocation of
3 those network nodes.

4 Sec. 284.153. GENERAL PROCESS RELATING TO PERMIT
5 APPLICATION. (a) Except as otherwise provided by this section, a
6 municipality may not require an applicant to provide more
7 information to obtain the permit than a telecommunications utility
8 that is not a network provider is required to provide unless the
9 information directly relates to the requirements of this chapter.

10 (b) As part of the standard form for a permit application, a
11 municipality may require the applicant to include applicable
12 construction and engineering drawings and information to confirm
13 that the applicant will comply with the municipality's publicly
14 disclosed public right-of-way design specifications and applicable
15 codes.

16 (c) A municipality may require an applicant to provide:

17 (1) information reasonably related to the provider's
18 use of the public right-of-way under this chapter to ensure
19 compliance with this chapter;

20 (2) a certificate that the network node complies with
21 applicable regulations of the Federal Communications Commission;
22 and

23 (3) certification that the proposed network node will
24 be placed into active commercial service by or for a network
25 provider not later than the 60th day after the date the construction
26 and final testing of the network node is completed.

27 Sec. 284.154. MUNICIPAL REVIEW PROCESS. (a) A

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1 municipality shall process each permit application on a
2 nondiscriminatory basis.

3 (b) Not later than the 30th day after the date the
4 municipality receives an application for a permit for a network
5 node or node support pole, or the 10th day after the date the
6 municipality receives an application for a permit for a transport
7 facility, the municipality shall determine whether the application
8 is complete and notify the applicant of that determination. If the
9 municipality determines that the application is not complete, the
10 municipality shall specifically identify the missing information.

11 (c) A municipality shall approve an application that does
12 not require zoning or land use approval under this chapter unless
13 the application or the corresponding work to be performed under the
14 permit does not comply with the municipality's applicable codes or
15 other municipal rules, regulations, or other law that is consistent
16 with this chapter.

17 (d) A municipality must approve or deny an application for a
18 node support pole not later than the 150th day after the date the
19 municipality receives the complete application. A municipality
20 must approve or deny an application for a network node not later
21 than the 60th day after the date the municipality receives the
22 complete application. A municipality must approve or deny an
23 application for a transport facility not later than the 21st day
24 after the date the municipality receives a complete application.
25 An application for a permit for a node support pole, network node,
26 or transport facility shall be deemed approved if the application
27 is not approved or denied on or before the applicable date for

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1 approval or denial prescribed by this subsection.

2 (e) A municipality that denies a complete application must
3 document the basis for the denial, including the specific
4 applicable code provisions or other municipal rules, regulations,
5 or other law on which the denial was based. The municipality shall
6 send the documentation by electronic mail to the applicant on or
7 before the date the municipality denies the application.

8 (f) Not later than the 30th day after the date the
9 municipality denies the application, the applicant may cure the
10 deficiencies identified in the denial documentation and resubmit
11 the application without paying an additional application fee, other
12 than a fee for actual costs incurred by the municipality.
13 Notwithstanding Subsection (d), the municipality shall approve or
14 deny the revised completed application after a denial not later
15 than the 90th day after the date the municipality receives the
16 completed revised application. The municipality's review of the
17 revised application is limited to the deficiencies cited in the
18 denial documentation.

19 Sec. 284.155. TIME OF INSTALLATION. (a) A network
20 provider shall begin the installation for which a permit is granted
21 not later than six months after final approval and shall diligently
22 pursue the installation to completion.

23 (b) Notwithstanding Subsection (a), the municipality may
24 place a longer time limit on completion or grant reasonable
25 extensions of time as requested by the network provider.

26 Sec. 284.156. APPLICATION FEES. (a) A municipality may
27 charge an application fee for a permit only if the municipality

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1 requires the payment of the fee for similar types of commercial
2 development inside the municipality's territorial jurisdiction
3 other than a type for which application or permit fees are not
4 allowed by law.

5 (b) The amount of an application fee charged by a
6 municipality may not exceed the lesser of:

7 (1) the actual, direct, and reasonable costs the
8 municipality determines are incurred in granting or processing an
9 application that are reasonably related in time to the time the
10 costs of granting or processing an application are incurred; or

11 (2) \$500 per application covering up to five network
12 nodes, \$250 for each additional network node per application, and
13 \$1,000 per application for each pole.

14 (c) In determining for purposes of Subsection (b)(1) the
15 amount of the actual, direct, and reasonable costs, the
16 municipality may not:

17 (1) include costs incurred by the municipality in
18 relation to third-party legal or engineering review of an
19 application; or

20 (2) direct payments or reimbursement of third-party
21 public right-of-way rates or fees charged on a contingency basis or
22 under a result-based arrangement.

23 Sec. 284.157. CERTAIN WORK EXEMPTED. (a) Notwithstanding
24 any other provision of this chapter, a municipality may not require
25 a network provider to submit an application, obtain a permit, or pay
26 a rate for:

27 (1) routine maintenance that does not require

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1 excavation or closing of sidewalks or vehicular lanes in a public
2 right-of-way;

3 (2) replacing or upgrading a network node or pole with
4 a node or pole that is substantially similar in size or smaller and
5 that does not require excavation or closing of sidewalks or
6 vehicular lanes in a public right-of-way; or

7 (3) the installation, placement, maintenance,
8 operation, or replacement of micro network nodes that are strung on
9 cables between existing poles or node support poles, in compliance
10 with the National Electrical Safety Code.

11 (b) For purposes of Subsection (a)(2):

12 (1) a network node or pole is considered to be
13 "substantially similar" if:

14 (A) the new or upgraded network node, including
15 the antenna or other equipment element, will not be more than 10
16 percent larger than the existing node, provided that the increase
17 may not result in the node exceeding the size limitations provided
18 by Section 284.003; and

19 (B) the new or upgraded pole will not be more than
20 10 percent higher than the existing pole, provided that the
21 increase may not result in the pole exceeding the applicable height
22 limitations prescribed by Section 284.103;

23 (2) the replacement or upgrade does not include
24 replacement of an existing node support pole; and

25 (3) the replacement or upgrade does not defeat
26 existing concealment elements of a node support pole.

27 (c) The determination under Subsection (b)(1) of whether a

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1 replacement or upgrade is substantially similar is made by
2 measuring from the dimensions of the network node or node support
3 pole as approved by the municipality.

4 (d) Notwithstanding Subsection (a):

5 (1) a municipality may require advance notice of work
6 described by that subsection;

7 (2) a network provider may replace or upgrade a pole
8 only with the approval of the pole's owner; and

9 (3) the size limitations may not in any event exceed
10 the parameters prescribed by Section 284.003 without the
11 municipality's approval in accordance with Section 284.109, with
12 the municipality acting on behalf of this state as the fiduciary
13 trustee of public property.

14 SUBCHAPTER E. ACCESS TO MUNICIPALLY OWNED UTILITY POLES

15 Sec. 284.201. USE OF MUNICIPALLY OWNED UTILITY POLES.

16 (a) The governing body of a municipally owned utility shall allow
17 collocation of network nodes on municipally owned utility poles on
18 nondiscriminatory terms and conditions and pursuant to a negotiated
19 pole attachment agreement, including any applicable permitting
20 requirements of the municipally owned utility.

21 (b) The annual pole attachment rate for the collocation of a
22 network node supported by or installed on a municipally owned
23 utility pole shall be based on a pole attachment rate consistent
24 with Section 54.204, Utilities Code, applied on a per-foot basis.

25 (c) The requirements of Subchapters B, C, and D applicable
26 to the installation of a network node supported by or installed on a
27 pole do not apply to a network node supported by or installed on a

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1 municipally owned utility pole.

2 SUBCHAPTER F. EFFECT ON OTHER UTILITIES AND PROVIDERS

3 Sec. 284.251. DEFINITIONS. In this subchapter:

4 (1) "Cable service" and "video service" have the
5 meanings assigned by Section 66.002, Utilities Code.

6 (2) "Electric cooperative" has the meaning assigned by
7 Section 11.003, Utilities Code.

8 (3) "Electric utility" has the meaning assigned by
9 Section 31.002, Utilities Code.

10 (4) "Telecommunications provider" has the meaning
11 assigned by Section 51.002, Utilities Code.

12 (5) "Telephone cooperative" has the meaning assigned
13 by Section 162.003, Utilities Code.

14 Sec. 284.252. EFFECT ON INVESTOR-OWNED ELECTRIC UTILITIES,
15 ELECTRIC COOPERATIVES, TELEPHONE COOPERATIVES, AND
16 TELECOMMUNICATIONS PROVIDERS. Nothing in this chapter shall govern
17 attachment of network nodes on poles and other structures owned or
18 operated by investor-owned electric utilities, electric
19 cooperatives, telephone cooperatives, or telecommunications
20 providers. This chapter does not confer on municipalities any new
21 authority over those utilities, cooperatives, or providers.

22 Sec. 284.253. EFFECT ON PROVIDERS OF CABLE SERVICES OR
23 VIDEO SERVICES. (a) An approval for the installation, placement,
24 maintenance, or operation of a network node or transport facility
25 under this chapter may not be construed to confer authorization to
26 provide:

27 (1) cable service or video service without complying

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1 with all terms of Chapter 66, Utilities Code; or

2 (2) information service as defined by 47 U.S.C.
3 Section 153(24), or telecommunications service as defined by 47
4 U.S.C. Section 153(53), in the public right-of-way.

5 (b) Except as provided by this chapter, a municipality may
6 not adopt or enforce any regulations or requirements that would
7 require a wireless service provider, or its affiliate, that holds a
8 cable or video franchise under Chapter 66, Utilities Code, to
9 obtain any additional authorization or to pay any fees based on the
10 provider's provision of wireless service over its network nodes.

11 SUBCHAPTER G. GENERAL CONDITIONS OF ACCESS

12 Sec. 284.301. LOCAL POLICE-POWER-BASED REGULATIONS.

13 (a) Subject to this chapter and applicable federal and state law,
14 a municipality may continue to exercise zoning, land use, planning,
15 and permitting authority in the municipality's boundaries,
16 including with respect to utility poles.

17 (b) A municipality may exercise that authority to impose
18 police-power-based regulations for the management of the public
19 right-of-way that apply to all persons subject to the municipality.

20 (c) A municipality may impose police-power-based
21 regulations in the management of the activities of network
22 providers in the public right-of-way only to the extent that the
23 regulations are reasonably necessary to protect the health, safety,
24 and welfare of the public.

25 Sec. 284.302. INDEMNIFICATION. The indemnification
26 provisions of Sections 283.057(a) and (b) apply to a network
27 provider accessing a public right-of-way under this chapter.

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1 Sec. 284.303. RELOCATION. Except as provided in existing
2 state and federal law, a network provider shall relocate or adjust
3 network nodes in a public right-of-way in a timely manner and
4 without cost to the municipality managing the public right-of-way.

5 Sec. 284.304. INTERFERENCE. (a) A network provider shall
6 operate all network nodes in accordance with all applicable laws,
7 including regulations adopted by the Federal Communications
8 Commission.

9 (b) A network provider shall ensure that the operation of a
10 network node does not cause any harmful radio frequency
11 interference to a Federal Communications Commission-authorized
12 mobile telecommunications operation of the municipality operating
13 at the time the network node was initially installed or
14 constructed. On written notice, a network provider shall take all
15 steps reasonably necessary to remedy any harmful interference.

16 SECTION 2. (a) In this section, "collocation," "network
17 node," "network provider," and "public right-of-way" have the
18 meanings assigned by Section 284.002, Local Government Code, as
19 added by this Act.

20 (b) Public/private agreements between a municipality and a
21 network provider for the deployment of network nodes in the public
22 right-of-way on fair and reasonable terms as provided by Chapter
23 284, Local Government Code, as added by this Act, and corresponding
24 ordinances governing that deployment, are necessary to protect the
25 health, safety, and welfare of the public by facilitating robust
26 and dependable wireless networks. Accordingly, those agreements
27 and ordinances shall be conformed as provided by this section.

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1 (c) Subject to Subsection (d) of this section, the rates,
2 terms, and conditions of agreements and ordinances entered into or
3 enacted before the effective date of this Act shall apply to all
4 network nodes installed and operational before the effective date
5 of this Act.

6 (d) For all network nodes installed and operational on or
7 after the effective date of this Act:

8 (1) if a rate, term, or condition of an agreement or
9 ordinance related to the construction, collocation, operation,
10 modification, or maintenance of network nodes does not comply with
11 the requirements of Chapter 284, Local Government Code, as added by
12 this Act, a municipality shall amend the agreement or ordinance to
13 comply with the requirements of Chapter 284, Local Government Code,
14 as added by this Act, and the amended rates, terms, or conditions
15 shall take effect for those network nodes on the six-month
16 anniversary of the effective date of this Act; and

17 (2) the rates, terms, and conditions of each agreement
18 executed, and each ordinance enacted, on or after the effective
19 date of this Act shall comply with the requirements of Chapter 284,
20 Local Government Code, as added by this Act.

21 SECTION 3. This Act takes effect September 1, 2017.

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President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1004 passed the Senate on April 6, 2017, by the following vote: Yeas 29, Nays 0, two present not voting; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 29, Nays 0, two present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 1004 passed the House, with amendment, on May 18, 2017, by the following vote: Yeas 140, Nays 6, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

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

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ARTICLE XII, "RIGHTS-OF-WAY CONSTRUCTION," OF CHAPTER 14 OF THE TOWN'S CODE OF ORDINANCES BY ADDING A NEW DIVISION REGULATING THE PHYSICAL USE, OCCUPANCY AND MAINTENANCE OF PUBLIC RIGHTS-OF-WAY BY WIRELESS NETWORK PROVIDERS; ADOPTING AND REQUIRING COMPLIANCE WITH THE "TOWN OF FLOWER MOUND SMALL WIRELESS FACILITY DESIGN MANUAL" FOR THE INSTALLATION OF NETWORK NODES AND NODE SUPPORT POLES PURSUANT TO CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; REQUIRING A LICENSE AGREEMENT GOVERNING A NETWORK PROVIDER'S USE OF THE PUBLIC RIGHTS-OF-WAY FOR ANY PURPOSE AUTHORIZED BY CHAPTER 284 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Town Council previously adopted Article XII of Chapter 14 to the Code of Ordinances establishing comprehensive regulations for the installation and maintenance of facilities and equipment in public rights-of-way in the Town; and

WHEREAS, the Town Council recognizes the State of Texas has delegated to the Town the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

WHEREAS, Chapter 284 of the Texas Local Government Code allows certain wireless network providers to install certain wireless facilities in the Town's public rights-of-way, described and defined in Section 284.002 of the Texas Local Government Code as "Micro Network Nodes," "Network Nodes," and "Node Support Poles;" and

WHEREAS, as expressly permitted by Section 284.108 of the Texas Local Government Code and pursuant to its police power authority reserved in Sec. 284.301, the Town has the authority to enact a design manual for the installation of network nodes and node support poles in order to meet its fiduciary duty to the citizens of the Town, and to give assistance and guidance to wireless telecommunications network

providers to assist such companies in the timely, efficient, safe, and aesthetically-pleasing installation of technologically competitive equipment; and

WHEREAS, the Town Council desires to regulate the installation of Network Nodes and Network Support Poles pursuant to chapter 284 in a way that is fair, reasonable and nondiscriminatory and deems it necessary to add a new Division V to its existing comprehensive regulations for managing the public right-of-way to conform to the new state law and regulate the installation and maintenance of Network Nodes and Network Support Poles in a manner consistent with and in conformance with state law.

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

SECTION 1

That Chapter 14 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding Division V, which said Division reads as follows:

DIVISION V. NETWORK NODES AND NODE SUPPORT POLES

Sec. 14-504. Purpose and Intent.

- (a) **Purpose.** The purpose of this Division is to establish policies and procedures for the placement of network nodes and node support poles in the public right-of-way and on service poles within the Town's jurisdiction, which will provide public benefits and will be consistent with the preservation of the integrity, safe usage, and visual qualities of the Town public rights-of-way and the Town as a whole.
- (b) **Intent.** In enacting this Division, the Town is establishing uniform standards to address issues presented by network nodes and node support poles, including without limitation, ensuring that network nodes and node support poles do not adversely affect:
 - (1) use of streets, sidewalks, alleys, parkways and other public ways and places;
 - (2) vehicular and pedestrian traffic;
 - (3) the operation of facilities lawfully located in public right-of-way or public property;
 - (4) the ability of the Town to protect the environment, including the prevention of damage to trees;

- (5) the character of residential and historic areas, and Town parks, in which network nodes may be installed; and
- (6) the rapid deployment of network nodes to provide the benefits of wireless services.

Sec. 14-505. Adoption and implementation of Chapter 284 of Subtitle A, Title 9, of the Texas Local Government Code.

- (a) The Town hereby adopts and implements the authority promulgated by Subtitle A, Title 9, Chapter 284 of the Texas Local Government Code, as it may be amended, subject to the limitations of the same.
- (b) The definitions set forth in Section 284.002 of the Texas Local Government Code are hereby adopted as if set forth herein in their entirety.

Sec. 14-506. Small Wireless Facility Design Manual adopted.

Pursuant to Section 284.108 of the Texas Local Government Code, the “Town of Flower Mound Small Wireless Facility Design Manual,” as it may be amended from time to time, is hereby adopted as the design manual, which together with the regulations set forth in this Article XII of Chapter 14, where consistent with Chapter 284 of the Local Government Code, shall govern the installation, construction, maintenance and occupancy of the public right-of-way of network nodes and node support poles within the public right-of-way.

Sec. 14-507. Conformance with the Town’s public rights-of-way ordinance

Any application for the installation of network nodes and node support poles within the public rights-of-way shall conform to this Article XII of Chapter 14, to the extent said Article is not in conflict with Chapter 284 of the Local Government Code, and the Town of Flower Mound Small Wireless Facility Design Manual.

Sec. 14-508. Agreement Required

The Town Manager is authorized to require and enter into a license agreement governing a network provider’s use of the public rights-of-way for any purpose authorized by Chapter 284 of the Texas Local Government Code and in conformance with this Article XII of Chapter 14, to the extent said Article is not in conflict with Chapter 284 of the Local Government Code, and the Town of Flower Mound Small Wireless Facility Design Manual.

SECTION 2

A copy of the Town of Flower Mound Small Wireless Facility Design Manual is attached to this Ordinance as Exhibit "A" and incorporated into it by reference.

SECTION 3

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 4

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 5

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine in accordance with Section 1-13 of the Code of Ordinances of the Town of Flower Mound.

SECTION 6

All ordinances, orders or resolutions heretofore passed the adopted by the Town Council of the Town of Flower Mound, Texas are hereby repealed to the extent that said ordinances, resolutions, or parts thereof, are in conflict herewith.

SECTION 7

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption of this Ordinance 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.

ORDINANCE NO.

SECTION 8

This Ordinance shall take effect and be in full force from and after the date of 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 21st DAY OF August, 2017.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY

EXHIBIT "A"



Town of Flower Mound Small Wireless Facility Design Manual

Town of Flower Mound, Texas

I. PURPOSE

1.1. Purpose.

- A. The Town of Flower Mound encourages the deployment of state-of-the-art small cell wireless technology within the Town for the many benefits it promises the citizens of Flower Mound, including increased connectivity and reliable networks and services.
- B. The standards and procedures provided in this Small Wireless Facility Design Manual are adopted to protect the health, safety, and welfare of the public by minimizing and reducing impacts to public safety within the Town's Right-of-Way and to minimize and reduce impacts to the Town, its residents and visitors; and for the general health and welfare of the public.
- C. Due to the increasing number of facilities in the Town's Right-of-Way, the Town has adopted Article XII, of Chapter 14 "Construction within Public Rights-of-Way," of the Town's Code of Ordinances (the "Right-of-Way Management Ordinance") which is applicable to all public service providers including Wireless Service Providers or Network Providers (collectively, "Providers") as defined by Chapter 284 of the Texas Local Government Code (the "Code").
- D. In addition, the Town has adopted this Small Wireless Facility Design Manual to provide technical criteria and details necessary for Providers seeking to install and construct Network Nodes and Node Support Poles in the Right-of-Way.
- E. Providers shall adhere to the requirements found in the Right-of-Way Management Ordinance and this Small Wireless Facility Design Manual for the placement of their facilities within the Public Right-of-Way.
- F. This Small Wireless Facility Design Manual shall apply to any sitings, installations, collocations in, on, over or under the public rights-of-way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to the Code, or installed pursuant to an agreement as agreed to and consented to by the Town in its discretion, or installed as may otherwise be allowed by state law.

II. DEFINITIONS

For purposes of this Wireless Services Design Manual the following terms shall have the same meanings herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular include the plural. The word "shall" is always mandatory and not merely permissive.

- A. "*Abandon*" and its derivatives means the Network Nodes and Node Support Poles, or portion thereof, that have been left by Provider in an unused or non-functioning condition for more than 120 consecutive days unless, after notice to Provider, Provider

has established to the reasonable satisfaction of the Town that the Network Nodes and Node Support Poles, or portion thereof, has the ability to provide communications.

- B. "Code" means Chapter 284 of the Local Government Code.
- C. "*Municipal Park*" means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.
- D. "*Network Node*" means Provider's equipment as defined by the Code.
- E. "*Node Support Pole*" means a Pole as defined by the Code.
- F. "*Permit*" means a document issued by the Town authorizing installation, removal, modification and other work for Provider's Network Nodes or Node Support Poles in accordance with the approved plans and specifications.
- G. "*Provider*" means a Network Provider as defined by the Code.
- H. "*Right-of-Way*" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include a private easements; easements that are exclusive for a water line, sewer line, storm water line or traffic signal; or the airwaves above a public right-of-way with regard to wireless telecommunications.
- I. "*SCADA*" or *Supervisory Control and Data Acquisition systems* means a category of software application programs and hardware used by the Town for process control and gathering of data in real time from remote locations in order to monitor equipment and conditions of the Town public water and wastewater utility facilities. These systems may utilize both cable and wireless communications.
- J. "*Town*" means the Town of Flower Mound, Texas and the Town's officers and employees.
- K. "*Traffic Signal*" means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

All definitions set forth in Section 284.002 of the Code, as it may be amended, are hereby incorporated by reference.

III. PERMITTING

3.1 Installation of New Poles and Attachment to Existing Poles.

- A. Prior to installation or modification of a Network Node or Node Support Pole, Provider shall complete and submit to the Town a Right-of-Way Permit application, along with standard required documents and the following items:
1. If a Service Pole is proposed, an exact description of the Pole containing sufficient detail to distinguish it from any other Pole shall be provided.
 2. Location of connection to fiber optic backhaul or other backhaul solution shall be identified on the Permit application where the Network Provider intends to install its own transport facility. Where the Network Provider plans to obtain backhaul from a third party, the identity and contact information of such party shall be supplied to the Town. Installation of fiber optic backhaul or other backhaul solution shall not be permitted until the applicable connection location information is provided to the Town.
- B. The activities proposed in the Permit application shall comply with the following standards:
1. Any facilities located off Pole must remain in cabinetry or an enclosed structure underground, except for the electric meter pedestal. Facilities on Pole shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. There shall be no external cables or electric wire/cables on Pole or structures or aerial wires or cables extending from the Pole or structure. With respect to wooden Poles, the cables and electric wire/cables shall be enclosed in a sheath attached to the pole.
 2. The electrical meter **shall not** be mounted on a Support Pole. Electric meter shall be located within on a pedestal and completely enclosed within the meter box. Color of the pedestal service shall be the same color as the surrounding meter boxes and clearly labeled as the Provider's service. Provider shall use 240 voltage when connecting to any Town infrastructure and provide a key to the meter upon inspection.
 3. The Pole and all attachments to a Pole that are projecting, or any equipment or appurtenance mounted on the ground, shall comply with TAS, ADA and shall not obstruct an existing or planned sidewalk or walkway. All attachments shall not interfere with a pedestrian signal location whether existing or planned.
 4. All proposed projecting attachments to the Pole shall provide a minimum vertical clearance of eight (8) feet. If any attachments are projecting towards the street side, it shall provide a minimum vertical clearance of 16 feet, unless the Provider is able to affirmatively demonstrate to the Town's satisfaction that a lesser

clearance (not less than eight (8') feet,) will not jeopardize public safety or otherwise interfere with the public use of the Right-of-Way.

5. The color of the Network Nodes shall be powder coated to match the existing Pole color such that the Network Nodes blend with the color of the Pole to the extent possible. Town reserves the right to deny a certain style of node due to its difference in color to the Pole.
6. Except as otherwise approved in writing, new wooden Poles are prohibited, all new Poles are required to be break-away and shall either be powder-coated dark bronze within the Lakeside Business District or powder-coated RAL6005 Forest Green for all other areas of Town. All attachments for the Network Nodes shall also match the color of the Node Support Pole. All Node Support Poles shall match the existing Poles in the surrounding block or district in which the Node Support Pole is located in order to blend into the surrounding environment and be visually unobtrusive. Town reserves the right to deny a certain type of Pole due to its differences. Notwithstanding the foregoing, the Town, on a case by case basis and in a nondiscriminatory fashion, may approve alternate colors where an alternate color will be better suited to match the surrounding area.

IV. NETWORK NODE AND NODE SUPPORT POLE REQUIREMENTS

4.1. Installation.

- A. *Provider shall:* at its own cost and expense, install the Network Nodes and Node Support Poles in a good and workmanlike manner and in accordance with the requirements promulgated by the Small Wireless Facility Design Manual, Right-of-Way Management Ordinance and all other applicable laws, ordinances, codes, rules and regulations of the Town, the state, and the United States ("Laws"), as such may be amended from time to time. Providers are obligated to comply with the Design Manual in effect at the time of installation. Provider's work shall be subject to the regulation, control and direction of the Town. All work done in connection with the installation, operation, maintenance, repair, modification, and/or replacement of the Network Nodes and Node Support Poles shall be in compliance with all applicable Laws.
- B. *Required industry standard Pole load analysis:* Installations on all Service Poles shall have an industry standard Pole load analysis completed and submitted to the Town with each Permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Section 284.108 of the Code.
- C. *Height of attachments:* All attachments on all Service Poles shall be at least 8 feet above grade, in accordance with Sec. 285.108 (a) (1) - (2) of the Code and if a Network Node attachment is projecting toward the street, the attachment shall be installed no less than sixteen (16') feet above the ground, unless the Provider is able to affirmatively demonstrate to the Town's satisfaction that a lesser clearance (not less

than eight (8') feet,) will not jeopardize public safety or otherwise interfere with the public use of the Right-of-Way.

- D. *Installations on Traffic Signals:* Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any traffic signal structures shall:
 - 1. Be encased in a separate conduit than the traffic light electronics;
 - 2. Have a separate electric power connection than the traffic signal structure; and
 - 3. Have a separate access point than the traffic signal structure; and
- E. *Installations on street signage:* Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:
 - 1. Be encased in a separate conduit from any Town signage electronics;
 - 2. Have a separate electric power connection than the signage structure; and
 - 3. Have a separate access point than the signage structure.
- F. *Restoration of Town facilities and private property:* The Network Provider shall be responsible for repairing any damage to any street, street right-of-way, ditch or any structure to its original condition immediately upon completing the installation. Any change to the slope of the land must be remedied, and there must be replacement of top soil and grass to its original condition.
- G. *Exception:* The Town may grant exceptions to the provisions of this Section 4.1 on a case by case basis and in a nondiscriminatory fashion, where it determines that such exception is necessary to protect and safeguard the health, safety, and welfare of the public.

4.2 Inspections.

The Town shall perform inspections in accordance with the Town's Right-of-Way Management Ordinance.

4.3. Placement.

- A. *Municipal Parks.* Placement of Network Nodes and Node Support Poles in any Municipal Parks, Municipal Park roads, sidewalk, or property is prohibited unless the portion of the Municipal Park falls within the definition of Public Right-of-Way as defined in the Code and the placement complies with applicable Laws, private deed restrictions, and other public or private restrictions affecting the use of the Park.
- B. *Town Infrastructure.* Provider shall neither allow nor install Network Nodes or Node Support Poles on any Town property that falls outside the definition of Public Right-of-Way as defined in the Code.

- C. *Decorative Poles.* Provider shall neither allow nor install Network Nodes on a Decorative Pole as defined in the Code, unless approved by the Town in writing. This standard shall be applicable to all the new Town-owned Decorative Poles on any bridge structure. The Town may only entertain proposals, if they are stealth.
- D. *Poles.* Wireless Facilities on a Node Support Poles shall be installed at least eight (8) feet above the ground. If any attachments are projecting towards the street side, the Node Support Pole shall provide a minimum vertical clearance of sixteen (16') feet, unless the Provider is able to affirmatively demonstrate to the Town's satisfaction that a lesser clearance (not less than eight (8') feet,) will not jeopardize public safety or otherwise interfere with the public use of the Right-of-Way.
- E. *Confirmation of non-interference with Town Safety Communication or SCADA Networks.* The Network Provider shall test the proposed Network Node to verify that it will not cause any interference with Town public safety radio system, traffic signal light system, SCADA system, or other Town safety communications components in accordance with Sec. 284.304 of the Code. It shall be the responsibility of the Network Provider to evaluate, prior to making application for a Permit, the compatibility between the existing Town infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be installed on the Town's public safety radio infrastructure.
- F. *Improperly Located Network Node facilities, Node Support Poles and related ground equipment:* Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the Town and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

4.4 Fiber Connection.

Provider shall be responsible for obtaining access and connection to fiber optic lines or other backhaul solutions that may be required for its Node Support Poles or Network Nodes. Location of such connection shall be identified on the Permit application where the Network Provider intends to install its own facility. Where the Network Provider plans to obtain fiber or other backhaul solution from a third party, the identity and contact information of such party shall be supplied to the Town. Installation of fiber optic or other backhaul solution shall not be permitted until the applicable connection location information is provided to the Town.

4.5 Generators.

Provider shall not allow or install generators or back-up generators in the Right-of-Way.

4.6 Equipment Dimensions.

Provider's Node Support Poles and Network Nodes shall comply with the dimensions set forth in the Code. Provider shall provide a table indicating the dimensions of the various equipment to be installed.

4.7 Signage.

- A. Provider shall post its name, location identifying information, and 24-hour emergency telephone number in an area on the cabinet of the Node Support Poles and Network Nodes that is visible to the public. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g. RF ground notification signs) or the Town.
- B. Except as required by Laws or by the Utility Pole owner, Provider shall not post any other signage or advertising on the Node Support Poles, Service Poles and Network Nodes, or Utility Pole. Advertising is strictly prohibited.

4.8 Overhead Lines Prohibited.

Provider shall neither allow nor install overhead lines connecting to Node Support Poles. All overhead lines connecting to the Node Support Pole, where other overhead telecommunications or utility lines are or planned to be buried below ground as part of a project, shall be buried below ground.

4.9 Graffiti Abatement.

As soon as practical, but not later than fourteen (14) days from the date Provider receives notice thereof, Provider shall remove all graffiti on any of its Node Support Poles and Network Nodes located in the Right of Way. In the event the Provider does not timely remove the graffiti, the Town may perform such work by employing a contractor of the Town's choosing and charge Provider for the actual costs incurred by the Town. Provider shall promptly reimburse the Town for all actual costs incurred.

4.10 Inventory

Provider shall maintain a list of its Network Nodes and Node Support Poles and provide the Town with an Inventory of locations within ten (10) days of installation. The Inventory of Network Nodes and Node Support Poles shall include GIS coordinates, date of installation, Town Pole ID number (if applicable), type of Pole used for installation, Pole owner, active status, and description/type of installation for each Network Node and Node Support Pole installation (the "Inventory").

Upon Town's written request, Provider shall provide a cumulative Inventory within thirty (30) days of receipt of the Town's request. Concerning Network Nodes and Node Support Poles that become inactive, the Inventory shall include the same information as active installations in

addition to the date the Network Node and/or Node Support Pole was deactivated and the date the Network Node and/or Node Support Pole was removed from the Right-of-Way. Town may compare the Inventory to its records to identify any discrepancies.

4.11 Reservation of Rights.

- A. The Town reserves the right to install, and permit third parties to install, utility facilities in the Right-of-Way. In permitting such work to be done by others, the Town shall not be liable to Provider for any damage caused by such third parties.
- B. The Town reserves the right to locate, relocate, operate, maintain, and remove Town traffic signal Poles in the manner that best enables the operation of its traffic signal system and protect public safety without compensation to the Provider. Provider shall be responsible to remove their equipment within ninety (90) days of written notice of the removal of a Pole or structure located within the right-of-way at the Provider's expense. If equipment is not removed within ninety (90) days of written notice, the Town may remove such devices and shall not be liable to Provider for any damage caused by the removal.
- C. The Town reserves the right to locate, relocate, operate, maintain, and remove any Town-owned Pole or structure located within the right-of-way in the manner that best enables the Town's operations without compensation to the Provider. Provider shall be responsible to remove their equipment within ninety (90) days of written notice of the removal of a Town-owned Pole or structure located within the right-of-way at the Provider's expense. If equipment is not removed within ninety (90) days of written notice, the Town may remove such devices and shall not be liable to Provider for any damage caused by the removal.

4.12 Coordination of Traffic Signal Maintenance Activities and Emergency Response

Provider will provide Town a key to each meter box at the time of inspection and have the ability to temporarily cut-off electricity to its facilities for the safety of maintenance personnel. In the event of failure of components of the traffic signal system for whatever reason, including damage resulting from vehicular collisions, weather related events, or malicious attacks, Town will respond to restore traffic signal operations as a matter of public safety. Should the events that result in damage or failure of the traffic signal system also affect Provider's Network Nodes, Provider shall have the sole responsibility to repair or replace its Network Nodes and associated equipment at Provider's expense. Provider shall coordinate its own emergency efforts with the Town.

V. INTERFERENCE WITH OPERATIONS

5.1 No Liability

- A. The Town shall not be liable to Provider for any damage caused by other Providers with Wireless Facilities sharing the same Pole or for failure of Provider's Network Nodes or degradation of signal for whatever reason, including damage resulting from vehicular collisions, weather related events, or malicious attacks.
- B. The Town shall not be liable to Provider by reason of inconvenience, annoyance or injury to the Network Nodes or Node Support Poles or activities conducted by Provider therefrom, arising from the necessity of repairing any portion of the Right-of-Way, or from the making of any necessary alteration or improvements, in, or to, any portion of the Right-of-Way, or in, or to, Town's fixtures, appurtenances or equipment. The Town will use reasonable efforts not to cause material interference to Provider's operation of its Network Nodes or Node Support Poles.

5.2 Signal Interference with Town's Communications Infrastructure Prohibited.

- A. No interference. In the event that Provider's Network Nodes interfere with the Town's traffic signal communication system, public safety radio system, or other Town communications infrastructure (including Public WiFi Hotspots) operating on spectrum where the Town is legally authorized to operate, Provider shall promptly cease operation of the Network Nodes causing said interference upon receiving written notice from the Town. Provider shall respond to the Town's request to address the source of the interference as soon as practicable, but in no event later than twenty-four (24) hours of receiving written notice.
- B. Protocol for Responding to Event of Interference. The protocol for responding to events of interference will require Provider to provide the Town with an Interference Remediation Report that includes the following items:
 - 1. Remediation Plan. Devise a remediation plan to stop the event of inference;
 - 2. Time Frame for Execution. Provide the expected time frame for execution of the remediation plan; and
 - 3. Additional Information. Include any additional information relevant to the execution of the remediation plan.

In the event that interference with Town facilities cannot be eliminated, Provider shall discontinue the use and operation affected Network Nodes and remove or relocate the Network Node that is the source of the interference as soon as possible to a suitable alternative location made available by Town.

- C. Following installation or modification of a Network Node, the Town may require Provider to test the Network Node's radio frequency and other functions to confirm it does not interfere with the Town's Operations.

VI. ABANDONMENT, RELOCATION AND REMOVAL

6.1 Abandonment of Obsolete Network Nodes and Node Support Poles

Provider shall remove Network Nodes and Node Support Poles when such facilities are abandoned regardless of whether or not it receives notice from the Town. Unless the Town sends notice that removal must be completed immediately to ensure public health, safety, and welfare, the removal must be completed within the earlier of 90 days of the Network Nodes and Node Support Poles being abandoned or within 90 days of receipt of written notice from the Town. When Provider removes or abandons permanent structures in the Right-of-Way, the Provider shall notify the Town in writing of such removal or abandonment and shall file with the Town the location and description of each Network Node or Node Support Pole removed or abandoned. The Town may require the Provider to complete additional remedial measures necessary for public safety and the integrity of the Right-of-Way to insure that the remediation is consistent with the condition of the Right-of-Way at the time of original construction.

6.2 Relocation and Removal at Provider's Expense

- A. Provider shall remove and relocate its Network Nodes and Node Support Poles at its own expense to an alternative location not later than ninety (90) days after receiving written notice that removal, relocation, and/or alteration of the Network Nodes and/or Node Support Poles is necessary due to:
1. Construction, completion, repair, widening, relocation, or maintenance of, or use in connection with, any Town construction or maintenance project or other public improvement project of the Town; or
 2. Maintenance, upgrade, expansion, replacement, removal or relocation of the Town's Pole or structure upon which Provider's Network Nodes are attached; or
 3. The Network Node or Node Support Pole, or portion thereof, is adversely affecting proper operation of traffic signals, streetlights or other Town property;
 4. Closure of a street or sale of Town property; or
 5. Town managed projects and programs undertaken to protect or preserve the public health or safety; or
 6. Activities undertaken to eliminate a public nuisance; or
 7. Provider fails to obtain all applicable licenses, Permits, and certifications required by Law for its Network Nodes or Node Support Poles; or

8. Duty otherwise arising from applicable law

- B. Provider's duty to remove and relocate its Network Nodes and Node Support Poles at its expense is not contingent on the availability of an alternative location acceptable for relocation. Town will make reasonable efforts to provide an alternative location within the Right-of-Way for relocation, but regardless of the availability of an alternative site acceptable to Provider, Provider shall comply with the notice to remove its Network Nodes and Node Support Poles as instructed.
- C. The Town may remove the Network Node and/or Node Support Pole if provider does not remove such within ninety (90) days. In such case, Provider shall reimburse Town for the Town's actual cost of removal of its Network Nodes and Node Support Poles within thirty (30) days of receiving the invoice from the Town.

6.3 Removal or Relocation by Provider

- A. If the Provider removes or relocates at its own discretion, it shall notify the Town in writing not less than ten (10) business days prior to removal or relocation. Provider shall obtain all Permits, including a Right-of-Way permit if lane closures are necessary, required for relocation or removal of its Network Nodes and Node Support Poles prior to relocation or removal.
- B. The Town shall not issue any refunds for any amounts paid by Provider for Network Nodes and Node Support Poles that have been removed.



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: August 21, 2017

FROM: Lynda B. Bolitho, Director of Human Resources

ITEM: Consider approval of a revision to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 5, Leave effective immediately.

BACKGROUND INFORMATION: The Town's Personnel and Administrative Regulations Manual (PARM) governs the standards by which each employee is held accountable during their employment with the Town. According to the Town Charter, the Town Manager shall "prepare personnel rules subject to the approval of the Council." [Town Charter, Article IV, § 4.02.03(7)]

The proposed revision will provide consistency between regular employees and firefighter shift employees when determining the maximum allowable amount of sick leave that is paid out at the time of employment separation. The current policy allows for ½ of an employee's sick leave balance, or 360 hours, whichever is less to be paid out at the time of separation for employees who have been employed with the Town for at least ten years and are eligible to retire through the Texas Municipal Retirement System. This policy was developed based on a 40 hour work week for employees with the maximum pay out equal to 9 weeks. Shift firefighter personnel work a 60 hour work week; therefore, a 9 week maximum pay out for these employees would equal 540 hours. In the last ten years, there have been five shift firefighter employees who were eligible for the sick leave payout at separation. If we apply the proposed policy to those employees, an additional \$8,024 would have been paid out.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: The Town Council may choose not to change the current policy. Town employees will continue to be subject to the existing policy.

FISCAL IMPACT: N/A

LEGAL REVIEW: Cara White of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the policy as to form and legality.

ATTACHMENTS:

1. Redlined Copy of Title I, Chapter 5, Section 5.03
2. Clean Copy of Title I, Chapter 5, Section 5.03

DRAFT MOTION: Move to approve a revision to the Town's Personnel and Administrative Regulations Manual (PARM), Title I, Personnel Regulations, Chapter 5, Leave effective immediately.

CHAPTER 5 LEAVE

5.01 Holidays

- A. Paid holidays are extended to full-time employees.
- B. The following official holidays shall be observed:
 - 1. New Year's Day (January 1);
 - 2. Martin Luther King, Jr. Day
 - 3. Good Friday (Friday before Easter);
 - 4. Memorial Day (last Monday in May);
 - 5. Independence Day (July 4);
 - 6. Labor Day (first Monday in September);
 - 7. Thanksgiving Day (fourth Thursday in November);
 - 8. Day after Thanksgiving (fourth Friday in November);
 - 9. Christmas Eve Day (December 24);
 - 10. Christmas Day (December 25); and
 - 11. One Floating Holiday per calendar year (employee's choice) as approved by his Department or Division Head.
 - a. In accordance with Section 142.0013(c) of the Texas Local Government Code, a firefighter shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11th. For firefighters, the Floating Holiday shall be designated as September 11th Holiday.
- Additional days may be designated by the Town Council.
- C. When an official holiday occurs on a weekend, the following alternative schedule applies:
 - 1. A holiday which occurs on a Saturday shall be taken on the Friday before the holiday; and
 - 2. A holiday which occurs on a Sunday shall be taken on the Monday after the holiday.
- D. An employee shall receive holiday pay equivalent to a standard eight (8)

hour work day. Holiday time for firefighter shift shall be equivalent to twelve (12) hours.

- E. Holidays may not be accumulated beyond eighty-eight (88) hours, or one hundred thirty-two (132) hours for firefighter shift personnel.
- F. An employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated holiday leave.
- G. An employee shall not receive pay for a holiday if he is:
 - 1. Absent without prior approval either the day before or the day following an official holiday, or
 - 2. Absent without prior approval, as defined by the employee's department or division policy, on a holiday on which the employee is normally scheduled to work.
- H. An official holiday occurring while any eligible leave is being taken shall be reflected as a holiday for payroll purposes and no deduction from such leave balance shall be made for the holiday.
- I. Employees wishing to observe religious or other holidays not listed herein shall at their option be given time off without pay or have the time charged to vacation, compensatory, holiday or exempt leave time, if available.
- J. Holiday leave shall be granted in 15 minute increments.

5.02 Vacation Leave

All regular full-time and part-time employees shall accrue vacation leave during their first six (6) months of employment, but vacation leave may not be used until after completion of six (6) months of service. Eligibility for, and accrual rate of vacation benefits is determined by the date of regular full-time employment and length of service provided to the Town. The Town shall provide 15 vacation days each year with pay for each member of the fire department and police department, as defined by the Texas Local Government Code, in accordance with requirements of state law. These employees will accrue vacation leave at a rate starting from hire date so that by the end of one year of

employment the employee will have accrued 15 days of vacation leave.

- A. Regular Full-time employees with up to five (5) years of regular full-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month. Full-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 10 hours per month. Full-time employees who have completed ten (10) years or more of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 13.34 hours per month.

REGULAR FULL-TIME EMPLOYEES (Except Firefighter Shift Personnel)		
Maximum of 480 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-60	6.67	80
61-120	10.00	120
121 +	13.34	160

- B. Regular part-time employees with up to five (5) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 3.34 hours per month. Part-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

REGULAR PART-TIME EMPLOYEES		
Maximum of 240 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-60	3.34	40

61-120	5.00	60
121 +	6.67	80

Regular part-time public safety officer employees with up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

REGULAR PART-TIME PSO EMPLOYEES		
Maximum of 240 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	5.00	60
121 +	6.67	80

- C. Pursuant to state and/or federal law, firefighter shift personnel may be subject to special provisions regarding vacation leave. Full-time firefighter shift personnel with up to ten (10) years of continuous firefighter shift service with the Town shall accrue vacation leave at a rate of 15 hours per month. Full-time firefighter shift personnel who have completed ten (10) years or more of continuous firefighter shift service to the Town shall accrue vacation leave at a rate of 20 hours per month. Rules for vacation leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

FIREFIGHTER SHIFT EMPLOYEES		
Maximum of 720 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	15.00	180

121 +	20.00	240
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Pursuant to state and/or federal law, public safety officers may be subject to special provisions regarding vacation leave. Full-time public safety officer personnel with up to ten (10) years of continuous public safety officer service with the Town shall accrue vacation leave at a rate of ten (10) hours per month. Full-time public safety officer personnel who have completed ten (10) years or more of continuous public safety officer service to the Town shall accrue vacation leave at a rate of 13.34 hours per month. Rules for vacation leave accrual for public safety officer personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

PUBLIC SAFETY OFFICER EMPLOYEES (Sworn Officers and Fire Personnel/Non-Shift) Maximum of 480 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	10.00	120
121 +	13.34	160

- D. Department Heads or designees shall schedule an employee's vacation giving consideration to the ability of the remaining staff to perform the work of the department. The employee has the responsibility to assure that the leave request is made within a reasonable length of time prior to the commencement of the leave. All vacation leave for Department Heads must be approved by the Town Manager.
- E. A "month of service" for determining vacation benefits shall be allowed on parts of a month as follows: The employee's first month on the payroll shall count only if he was hired on or prior to the 15th day of the month; the employee's last month on the payroll shall count only if he terminates

on or after the 16th day of that month.

- F. Vacation leave may be accumulated from year-to-year, not to exceed two hundred forty (240) hours for regular part-time employees; four hundred and eighty (480) hours for regular full-time employees; and seven hundred and twenty (720) hours for firefighter shift personnel. The Town Manager may waive this limitation, if the needs of the Town preclude the taking of vacation leave which would otherwise be lost because of this limitation.
- G. All employees are encouraged to use vacation leave. Leave must be taken in 15 minute increments. All leave requests must be approved by the Department or Division Head so that schedules and duties may be adjusted to create minimum disruption of normal work operations.
- H. Upon separation from service, regular employees who have completed six (6) months of service to the Town shall be paid for any accrued, but unused vacation leave. All vacation leave is forfeited if the employee separates from employment prior to completion of six (6) months of employment with the Town. Additionally, an employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated vacation leave. To maintain eligibility for payment of accrued vacation leave, an employee who resigns his position with the Town must submit a written notice of such resignation, giving ten (10) working days' notice, unless such notice has been waived by the Department or Division Head.
- I. An official holiday occurring during an employee's vacation shall not be considered vacation leave.
- J. Vacation leave shall not be advanced to employees.
- K. Vacation leave credits are not transferable between employees.
- L. Employees shall not be allowed to take in excess of ten (10) consecutive vacation days or, in the case of firefighter shift personnel, five (5) consecutive vacation shifts, without the prior written approval of the Department or Division Head, as appropriate, except when the employee is

using family and medical leave.

- M. An employee on disciplinary suspension forfeits all claims to use vacation leave for the duration of the disciplinary suspension.
- N. If an employee becomes ill while using vacation leave, vacation leave may be converted to sick leave. The presentation of a licensed physician's written statement may be required.
- O. Vacation leave may not be used by any employee who is unable to work and is receiving full workers' compensation benefits.
- P. Leave records shall be maintained by the Financial Services Department.
- Q. Temporary employees are not eligible for vacation leave.

5.03 Sick Leave

The intent of sick leave is to prevent a loss of income to an employee who is absent due to an injury or illness, which is not job related. Should such an injury or illness occur to an employee, continued income should be insured through the use of sick leave. Accrued sick leave may also be used for maternity reasons including placement of a child for adoption; however, transfer of sick leave hours is not applicable for maternity reasons.

- A. Sick leave shall be accrued by all full-time employees at the rate of eight (8) hours per month. Part-time employees shall accrue sick leave at the rate of four (4) hours per month. Pursuant to state and/or federal law, firefighter shift personnel and police patrol personnel may be subject to special provisions regarding sick leave. Full-time firefighter shift personnel shall accrue sick leave at the rate of twelve (12) hours per month. Rules for sick leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and applicable Texas laws.
- B. Any accrued but unused sick leave shall be carried to the employee's credits for the following year.
- C. Regular full-time and part-time employees accrue sick leave during their

first six (6) months of employment and are eligible to use the leave upon accrual.

- D. Frequent claiming of sick leave, except as covered by the Family and Medical Leave Act, may constitute grounds for the assumption of the Department or Division Head that the employee is unable to perform the essential functions of the job.
- E. A regular employee who enters service with the Town on or prior to the 15th day of any month, or separates from service with the Town on or after the 16th day of any month shall earn sick leave for that month.
- F. After an employee's accumulated sick leave has been exhausted, accrued vacation, compensatory, or exempt leave may be used as sick leave with approval of the Department or Division Head, provided there has been no abuse of sick leave, and that all provisions of the sick leave policy are met. When absence due to illness exceeds the amount of paid leave earned and authorized, the pay of an employee shall be discontinued until the employee returns to work.
- G. Sick leave shall be granted in 15 minute increments.
- H. Sick leave may be allowed in case of doctor appointments, personal illness, physical incapacity of an employee, employee's spouse, children, parents, spouse's parents, brother, sister, or a dependent residing in the employee's household.
- I. Employees who are absent due to illness for three (3) or more consecutive days shall be required to provide their supervisor with sufficient documentation from a licensed physician. The supervisor shall provide the documentation to the Human Resources Division.
- J. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for fire fighters] so the time may be evaluated for family and medical leave status.
- K. Notice of employee absence due to a non-job-related injury or illness must

be given daily by the employee to that employee's immediate supervisor, Department or Division Head no later than thirty (30) minutes after the beginning of the employee's work shift. Failure to do so may cause the employee's absence to be charged to leave without. Emergency situations, which might prevent compliance with the provisions of this paragraph, shall be taken into consideration by the Department or Division Head.

- L. Department or Division Heads are authorized to undertake any investigations of sick leave claimed by an employee, who they may deem necessary, or to disapprove any claims not properly substantiated.
- M. An employee who has been absent because of illness or injury may be required to submit to an examination by a licensed physician at the Town's expense. In such cases, the employee may return to work upon approval of the Town's examining physician.
- N. An employee who is released by an examining physician to return to regular duty, and refuses to report for work or perform his assigned duties, is subject to disciplinary action, up to and including termination.
- O. Sick leave shall not be advanced.
- P. Sick leave credits are transferable between employees, upon request by an employee, pursuant to the conditions contained herein. These conditions shall be limited to an employee's long-term, non-job-related injury or illness, which renders the employee unable to perform the essential functions of his job. This does not include maternity reasons. A maximum of twelve (12) weeks per incident/diagnosis may be provided to the regular full-time employee and six (6) weeks per incident/diagnosis may be provided to the regular part-time employee. The employee requesting transferred credits must have exhausted all accrued leave (with the exception that a regular full-time employee may retain up to 40 hours of his accrued leave, regular part-time employee up to 20 hours of his accrued leave, and firefighter shift personnel up to 60 hours of his accrued

leave). Those employees eligible are regular full-time and regular part-time employees who have completed six (6) months of continuous regular full-time or regular part-time employment with the Town. A regular full-time employee may not transfer more than 20 hours of his sick leave to any one employee in a calendar year. A regular part-time employee may not transfer more than 10 hours of his sick leave to any one employee in a calendar year and firefighter shift personnel may not transfer more than 30 hours of his sick leave to any one employee in a calendar year.

- Q. Sick leave may not be taken by any employee who is unable to work and is receiving full workers' compensation benefits.
- R. An employee who separates from the Town, has completed a minimum of ten (10) years of continuous service with the Town and qualifies for retirement as defined by the Texas Municipal Retirement System, shall be eligible for pay for one-half ($\frac{1}{2}$) of accumulated sick leave, or three hundred and sixty (360) hours, whichever is less. Full-time firefighter shift personnel shall be eligible for pay for one-half ($\frac{1}{2}$) of accumulated sick leave, or five hundred and forty (540) hours, whichever is less.
- S. Records of employees' sick leave time used shall be maintained in the Financial Services Department.
- T. An employee on disciplinary suspension forfeits all claims to use sick leave for the duration of the disciplinary suspension.

5.04 Bereavement Leave

Bereavement leave with pay is granted by a Department or Division Head to an employee for absence from duty because of death in the employee's immediate family. Regular full-time and regular part-time employees are eligible for bereavement leave.

For purposes of this section, immediate family member is defined as the employee's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, grandfather, grandmother, grandchildren, uncle, aunt, nephew, niece, first cousin, grandparent-in-

law, legal guardian/ward and any applicable step relationship related to the foregoing, or any relative who may be residing in the same household with an employee.

No more than three (3) working days may be used for bereavement leave within a calendar year. In the event of another qualifying death and the employee's bereavement leave days have been utilized, he may use accrued leave, including sick leave, or leave without pay. If there is no balance in an employee's accrued leave, the employee may request additional bereavement leave at the approval of the Department Head and the Town Manager.

5.05 Family and Medical Leave

A. Regular employees who have completed six (6) months of employment with the Town are entitled to receive family and medical leave during a rolling year for one or more of the reasons listed below:

1. Birth of a child of the employee in order to care for such child (leave must be taken within a twelve (12) month period after birth);
2. Upon the placement of a child with the employee for adoption or foster care (leave must be taken within a twelve (12) month period after placement);
3. To care for the employee's spouse, son, daughter or parent who has a serious health condition; or
4. When the employee is unable to perform the essential functions of his position because of a serious health condition.

B. Military Leave

Regular full-time employees who have completed six (6) months of employment with the Town are entitled to receive military caregiver leave during a "single 12-month period" beginning on the first day of leave and ending 12 months later for the following reasons listed below:

1. A spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.

Qualifying Exigency Leave arising from:

1. A covered military member's short-notice deployment;
2. Military events and related activities;
3. Childcare and related activities arising from active duty or call to active duty status of a covered service member;
4. Financial and legal arrangements to address a covered military member's absence;
5. Counseling provided by someone other than a health care provider, the need for which arises from the active duty or call to active duty status of a covered service member;
6. Taking up to five (5) days leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during deployment; and
7. Attending certain post deployment activities.

Eligible employees will be limited to a combined total of 26 work weeks of leave for any FMLA-qualifying reason during the "single 12-month period."

C. The provisions for using family and medical leave for 1 through 4 listed above are as follows:

1. An employee who has no accrued paid leave must receive unpaid family and medical leave up to twelve (12) weeks;
2. An employee who has less than twelve (12) weeks of accrued paid leave must first use the accrued paid leave toward the twelve (12) weeks; thereafter, the remaining balance of the twelve (12) weeks shall be unpaid family and medical leave;
3. An employee who has more than twelve (12) weeks of accrued paid leave may use the accrued paid leave over and beyond the twelve (12) weeks, if necessary, for family and medical leave causes, only upon review by the Human Resources Division and approval by the Town Manager; and
4. Family and Medical Leave may be paid or unpaid.

D. After completion of twelve (12) weeks of leave under the Family and

Medical Leave Act, if an employee is unable to perform the essential duties of his assigned position, reasonable accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and the employee is unable to perform the essential duties of his assigned position, he may be terminated. (For eligibility and specifics of the Medical Incapacity Leave of Absence, refer to Section 5.16.)

- E. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for firefighters], so the time may be evaluated for Family and Medical Leave status.
- F. When Family and Medical Leave is foreseeable, an employee must provide at least thirty (30) days advance written notice.
- G. To be eligible for family and medical leave, proof of a serious health condition must be certified by a health care provider, as defined by the FMLA. An employee may be required to submit periodic written status reports to the Human Resources Division.
- H. This policy does not affect the accrual or usage of leave provisions (i.e., vacation, sick, compensatory or exempt leave, or holiday).
- I. An employee shall continue to receive health insurance benefits during Family and Medical Leave. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits. Family and Medical Leave for both husband and wife employed by the Town for the birth of a child is limited to twelve (12) weeks combined.
- J. Family and Medical Leave may be delayed or denied due to the failure of an employee to adhere to these Regulations.

5.06 Jury Leave

- A. An employee shall be granted paid jury leave when he is summoned for jury duty.
- B. The employee must notify his supervisor upon receiving a summons for

which jury leave is requested. A copy of the summons must be submitted to the employee's supervisor.

- C. All fees paid and expenses reimbursed by the court may be retained by the employee.
- D. Employees shall report to work on any business day or partial day when the jury/court is not in session.

5.07 Voting

The Town encourages all employees to fulfill their civic responsibilities by participating in elections. However, all employees should make every effort to vote outside normal working hours. If employees are unable to vote in an election during their non-working hours, the Town shall allow employees to use accrued vacation leave, compensatory leave, or exempt leave for the number of hours necessary for the employee to vote.

Employees should request time off to vote from their supervisor at least two working days prior to the election day so that necessary time off may be scheduled at the beginning or end of the work period, whichever provides the least disruption to the normal work schedule.

5.08 Military Leave

- A. Paid Leave for the purpose of responding to orders of military service as a member of the active service, reserve units, national guard, or other official special units shall be granted to all full-time employees for a maximum of fifteen (15) work days per calendar year subject to the following conditions:
 - 1. All requests for leave must be made within fifteen (15) days of the first day for which leave is requested and must be accompanied within a reasonable period of time by a copy of the order, directive, notice, or other document requiring absence from scheduled work;
 - 2. Leave pay shall not be granted for hours before or after the regularly scheduled working hours or for overtime hours scheduled;

3. Travel time included in the orders and paid for or reimbursed by the service shall be counted as military leave;
 4. Military leave shall not be granted for a diagnosis or treatment of any service-connected sickness or disability, for obtaining or sustaining any disability rating or for treatment at any governmental facilities;
 5. Time required for physical examinations for selection or admission to the military service to determine or maintain a selected service rating or to maintain a reserve status shall be counted as military leave. Pay shall be limited to the regularly scheduled hours lost;
 6. Time over and above the fifteen (15) day maximum allowed must be taken as eligible accrued leave, except sick leave, or unpaid leave; and
 7. The conditions of the preceding subsections shall be applied as required by applicable federal and state law.
- B. Any full-time employee who leaves his position for the purpose of entering any branch of the United States armed forces for extended active duty shall be placed in military active duty status. The Town will supplement the difference between the employee's regular rate of pay and his military pay for up to 180 days. The employee will continue to accrue vacation leave, sick leave, and retirement. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits during the supplemental period.
- C. In accordance with Chapter 43 of Title 38, United States Code, entitled "Employment and Reemployment Rights of members of the Uniformed Services," an employee may serve a total of four (4) years of active duty in the armed forces, and an additional one (1) year as requested by the United States government, and still be eligible for reappointment to his Town position. An employee's right to reappointment is not protected for periods of military active duty longer than five (5) years.

- D. A full-time employee who leaves Town employment to enter active military service shall be restored to employment in the same position held upon entrance to active military service, or in a position of comparable status and pay, if the employee:
1. Is physically and mentally qualified to perform the essential duties of the position;
 2. Was discharged, separated, or released from active military service under honorable or general conditions;
 3. Has not been in active military service for more than five (5) years; and
 4. Makes written application for reappointment and presents evidence of the discharge, release, or separation from military service according to the following schedule:

Length of Period of Service	Reapply No Later Than
Less than 31 days	Next regular work day after completion of service and time to travel from place of service to residence
More than 30 days, but less than 180 days	Fourteen (14) days after completion of service
More than 180 days	Ninety (90) days after completion of service

- E. An employee shall be allowed full credit for time spent in the military service for the purpose of computing the rate of accrual of vacation leave.

5.09 Workers' Compensation Leave

- A. Any Town employee becomes eligible for Workers' Compensation when he is injured in the scope of his employment for the Town of Flower Mound.
- B. When the attending physician has instructed the employee, in writing, to

remain off the job until the physician releases the employee to return to work, Texas state law prescribes that an employee shall receive Workers' Compensation payments during the recovery and recuperation period. An injured employee is entitled to medical aid and hospital services which are required at the time of injury, and at any time thereafter, as may be necessary to cure and relieve the effects of the injury.

- C. The Human Resources Division is responsible for administering, pursuant to the requirements of state law, the Town's Workers' Compensation program.
- D. A full-time employee, who is injured on the job, shall be granted injury leave not charged against his sick leave or vacation leave, to extend for such time as a physician shall certify that the injured employee is unable to work, but in no event to extend beyond twenty-four (24) continuous weeks, unless expressly authorized by the Town Manager.
- E. During the first twelve (12) weeks of such injury leave, the leave shall not be charged against sick leave nor vacation leave and runs concurrently with Family and Medical Leave. Regular full-time employees shall continue to receive their current rate of pay, exclusive of overtime. During such injury leave, the Town shall pay such employee as direct payments from salary funds an amount that, when combined with workers' compensation insurance benefits payable to such employee, would equal his base pay, but the total amount so paid for loss of time from work shall not exceed the full pay which such employee would have received for such period at his regular rate of pay.
- F. If the employee is unable to return to work upon expiration of the twelve (12) weeks, the employee shall be allowed to use any accrued leave to make up the difference between workers' compensation and full pay up to the twenty-four (24) week total.
- G. If the employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, reasonable

accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and an employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, he may be terminated.

- H. While on injury leave, an employee shall continue to earn vacation and sick leave at the regular rate and shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.
- I. An employee who is physically able and who fails to report within twenty-four (24) hours any injury to his supervisor, however minor, and fails to take such first aid treatment as may be necessary, may not be eligible for injury leave. When an employee is injured on the job, the supervisor shall complete a workers' compensation First Report of Injury immediately and submit it to his supervisor, who shall forward it to the Human Resources Division. Where an accident causes serious bodily injury or death to an employee, the supervisor shall notify his Department Head, the Human Resources Division, the Financial Services Department, and the Town Manager immediately.
- J. Part-time and temporary employees shall be eligible to receive Workers' Compensation benefits only and shall not receive a base pay, and may be granted a "leave of absence without pay" by the Town.
- K. No employee may return to work from an injury involving lost time without first obtaining a physician's release. The physician's release must be forwarded to the Human Resources Division.
- L. An employee injured in the scope of his employment for the Town may be subject to alcohol/substance screening.

5.10 Modified Duty

- A. The Town's Modified Duty program is based on the belief that it is in the

best interest of both the employee and the Town for an employee to return to work in some capacity following an on-the-job or off-the-job injury, illness, or medical condition.

- B. With the Department Head's approval, a supervisor may work to identify possible modified duty assignments for all on-the-job and off-the-job injuries, illnesses and medical conditions.
- C. Attempts may first be made to make modified duty assignments in the division/department in which the injured/ill employee currently works. If placement is unavailable, the Director of Human Resources may attempt to place the individual in another department, based on physical ability, skills and available assignments.
- D. Regardless of where the modified duty assignment occurs, the salary of an employee placed on modified duty shall be paid by the division/department to which the employee is normally assigned.
- E. When the employee returns to work on a modified duty status for less than a regular shift, the number of hours, less the number of hours for the regular shift, shall be paid by supplementing with any accrued leave.
- F. Prior to an employee being placed on modified duty, he must provide to the Human Resources Division a written release from the attending physician stipulating the following:
 - 1. The specific restrictions;
 - 2. The period of time during which the restrictions apply;
 - 3. The expected date on which the employee may return to work for modified duty;
 - 4. The date of the employee's next physician appointment; and
 - 5. A specific date on which the employee may be expected to be fully recovered and can return to normal duties.
- G. The Town reserves the right to require an independent physical analysis/assessment upon the return to modified duty work of an employee from an injury, illness or medical condition.

- H. An employee who is released to return to work in less than a full-duty status by the examining physician may be required to work in a position or department other than his original position or department. Work duties shall be assigned in accordance with the employee's limitations and the needs of the Town.
- I. Modified duty assignments shall not extend beyond ninety (90) days unless extended by the Town Manager.
- J. An employee with a modified duty assignment shall be required to provide to the Human Resources Division a physician's statement monthly or after each doctor's visit (whichever is more frequent) that states the employee's progress and the expected date of return to full duty.
- K. An employee with a modified duty assignment will be expected to cooperate and fully perform the modified duty assigned. Failure to do so by the employee may result in the termination of the modified duty assignment, and/or the employee being subject to disciplinary action.
- L. It is the responsibility of the employee to inform his modified duty supervisor, in advance, of scheduled appointments. The employee should make every attempt to minimize the time away from work.
- M. An employee on modified duty assignment whose attendance, performance, and/or conduct merits discipline shall be subject to appropriate disciplinary action initiated by the supervisor of the modified duty assignment.
- N. Modified duty assignments are at the discretion of the Town and the Town is under no obligation to provide such assignments. This policy should not be construed as creating such an obligation.

5.11 Leave Without Pay

Leave without pay is granted as a matter of administrative discretion. No employee may demand leave without pay as a matter of right, but it may be granted to any regular employee. The position of any Town employee who is on leave without pay

may be filled on an interim basis.

An employee's Department or Division Head may authorize leave without pay for a period not to exceed two (2) consecutive calendar weeks. Leave without pay in excess of two (2) consecutive calendar weeks must be approved by the Department Head and the Town Manager. While on leave without pay, an employee shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.

5.12 Absence Without Leave

An employee failing to report for duty or remain at work as scheduled without proper notification, authorization, or excuse shall be considered absent without leave, which constitutes abandonment of duties, and shall not be in pay status for the time involved. Absence for three (3) days without proper notification or without satisfactory reason shall be considered job abandonment and the employee shall be terminated. The employee shall be ineligible for payment of eligible accumulated leave.

5.13 Leave of Absence

A full-time employee may be granted a leave of absence without pay for a period not to exceed six (6) months. While on leave of absence, an employee shall remain eligible for health insurance benefits; however, the total cost of such health insurance, dependent insurance coverage, and supplemental benefits must be paid by the employee during such leave. All requests for leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs.

5.14 Exempt Leave

The Town Manager, Department Heads, and other executive, administrative, and

professional personnel, as defined by the Fair Labor Standards Act, are excluded from the provisions of the Town's overtime policies as exempt personnel, and are expected to work whatever hours are necessary to accomplish required duties, tasks, and responsibilities. Such exempt personnel shall receive 40 hours of exempt leave on his anniversary date annually, and such leave may be used pursuant to the following terms and conditions:

1. The taking of such exempt leave must be authorized in advance by the appropriate Department or Division Head.
2. Unused, exempt leave may not be carried over from one (1) anniversary year to the next.
3. Balances of exempt leave shall not be paid upon termination of employment with the Town, or at any time.
4. Exempt leave must be taken in 15 minute increments.
5. For terminating employees, exempt leave may not be used during his final two week notice period (see Section 3.16 Separation Pay).

5.15 Administrative Leave With Pay

An employee who is suspected of a violation of state, federal, or local law; Town ordinance; a rule, regulation, or these Regulations may be subject to disciplinary action up to and including termination, or may be placed on administrative leave with pay pending the outcome of any related investigation and/or the imposition of disciplinary action.

5.16 Medical Incapacity Leave of Absence

After the expiration of all paid leave and unpaid leave due to a non-work related injury or serious health condition, a full-time employee who has been continuously employed by the Town for at least five (5) years may be granted a medical incapacity leave of absence without pay for a period not to exceed six (6) months. While on such leave of absence, the Town shall pay an employee's health insurance costs; however, the cost of dependent insurance coverage, supplemental benefits and additional benefits

offered by the Town must be paid by the employee during such leave. All requests for a leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs. If an employee is unable to return to full-time work, the employee shall be separated from employment with the Town; however, for a period not to exceed eighteen (18) months following such separation, the Town shall pay the employee's health insurance costs through COBRA. Additionally, the employee may elect employee-paid dependent insurance coverage under COBRA. Furthermore, supplemental insurance would no longer be available. In the event, during the aforementioned eighteen (18) month period, the employee qualifies for health insurance coverage or the payment of health insurance costs or benefits by the Federal Government or other governmental or non- governmental entity, then the Town shall cease payment of the employee's health insurance costs.

The provisions contained in this section shall not apply to work-related injuries which otherwise qualify for coverage under the Town's workers' compensation insurance policies.

CHAPTER 5 LEAVE

5.01 Holidays

- A. Paid holidays are extended to full-time employees.
- B. The following official holidays shall be observed:
 - 1. New Year's Day (January 1);
 - 2. Martin Luther King, Jr. Day
 - 3. Good Friday (Friday before Easter);
 - 4. Memorial Day (last Monday in May);
 - 5. Independence Day (July 4);
 - 6. Labor Day (first Monday in September);
 - 7. Thanksgiving Day (fourth Thursday in November);
 - 8. Day after Thanksgiving (fourth Friday in November);
 - 9. Christmas Eve Day (December 24);
 - 10. Christmas Day (December 25); and
 - 11. One Floating Holiday per calendar year (employee's choice) as approved by his Department or Division Head.
 - a. In accordance with Section 142.0013(c) of the Texas Local Government Code, a firefighter shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11th. For firefighters, the Floating Holiday shall be designated as September 11th Holiday.

Additional days may be designated by the Town Council.
- C. When an official holiday occurs on a weekend, the following alternative schedule applies:
 - 1. A holiday which occurs on a Saturday shall be taken on the Friday before the holiday; and
 - 2. A holiday which occurs on a Sunday shall be taken on the Monday after the holiday.
- D. An employee shall receive holiday pay equivalent to a standard eight (8)

hour work day. Holiday time for firefighter shift shall be equivalent to twelve (12) hours.

- E. Holidays may not be accumulated beyond eighty-eight (88) hours, or one hundred thirty-two (132) hours for firefighter shift personnel.
- F. An employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated holiday leave.
- G. An employee shall not receive pay for a holiday if he is:
 - 1. Absent without prior approval either the day before or the day following an official holiday, or
 - 2. Absent without prior approval, as defined by the employee's department or division policy, on a holiday on which the employee is normally scheduled to work.
- H. An official holiday occurring while any eligible leave is being taken shall be reflected as a holiday for payroll purposes and no deduction from such leave balance shall be made for the holiday.
- I. Employees wishing to observe religious or other holidays not listed herein shall at their option be given time off without pay or have the time charged to vacation, compensatory, holiday or exempt leave time, if available.
- J. Holiday leave shall be granted in 15 minute increments.

5.02 Vacation Leave

All regular full-time and part-time employees shall accrue vacation leave during their first six (6) months of employment, but vacation leave may not be used until after completion of six (6) months of service. Eligibility for, and accrual rate of vacation benefits is determined by the date of regular full-time employment and length of service provided to the Town. The Town shall provide 15 vacation days each year with pay for each member of the fire department and police department, as defined by the Texas Local Government Code, in accordance with requirements of state law. These employees will accrue vacation leave at a rate starting from hire date so that by the end of one year of

employment the employee will have accrued 15 days of vacation leave.

- A. Regular Full-time employees with up to five (5) years of regular full-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month. Full-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 10 hours per month. Full-time employees who have completed ten (10) years or more of continuous regular full-time service with the Town shall accrue vacation leave at a rate of 13.34 hours per month.

REGULAR FULL-TIME EMPLOYEES (Except Firefighter Shift Personnel)		
Maximum of 480 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-60	6.67	80
61-120	10.00	120
121 +	13.34	160

- B. Regular part-time employees with up to five (5) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 3.34 hours per month. Part-time employees who have completed five (5) years or more and up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

REGULAR PART-TIME EMPLOYEES		
Maximum of 240 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-60	3.34	40

61-120	5.00	60
121 +	6.67	80

Regular part-time public safety officer employees with up to ten (10) years of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 5 hours per month. Part-time employees who have completed ten (10) years or more of continuous regular part-time service with the Town shall accrue vacation leave at a rate of 6.67 hours per month.

REGULAR PART-TIME PSO EMPLOYEES		
Maximum of 240 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	5.00	60
121 +	6.67	80

- C. Pursuant to state and/or federal law, firefighter shift personnel may be subject to special provisions regarding vacation leave. Full-time firefighter shift personnel with up to ten (10) years of continuous firefighter shift service with the Town shall accrue vacation leave at a rate of 15 hours per month. Full-time firefighter shift personnel who have completed ten (10) years or more of continuous firefighter shift service to the Town shall accrue vacation leave at a rate of 20 hours per month. Rules for vacation leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

FIREFIGHTER SHIFT EMPLOYEES		
Maximum of 720 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	15.00	180

121 +	20.00	240
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Pursuant to state and/or federal law, public safety officers may be subject to special provisions regarding vacation leave. Full-time public safety officer personnel with up to ten (10) years of continuous public safety officer service with the Town shall accrue vacation leave at a rate of ten (10) hours per month. Full-time public safety officer personnel who have completed ten (10) years or more of continuous public safety officer service to the Town shall accrue vacation leave at a rate of 13.34 hours per month. Rules for vacation leave accrual for public safety officer personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and Texas state law.

PUBLIC SAFETY OFFICER EMPLOYEES (Sworn Officers and Fire Personnel/Non-Shift) Maximum of 480 Hours		
Months	Hours Per Month	Hours Accrued Per Year
1-120	10.00	120
121 +	13.34	160

- D. Department Heads or designees shall schedule an employee's vacation giving consideration to the ability of the remaining staff to perform the work of the department. The employee has the responsibility to assure that the leave request is made within a reasonable length of time prior to the commencement of the leave. All vacation leave for Department Heads must be approved by the Town Manager.
- E. A "month of service" for determining vacation benefits shall be allowed on parts of a month as follows: The employee's first month on the payroll shall count only if he was hired on or prior to the 15th day of the month; the employee's last month on the payroll shall count only if he terminates

on or after the 16th day of that month.

- F. Vacation leave may be accumulated from year-to-year, not to exceed two hundred forty (240) hours for regular part-time employees; four hundred and eighty (480) hours for regular full-time employees; and seven hundred and twenty (720) hours for firefighter shift personnel. The Town Manager may waive this limitation, if the needs of the Town preclude the taking of vacation leave which would otherwise be lost because of this limitation.
- G. All employees are encouraged to use vacation leave. Leave must be taken in 15 minute increments. All leave requests must be approved by the Department or Division Head so that schedules and duties may be adjusted to create minimum disruption of normal work operations.
- H. Upon separation from service, regular employees who have completed six (6) months of service to the Town shall be paid for any accrued, but unused vacation leave. All vacation leave is forfeited if the employee separates from employment prior to completion of six (6) months of employment with the Town. Additionally, an employee who abandons his job, as defined in section 6.04.C, shall be ineligible for payment of accumulated vacation leave. To maintain eligibility for payment of accrued vacation leave, an employee who resigns his position with the Town must submit a written notice of such resignation, giving ten (10) working days' notice, unless such notice has been waived by the Department or Division Head.
- I. An official holiday occurring during an employee's vacation shall not be considered vacation leave.
- J. Vacation leave shall not be advanced to employees.
- K. Vacation leave credits are not transferable between employees.
- L. Employees shall not be allowed to take in excess of ten (10) consecutive vacation days or, in the case of firefighter shift personnel, five (5) consecutive vacation shifts, without the prior written approval of the Department or Division Head, as appropriate, except when the employee is

using family and medical leave.

- M. An employee on disciplinary suspension forfeits all claims to use vacation leave for the duration of the disciplinary suspension.
- N. If an employee becomes ill while using vacation leave, vacation leave may be converted to sick leave. The presentation of a licensed physician's written statement may be required.
- O. Vacation leave may not be used by any employee who is unable to work and is receiving full workers' compensation benefits.
- P. Leave records shall be maintained by the Financial Services Department.
- Q. Temporary employees are not eligible for vacation leave.

5.03 Sick Leave

The intent of sick leave is to prevent a loss of income to an employee who is absent due to an injury or illness, which is not job related. Should such an injury or illness occur to an employee, continued income should be insured through the use of sick leave. Accrued sick leave may also be used for maternity reasons including placement of a child for adoption; however, transfer of sick leave hours is not applicable for maternity reasons.

- A. Sick leave shall be accrued by all full-time employees at the rate of eight (8) hours per month. Part-time employees shall accrue sick leave at the rate of four (4) hours per month. Pursuant to state and/or federal law, firefighter shift personnel and police patrol personnel may be subject to special provisions regarding sick leave. Full-time firefighter shift personnel shall accrue sick leave at the rate of twelve (12) hours per month. Rules for sick leave accrual for firefighter shift personnel shall be promulgated by the Human Resources Division. All such rules shall be consistent with the Fair Labor Standards Act (FLSA) and applicable Texas laws.
- B. Any accrued but unused sick leave shall be carried to the employee's credits for the following year.
- C. Regular full-time and part-time employees accrue sick leave during their

first six (6) months of employment and are eligible to use the leave upon accrual.

- D. Frequent claiming of sick leave, except as covered by the Family and Medical Leave Act, may constitute grounds for the assumption of the Department or Division Head that the employee is unable to perform the essential functions of the job.
- E. A regular employee who enters service with the Town on or prior to the 15th day of any month, or separates from service with the Town on or after the 16th day of any month shall earn sick leave for that month.
- F. After an employee's accumulated sick leave has been exhausted, accrued vacation, compensatory, or exempt leave may be used as sick leave with approval of the Department or Division Head, provided there has been no abuse of sick leave, and that all provisions of the sick leave policy are met. When absence due to illness exceeds the amount of paid leave earned and authorized, the pay of an employee shall be discontinued until the employee returns to work.
- G. Sick leave shall be granted in 15 minute increments.
- H. Sick leave may be allowed in case of doctor appointments, personal illness, physical incapacity of an employee, employee's spouse, children, parents, spouse's parents, brother, sister, or a dependent residing in the employee's household.
- I. Employees who are absent due to illness for three (3) or more consecutive days shall be required to provide their supervisor with sufficient documentation from a licensed physician. The supervisor shall provide the documentation to the Human Resources Division.
- J. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for fire fighters] so the time may be evaluated for family and medical leave status.
- K. Notice of employee absence due to a non-job-related injury or illness must

be given daily by the employee to that employee's immediate supervisor, Department or Division Head no later than thirty (30) minutes after the beginning of the employee's work shift. Failure to do so may cause the employee's absence to be charged to leave without. Emergency situations, which might prevent compliance with the provisions of this paragraph, shall be taken into consideration by the Department or Division Head.

- L. Department or Division Heads are authorized to undertake any investigations of sick leave claimed by an employee, who they may deem necessary, or to disapprove any claims not properly substantiated.
- M. An employee who has been absent because of illness or injury may be required to submit to an examination by a licensed physician at the Town's expense. In such cases, the employee may return to work upon approval of the Town's examining physician.
- N. An employee who is released by an examining physician to return to regular duty, and refuses to report for work or perform his assigned duties, is subject to disciplinary action, up to and including termination.
- O. Sick leave shall not be advanced.
- P. Sick leave credits are transferable between employees, upon request by an employee, pursuant to the conditions contained herein. These conditions shall be limited to an employee's long-term, non-job-related injury or illness, which renders the employee unable to perform the essential functions of his job. This does not include maternity reasons. A maximum of twelve (12) weeks per incident/diagnosis may be provided to the regular full-time employee and six (6) weeks per incident/diagnosis may be provided to the regular part-time employee. The employee requesting transferred credits must have exhausted all accrued leave (with the exception that a regular full-time employee may retain up to 40 hours of his accrued leave, regular part-time employee up to 20 hours of his accrued leave, and firefighter shift personnel up to 60 hours of his accrued

leave). Those employees eligible are regular full-time and regular part-time employees who have completed six (6) months of continuous regular full-time or regular part-time employment with the Town. A regular full-time employee may not transfer more than 20 hours of his sick leave to any one employee in a calendar year. A regular part-time employee may not transfer more than 10 hours of his sick leave to any one employee in a calendar year and firefighter shift personnel may not transfer more than 30 hours of his sick leave to any one employee in a calendar year.

- Q. Sick leave may not be taken by any employee who is unable to work and is receiving full workers' compensation benefits.
- R. An employee who separates from the Town, has completed a minimum of ten (10) years of continuous service with the Town and qualifies for retirement as defined by the Texas Municipal Retirement System, shall be eligible for pay for one-half ($\frac{1}{2}$) of accumulated sick leave, or three hundred and sixty (360) hours, whichever is less. Full-time firefighter shift personnel shall be eligible for pay for one-half ($\frac{1}{2}$) of accumulated sick leave, or five hundred and forty (540) hours, whichever is less.
- S. Records of employees' sick leave time used shall be maintained in the Financial Services Department.
- T. An employee on disciplinary suspension forfeits all claims to use sick leave for the duration of the disciplinary suspension.

5.04 Bereavement Leave

Bereavement leave with pay is granted by a Department or Division Head to an employee for absence from duty because of death in the employee's immediate family. Regular full-time and regular part-time employees are eligible for bereavement leave.

For purposes of this section, immediate family member is defined as the employee's spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, grandfather, grandmother, grandchildren, uncle, aunt, nephew, niece, first cousin, grandparent-in-

law, legal guardian/ward and any applicable step relationship related to the foregoing, or any relative who may be residing in the same household with an employee.

No more than three (3) working days may be used for bereavement leave within a calendar year. In the event of another qualifying death and the employee's bereavement leave days have been utilized, he may use accrued leave, including sick leave, or leave without pay. If there is no balance in an employee's accrued leave, the employee may request additional bereavement leave at the approval of the Department Head and the Town Manager.

5.05 Family and Medical Leave

A. Regular employees who have completed six (6) months of employment with the Town are entitled to receive family and medical leave during a rolling year for one or more of the reasons listed below:

1. Birth of a child of the employee in order to care for such child (leave must be taken within a twelve (12) month period after birth);
2. Upon the placement of a child with the employee for adoption or foster care (leave must be taken within a twelve (12) month period after placement);
3. To care for the employee's spouse, son, daughter or parent who has a serious health condition; or
4. When the employee is unable to perform the essential functions of his position because of a serious health condition.

B. Military Leave

Regular full-time employees who have completed six (6) months of employment with the Town are entitled to receive military caregiver leave during a "single 12-month period" beginning on the first day of leave and ending 12 months later for the following reasons listed below:

1. A spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness.

Qualifying Exigency Leave arising from:

1. A covered military member's short-notice deployment;
2. Military events and related activities;
3. Childcare and related activities arising from active duty or call to active duty status of a covered service member;
4. Financial and legal arrangements to address a covered military member's absence;
5. Counseling provided by someone other than a health care provider, the need for which arises from the active duty or call to active duty status of a covered service member;
6. Taking up to five (5) days leave to spend time with a covered military member who is on short-term temporary rest and recuperation leave during deployment; and
7. Attending certain post deployment activities.

Eligible employees will be limited to a combined total of 26 work weeks of leave for any FMLA-qualifying reason during the "single 12-month period."

C. The provisions for using family and medical leave for 1 through 4 listed above are as follows:

1. An employee who has no accrued paid leave must receive unpaid family and medical leave up to twelve (12) weeks;
2. An employee who has less than twelve (12) weeks of accrued paid leave must first use the accrued paid leave toward the twelve (12) weeks; thereafter, the remaining balance of the twelve (12) weeks shall be unpaid family and medical leave;
3. An employee who has more than twelve (12) weeks of accrued paid leave may use the accrued paid leave over and beyond the twelve (12) weeks, if necessary, for family and medical leave causes, only upon review by the Human Resources Division and approval by the Town Manager; and
4. Family and Medical Leave may be paid or unpaid.

D. After completion of twelve (12) weeks of leave under the Family and

Medical Leave Act, if an employee is unable to perform the essential duties of his assigned position, reasonable accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and the employee is unable to perform the essential duties of his assigned position, he may be terminated. (For eligibility and specifics of the Medical Incapacity Leave of Absence, refer to Section 5.16.)

- E. A supervisor shall be responsible to notify the Human Resources Division when an employee is absent due to illness for seven (7) consecutive work days [or 3.5 shifts for firefighters], so the time may be evaluated for Family and Medical Leave status.
- F. When Family and Medical Leave is foreseeable, an employee must provide at least thirty (30) days advance written notice.
- G. To be eligible for family and medical leave, proof of a serious health condition must be certified by a health care provider, as defined by the FMLA. An employee may be required to submit periodic written status reports to the Human Resources Division.
- H. This policy does not affect the accrual or usage of leave provisions (i.e., vacation, sick, compensatory or exempt leave, or holiday).
- I. An employee shall continue to receive health insurance benefits during Family and Medical Leave. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits. Family and Medical Leave for both husband and wife employed by the Town for the birth of a child is limited to twelve (12) weeks combined.
- J. Family and Medical Leave may be delayed or denied due to the failure of an employee to adhere to these Regulations.

5.06 Jury Leave

- A. An employee shall be granted paid jury leave when he is summoned for jury duty.
- B. The employee must notify his supervisor upon receiving a summons for

which jury leave is requested. A copy of the summons must be submitted to the employee's supervisor.

- C. All fees paid and expenses reimbursed by the court may be retained by the employee.
- D. Employees shall report to work on any business day or partial day when the jury/court is not in session.

5.07 Voting

The Town encourages all employees to fulfill their civic responsibilities by participating in elections. However, all employees should make every effort to vote outside normal working hours. If employees are unable to vote in an election during their non-working hours, the Town shall allow employees to use accrued vacation leave, compensatory leave, or exempt leave for the number of hours necessary for the employee to vote.

Employees should request time off to vote from their supervisor at least two working days prior to the election day so that necessary time off may be scheduled at the beginning or end of the work period, whichever provides the least disruption to the normal work schedule.

5.08 Military Leave

- A. Paid Leave for the purpose of responding to orders of military service as a member of the active service, reserve units, national guard, or other official special units shall be granted to all full-time employees for a maximum of fifteen (15) work days per calendar year subject to the following conditions:
 - 1. All requests for leave must be made within fifteen (15) days of the first day for which leave is requested and must be accompanied within a reasonable period of time by a copy of the order, directive, notice, or other document requiring absence from scheduled work;
 - 2. Leave pay shall not be granted for hours before or after the regularly scheduled working hours or for overtime hours scheduled;

3. Travel time included in the orders and paid for or reimbursed by the service shall be counted as military leave;
 4. Military leave shall not be granted for a diagnosis or treatment of any service-connected sickness or disability, for obtaining or sustaining any disability rating or for treatment at any governmental facilities;
 5. Time required for physical examinations for selection or admission to the military service to determine or maintain a selected service rating or to maintain a reserve status shall be counted as military leave. Pay shall be limited to the regularly scheduled hours lost;
 6. Time over and above the fifteen (15) day maximum allowed must be taken as eligible accrued leave, except sick leave, or unpaid leave; and
 7. The conditions of the preceding subsections shall be applied as required by applicable federal and state law.
- B. Any full-time employee who leaves his position for the purpose of entering any branch of the United States armed forces for extended active duty shall be placed in military active duty status. The Town will supplement the difference between the employee's regular rate of pay and his military pay for up to 180 days. The employee will continue to accrue vacation leave, sick leave, and retirement. The Town shall continue paying its portion and the employee shall continue to pay his portion of health insurance benefits during the supplemental period.
- C. In accordance with Chapter 43 of Title 38, United States Code, entitled "Employment and Reemployment Rights of members of the Uniformed Services," an employee may serve a total of four (4) years of active duty in the armed forces, and an additional one (1) year as requested by the United States government, and still be eligible for reappointment to his Town position. An employee's right to reappointment is not protected for periods of military active duty longer than five (5) years.

- D. A full-time employee who leaves Town employment to enter active military service shall be restored to employment in the same position held upon entrance to active military service, or in a position of comparable status and pay, if the employee:
1. Is physically and mentally qualified to perform the essential duties of the position;
 2. Was discharged, separated, or released from active military service under honorable or general conditions;
 3. Has not been in active military service for more than five (5) years; and
 4. Makes written application for reappointment and presents evidence of the discharge, release, or separation from military service according to the following schedule:

Length of Period of Service	Reapply No Later Than
Less than 31 days	Next regular work day after completion of service and time to travel from place of service to residence
More than 30 days, but less than 180 days	Fourteen (14) days after completion of service
More than 180 days	Ninety (90) days after completion of service

- E. An employee shall be allowed full credit for time spent in the military service for the purpose of computing the rate of accrual of vacation leave.

5.09 Workers' Compensation Leave

- A. Any Town employee becomes eligible for Workers' Compensation when he is injured in the scope of his employment for the Town of Flower Mound.
- B. When the attending physician has instructed the employee, in writing, to

remain off the job until the physician releases the employee to return to work, Texas state law prescribes that an employee shall receive Workers' Compensation payments during the recovery and recuperation period. An injured employee is entitled to medical aid and hospital services which are required at the time of injury, and at any time thereafter, as may be necessary to cure and relieve the effects of the injury.

- C. The Human Resources Division is responsible for administering, pursuant to the requirements of state law, the Town's Workers' Compensation program.
- D. A full-time employee, who is injured on the job, shall be granted injury leave not charged against his sick leave or vacation leave, to extend for such time as a physician shall certify that the injured employee is unable to work, but in no event to extend beyond twenty-four (24) continuous weeks, unless expressly authorized by the Town Manager.
- E. During the first twelve (12) weeks of such injury leave, the leave shall not be charged against sick leave nor vacation leave and runs concurrently with Family and Medical Leave. Regular full-time employees shall continue to receive their current rate of pay, exclusive of overtime. During such injury leave, the Town shall pay such employee as direct payments from salary funds an amount that, when combined with workers' compensation insurance benefits payable to such employee, would equal his base pay, but the total amount so paid for loss of time from work shall not exceed the full pay which such employee would have received for such period at his regular rate of pay.
- F. If the employee is unable to return to work upon expiration of the twelve (12) weeks, the employee shall be allowed to use any accrued leave to make up the difference between workers' compensation and full pay up to the twenty-four (24) week total.
- G. If the employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, reasonable

accommodations may be made by the Town to provide for the employee to perform such duties. If reasonable accommodations cannot be made and an employee is unable to perform the essential duties of his assigned position at the end of twenty-four (24) weeks, he may be terminated.

- H. While on injury leave, an employee shall continue to earn vacation and sick leave at the regular rate and shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.
- I. An employee who is physically able and who fails to report within twenty-four (24) hours any injury to his supervisor, however minor, and fails to take such first aid treatment as may be necessary, may not be eligible for injury leave. When an employee is injured on the job, the supervisor shall complete a workers' compensation First Report of Injury immediately and submit it to his supervisor, who shall forward it to the Human Resources Division. Where an accident causes serious bodily injury or death to an employee, the supervisor shall notify his Department Head, the Human Resources Division, the Financial Services Department, and the Town Manager immediately.
- J. Part-time and temporary employees shall be eligible to receive Workers' Compensation benefits only and shall not receive a base pay, and may be granted a "leave of absence without pay" by the Town.
- K. No employee may return to work from an injury involving lost time without first obtaining a physician's release. The physician's release must be forwarded to the Human Resources Division.
- L. An employee injured in the scope of his employment for the Town may be subject to alcohol/substance screening.

5.10 Modified Duty

- A. The Town's Modified Duty program is based on the belief that it is in the

best interest of both the employee and the Town for an employee to return to work in some capacity following an on-the-job or off-the-job injury, illness, or medical condition.

- B. With the Department Head's approval, a supervisor may work to identify possible modified duty assignments for all on-the-job and off-the-job injuries, illnesses and medical conditions.
- C. Attempts may first be made to make modified duty assignments in the division/department in which the injured/ill employee currently works. If placement is unavailable, the Director of Human Resources may attempt to place the individual in another department, based on physical ability, skills and available assignments.
- D. Regardless of where the modified duty assignment occurs, the salary of an employee placed on modified duty shall be paid by the division/department to which the employee is normally assigned.
- E. When the employee returns to work on a modified duty status for less than a regular shift, the number of hours, less the number of hours for the regular shift, shall be paid by supplementing with any accrued leave.
- F. Prior to an employee being placed on modified duty, he must provide to the Human Resources Division a written release from the attending physician stipulating the following:
 - 1. The specific restrictions;
 - 2. The period of time during which the restrictions apply;
 - 3. The expected date on which the employee may return to work for modified duty;
 - 4. The date of the employee's next physician appointment; and
 - 5. A specific date on which the employee may be expected to be fully recovered and can return to normal duties.
- G. The Town reserves the right to require an independent physical analysis/assessment upon the return to modified duty work of an employee from an injury, illness or medical condition.

- H. An employee who is released to return to work in less than a full-duty status by the examining physician may be required to work in a position or department other than his original position or department. Work duties shall be assigned in accordance with the employee's limitations and the needs of the Town.
- I. Modified duty assignments shall not extend beyond ninety (90) days unless extended by the Town Manager.
- J. An employee with a modified duty assignment shall be required to provide to the Human Resources Division a physician's statement monthly or after each doctor's visit (whichever is more frequent) that states the employee's progress and the expected date of return to full duty.
- K. An employee with a modified duty assignment will be expected to cooperate and fully perform the modified duty assigned. Failure to do so by the employee may result in the termination of the modified duty assignment, and/or the employee being subject to disciplinary action.
- L. It is the responsibility of the employee to inform his modified duty supervisor, in advance, of scheduled appointments. The employee should make every attempt to minimize the time away from work.
- M. An employee on modified duty assignment whose attendance, performance, and/or conduct merits discipline shall be subject to appropriate disciplinary action initiated by the supervisor of the modified duty assignment.
- N. Modified duty assignments are at the discretion of the Town and the Town is under no obligation to provide such assignments. This policy should not be construed as creating such an obligation.

5.11 Leave Without Pay

Leave without pay is granted as a matter of administrative discretion. No employee may demand leave without pay as a matter of right, but it may be granted to any regular employee. The position of any Town employee who is on leave without pay

may be filled on an interim basis.

An employee's Department or Division Head may authorize leave without pay for a period not to exceed two (2) consecutive calendar weeks. Leave without pay in excess of two (2) consecutive calendar weeks must be approved by the Department Head and the Town Manager. While on leave without pay, an employee shall remain eligible for health insurance benefits; however, the employee's portion of any additional premiums, supplemental insurance and dependent coverage must continue to be paid by the employee during such leave.

5.12 Absence Without Leave

An employee failing to report for duty or remain at work as scheduled without proper notification, authorization, or excuse shall be considered absent without leave, which constitutes abandonment of duties, and shall not be in pay status for the time involved. Absence for three (3) days without proper notification or without satisfactory reason shall be considered job abandonment and the employee shall be terminated. The employee shall be ineligible for payment of eligible accumulated leave.

5.13 Leave of Absence

A full-time employee may be granted a leave of absence without pay for a period not to exceed six (6) months. While on leave of absence, an employee shall remain eligible for health insurance benefits; however, the total cost of such health insurance, dependent insurance coverage, and supplemental benefits must be paid by the employee during such leave. All requests for leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs.

5.14 Exempt Leave

The Town Manager, Department Heads, and other executive, administrative, and

professional personnel, as defined by the Fair Labor Standards Act, are excluded from the provisions of the Town's overtime policies as exempt personnel, and are expected to work whatever hours are necessary to accomplish required duties, tasks, and responsibilities. Such exempt personnel shall receive 40 hours of exempt leave on his anniversary date annually, and such leave may be used pursuant to the following terms and conditions:

1. The taking of such exempt leave must be authorized in advance by the appropriate Department or Division Head.
2. Unused, exempt leave may not be carried over from one (1) anniversary year to the next.
3. Balances of exempt leave shall not be paid upon termination of employment with the Town, or at any time.
4. Exempt leave must be taken in 15 minute increments.
5. For terminating employees, exempt leave may not be used during his final two week notice period (see Section 3.16 Separation Pay).

5.15 Administrative Leave With Pay

An employee who is suspected of a violation of state, federal, or local law; Town ordinance; a rule, regulation, or these Regulations may be subject to disciplinary action up to and including termination, or may be placed on administrative leave with pay pending the outcome of any related investigation and/or the imposition of disciplinary action.

5.16 Medical Incapacity Leave of Absence

After the expiration of all paid leave and unpaid leave due to a non-work related injury or serious health condition, a full-time employee who has been continuously employed by the Town for at least five (5) years may be granted a medical incapacity leave of absence without pay for a period not to exceed six (6) months. While on such leave of absence, the Town shall pay an employee's health insurance costs; however, the cost of dependent insurance coverage, supplemental benefits and additional benefits

offered by the Town must be paid by the employee during such leave. All requests for a leave of absence must be approved by the Town Manager.

At the expiration of the leave of absence term, the employee may be allowed to return to his former job with the Town, or to a comparable job for which the employee is qualified, depending on the availability of such positions and the Town's needs. If an employee is unable to return to full-time work, the employee shall be separated from employment with the Town; however, for a period not to exceed eighteen (18) months following such separation, the Town shall pay the employee's health insurance costs through COBRA. Additionally, the employee may elect employee-paid dependent insurance coverage under COBRA. Furthermore, supplemental insurance would no longer be available. In the event, during the aforementioned eighteen (18) month period, the employee qualifies for health insurance coverage or the payment of health insurance costs or benefits by the Federal Government or other governmental or non- governmental entity, then the Town shall cease payment of the employee's health insurance costs.

The provisions contained in this section shall not apply to work-related injuries which otherwise qualify for coverage under the Town's workers' compensation insurance policies.



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: August 21, 2017

FROM: Chuck Jennings, Parks and Recreation Director

ITEM: **Consider approval of a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc., in an amount not-to-exceed \$46,725.12, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: This item is to enter into a Service Agreement for Demand Response Transit Service with SPAN, Inc., (SPAN) to provide transportation for Town citizens who are age 65 or older and/or Town citizens with verifiable disabilities that prevent them from driving. Eligible riders will be taken anywhere in the service area (Flower Mound, Lewisville, and Highland Village) at a cost to the Eligible Riders of \$5.00 per one-way ride for the limited purposes of medical treatments, doctor and dentist appointments, shopping for necessities, travel to and from places of employment, and participation in the Town's Seniors In Motion senior citizen program.

Town representatives met with Roger Muckel, Mobility Manager and Deborah Robertson, Executive Director of SPAN back in June to discuss the upcoming contract renewal period. Ms. Robertson presented staff with the new one-way rate for fiscal year 2017-2018, and indicated that SPAN would continue to honor last year's rate even though their costs have slightly increased.

The breakdown of the rate is as follows:

Overall Rate: \$29.96

Operations Rate: \$22.38

Maintenance Rate: \$ 3.37 per one way trip

Administrative Rate: \$ 4.21 per one way trip

Ridership has increased over the previous contract period and has averaged 144 one-way trips per month through this fiscal year. Through June 2016, SPAN has provided 1,295 one-way rides to 27 different residents. If the Town averaged 144 one-way trips per month this would equal 1,728 annual trips. Utilizing the rate of \$24.96 (Town portion) the annual cost would equal \$43,130.88 which would be under the \$46,725.12 not-to-exceed amount. This would leave extra funds to provide 12 additional one-way trips per month.

After evaluating ridership over the past several years, grant funding, and feedback from the users, the CDBG committee recommended lowering the rider's one-way cost from \$6.50 to \$5.00 in FY2015-16. The committee again recommended keeping the one-way fare at \$5.00 for the rider which will require the Town to pay \$24.96 per one-way ride.

BOARD REVIEW/CITIZEN FEEDBACK: Over the last fiscal year, SPAN has received the following comments and requests from residents/users of the program: offer lower passenger fares for senior citizens, expand the service area for medical appointments to include the city of Denton, and add educational workshops/classes to the list of acceptable trip purposes. Additionally, with the increase in ridership and budget limitations, SPAN has had to create a waiting list for individuals requesting trips to their place of employment. As to date, SPAN has indicated that one individual is on the wait list.

SPAN does inform riders that their trips to the doctor or dentist's office, hospital, drug store, or other locations may qualify as a Medicaid eligible trip. Medicaid eligible trips are fully reimbursed by the federal government and are not charged to the rider or the Town.

ALTERNATIVES/OPTIONS: At this time there are no other transportation options available to the Town. The proposed SPAN contract does have a 30-day termination clause that could be used if a more viable option becomes available during the contract period.

On behalf of the Town, SPAN has applied for a grant through the Council of Governments (COG) for \$5310 (Enhanced Mobility for Seniors and People with Disabilities) funding to use to contract for transportation services. SPAN hopes to hear from the COG in August whether or not we will receive funding. If granted, funds would be available for use by the Town starting in the spring of 2018. The Town could then consider implementing some of the requests from the users as outlined above.

FISCAL IMPACT: \$46,725.12

Proposed Expenditure:	Account Number(s):
\$26,974.00	361-717-97820-5110
\$19,751.12	100-630-34300-5110

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

LEGAL REVIEW: Drew Larkin of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has previously reviewed the proposed service agreement as to form and legality. No alteration of the legal content of this document was made in preparation of this Service Agreement.

ATTACHMENTS:

1. Service Agreement for Demand Response Transit Service
2. Independent Audit of SPAN's Financial Report for FY 2016
3. SPAN budget report
4. Fiscal Year 2017 SPAN Transportation Proposal for the Town of Flower Mound

DRAFT MOTION: Move to approve a Service Agreement for Demand Response Transit Service with Special Programs for Aging Needs, Inc., in an amount not-to-exceed \$46,725.12, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.

STATE OF TEXAS §

COUNTY OF DENTON §

SERVICE AGREEMENT FOR DEMAND RESPONSE TRANSIT SERVICE

THIS SERVICE AGREEMENT (“Agreement”) is entered into by and between the Town of Flower Mound, Texas, located in Denton County, Texas, acting by and through its duly authorized Mayor (hereinafter referred to as “TOWN”) and SPAN, Inc., (hereinafter referred to as “SPAN”), a Texas non-profit corporation operating in Denton County, Texas as an organization described in Section 501(c)3 of the Internal Revenue Code, acting by and through its duly authorized Executive Director.

WHEREAS, SPAN transportation services were developed to provide safe and efficient transportation to the general public, persons with special needs, and as defined by agreements into which SPAN may enter from time to time; and

WHEREAS, The TOWN and SPAN desire to enter into this Agreement whereby SPAN will provide Demand Response Transit Service for TOWN citizens who are age sixty-five (65) or older and/or TOWN citizens with verifiable disabilities that prevent them from driving (hereafter referred to collectively as “Eligible Riders”); and

WHEREAS, Eligible Riders in TOWN are taken anywhere in the Demand Response Transit Service area (cities include: TOWN, City of Lewisville, and City of Highland Village) at a cost to the Eligible Riders of \$5.00 per one-way ride for the limited purposes of medical treatments, doctor’s and dentist’s appointments, shopping for necessities, travel to and from places of employment, and participation in the TOWN’S Seniors In Motion senior citizen program; and

WHEREAS, Eligible Riders may call in at least one (1) day in advance, but no more than two (2) weeks in advance, to set-up appointments for pick-up and drop off by calling SPAN’S Transportation Office weekdays between the hours of 8:00 a.m. and 2:00 p.m.; and

WHEREAS, Demand Response Transit Service is available between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday, and such services may also be available on certain holidays depending upon SPAN’s demand and staffing availability.

NOW, THEREFORE, THE TOWN AND SPAN DO HEREBY COVENANT AND AGREE AS FOLLOWS:

1. **Recitals**

The foregoing recitals are found to be true and correct, are fully incorporated into the body of this Agreement and made a part hereof by reference just as though they are set out in their entirety.

2. **Scope of Services**

SPAN shall provide door-to-door Demand Response Transit Services to TOWN citizens who are Eligible Riders in accordance with this Agreement and SPAN's "Transportation Policy and Procedures" which is attached hereto as Exhibit "A" and incorporated herein by reference as though it were set out in its entirety ("Policy"). In the event of conflict between this Agreement and the Policy, this Agreement shall control. In performing services under this Agreement, the relationship between the TOWN and SPAN is that of an independent contractor. No term or provision of this Agreement or act of SPAN in the performance of this Agreement shall be construed as making SPAN the agent, servant, or employee of the TOWN.

3. **SPAN Operations**

- a. SPAN shall provide all equipment, facilities, qualified employees, training, and insurance necessary to establish a Demand Response Transit Service for the TOWN's Eligible Riders. SPAN shall further establish, operate, and maintain an accounting system for this program that will allow for a tracking of services provided to Eligible Riders and a review of the financial status of the program. SPAN shall also track and break down the information regarding the number of one-way trips it provides to Eligible Riders.
- b. The TOWN shall have the right to review the activities and financial records kept incident to the services provided to the TOWN's Eligible Riders by SPAN. In addition, SPAN shall provide monthly ridership information to the Executive Director of Community Services or his/her designee specifically identifying the number of Eligible Rider trips including rider origination, destination, and purpose.
- c. SPAN will be responsible for verifying and documenting the eligibility of riders. SPAN reserves the right to determine on an individual basis whether SPAN has the capability to safely transport a passenger. In the event that safety is compromised, SPAN may decline transportation for this person and must document the reason why service was declined.
- d. SPAN will inform riders that their trips to the doctor or dentist's office, hospital, drug store or other location may qualify as a Medicaid eligible trip. SPAN will direct potential Medicaid eligible riders to call Texas Health and Human Services toll free at 1-877-633-8747 (TTY: 1-800-735-2989) or 1-877-MED-TRIP on Monday through Friday between 8:00 a.m. and 5:00 p.m. at least two days before their appointment or trip to schedule free transportation through Medicaid.

4. Payment

- a. TOWN agrees to pay a reasonable fee for Demand Response Transit Service provided to Eligible Riders. Such fee for fiscal year October 1, 2017, through September 30, 2018, will be a cumulative amount not to exceed Forty-Six Thousand Seven Hundred Twenty-Five Dollars and Twelve Cents (\$46,725.12) for up to a total of one thousand eight hundred seventy-two (1,872) one-way trips for Eligible Riders, invoiced to TOWN on a monthly basis at a price per one-way trip of Twenty-Four Dollars and Ninety-Six Cents (\$24.96). Eligible Riders shall pay SPAN a price per one-way trip of Five Dollars (\$5.00) to be collected by SPAN at the time of such trip.
- b. The number of one-way trips shall be limited to a maximum of one hundred and fifty-six (156) one-way trips per month at a price of Twenty-Four Dollars and Ninety-Six Cents (\$24.96) per one-way trip payable by the Town.
- c. EXCEPTION: If the full allotment of one hundred and fifty-six (156) one-way trips has been exhausted for a particular month and additional one-way trips remain available under this Agreement SPAN may provide transportation service to an Eligible Rider needing transportation for dialysis, chemotherapy or other medically necessary treatment or therapy upon provision by the Eligible Rider to SPAN of a doctor's order documenting the need for treatment or therapy on the date such service is requested by said Eligible Rider (an "Excess One-Way Trip"). Town will pay SPAN for such Excess One-Way Trip upon submission of documentation supporting the Excess One-Way Trip provided that funds remain available under the maximum amount of this Agreement for such purpose.
- d. Excess One-Way Trips shall be deducted from the immediately following month's allotment of one hundred and fifty-six (156) one-way trips.
- e. If fewer than one hundred and fifty-six (156) one-way trips are used in any given month the unused one-way trips from that month will accrue and be available for use during the immediately following month. If unused during the immediately following month, the accrued trips shall continue to roll forward on a monthly basis until the conclusion of the Term of this Agreement.
- f. It is expressly understood and agreed that in no event under the terms of this Agreement will the total compensation to be paid hereunder exceed Forty-Six Thousand Seven Hundred Twenty-Five Dollars and Twelve Cents (\$46,725.12) for all services rendered.
- g. It is further understood and agreed that the service provided hereunder shall be secondary to and not in lieu of or as a substitute for transportation services available through or funded by Medicare and/or Medicaid or any other program, insurance or provider.
- h. If an otherwise Eligible Rider contacts SPAN for service and the Eligible Rider's trip does not qualify for payment by the Town under this Agreement and/or there are no remaining trips or funding available under this Agreement for such trip, SPAN may offer its service to an otherwise Eligible Rider at the total cost of Twenty-Nine Dollars and Ninety-Six Cents

(\$29.96) per one-way trip within the Demand Response Transit Service area to be collected by SPAN at the time of such trip.

5. Indemnification

SPAN assumes all liability and responsibility for and agrees to fully indemnify, hold harmless and defend the TOWN, and its officials, officers, agents, servants and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorney's fees, for injury to or death of a person or damage to property, arising out of or in connection with, directly or indirectly, the performance, attempted performance or nonperformance of the services described hereunder or in any way resulting from or arising out of the management, supervision, and operation of the program and activities of SPAN. In the event of joint and concurring responsibility of SPAN and TOWN, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with Texas Law, without waiving any defense of either party under Texas Law. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

6. Insurance

SPAN shall obtain public liability insurance of the types and in the amounts set forth below from an insurance carrier or underwriter licensed to do business in the State of Texas and acceptable to the TOWN. SPAN shall furnish TOWN with certificates of insurance or copies of the policies, evidencing the required insurance on or before the beginning date of this Agreement. SPAN agrees to submit new certificates or policies to TOWN on before the expiration date of the previous certificates or policies. The insurance shall be the following types in amounts not less than indicated:

- a. Comprehensive General (Public) Liability Insurance or its equivalent including minimum coverage limits of \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
- b. Automobile Liability Insurance including minimum coverage limits of \$1,000,000 per combined single limit for bodily injury and property damage.
- c. On all insurance required, SPAN shall require insurance providers to:
 - 1) Name the TOWN, and its officials, officers and employees, as additional insureds; and,
 - 2) Provide thirty (30) days written notice to TOWN of any material change to or cancellation of the insurance.

7. Assignment and Delegation

Neither party shall assign or delegate the rights or obligations under this Agreement without the prior written consent of the other party.

8. Severability

In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in full force and effect as to the balance of its provisions and shall be construed as if such invalid provision were not a part hereof.

9. Mediation

In the event of any dispute regarding this Agreement or the terms contained herein, the parties hereto agree that they shall submit such dispute to non-binding mediation.

10. Term of Agreement

The term of this Agreement shall be from October 1, 2017 through September 30, 2018. Either party may modify this Agreement by submitting, in writing, the proposed amendment to be considered and executed by both parties. This Agreement may be terminated with or without cause by either party by giving thirty (30) days written notice to the other party of their intent to terminate the Agreement. In the event the Town terminates without cause, SPAN shall be entitled to receive just and equitable compensation for any satisfactory work completed in accordance with this Agreement and prior to the termination. This Agreement shall automatically terminate upon the exhaustion of the one thousand eight hundred seventy-two (1,872) one-way trips provided for by this Agreement or the payment of Forty-Six Thousand Seven Hundred Twenty-Five Dollars and Twelve Cents (\$46,725.12) by Town to SPAN.

11. U.S. Department Of Housing And Urban Development Community Development Block Grant Funds

The services provided under this Agreement may be, in part, eligible for reimbursement from the Community Development Block Grant (CDBG) program. SPAN shall comply with all necessary requirements of the CDBG program as set forth in Exhibit "B" and incorporated herein by reference as though it were set out in its entirety. The TOWN shall assume all responsibility for CDBG submittals and required reporting, unless otherwise requested in writing to SPAN. SPAN shall provide all information necessary for TOWN to comply with CDBG requirements.

12. Applicable Law/Venue

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas, and venue for any claim or cause of action shall lie exclusively in Denton County, Texas or the Federal courts having jurisdiction over claims arising in Denton County, Texas.

13. Attorney's Fees and Costs

In the event it becomes necessary to take legal action to enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover attorney's fees and costs of court from the non-prevailing party.

IN WITNESS WHEREOF the Town of Flower Mound and Special Programs for Aging Needs, Inc. have executed this Agreement on this the _____ day of _____, 2017.

SPAN, INC:

Deborah Robertson, Executive Director

ATTEST:

TOWN OF FLOWER MOUND:

Town Secretary

Thomas E. Hayden, Mayor

FLOWER MOUND TRANSPORTATION POLICY AND PROCEDURES

SPAN Transit is the contracted service provider for the Town of Flower Mound. The service is reserved for individuals 65 years or older and/or with a professionally verified disability. It is the policy of SPAN that no person shall on the grounds of race, color, national origin, sex, age, disability, or income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity administered by SPAN.

Information in these policies and procedures includes the following:

- I. Description of SPAN Transit Services
- II. Application Process
- III. Disability Certification
- IV. How to Schedule a Trip
- V. SPAN Transit Fares
- VI. Aides, Companions and Animals
- VII. Wait Time, No Shows and Trip Cancellations
- VIII. Mobility Devices
- IX. Seatbelts and Restraints
- X. Passenger Behavior
- XI. Termination of Services
- XII. Grievance and Appeal Procedures
- XIII. Title VI Complaints
- XIV. Definitions
- XV. Frequently Asked Questions

For additional information, please call 940-382-1900.

I. Description of SPAN Transit Services in Flower Mound

Service is provided **to individuals residing in the Town of Flower Mound** to locations in Flower Mound, Lewisville, and Highland Village.

SPAN transportation service is provided by lift equipped vehicles. Operators are available to provide some assistance **upon request**. Operators are not trained to provide medical assistance.

Assistance includes:

- The operator will assist passenger from the door of a residence or pick-up location to the vehicle if needed.
- The operator will attempt to notify passengers of arrival.
- The operator will assist passengers in boarding and exiting the vehicle.
- The operator will deliver the passenger to the door of his/her destination.

Assistance DOES NOT include:

- Assistance getting in or out of a wheelchair.
- Assistance in getting ready for the trip.
- Administering medication or oxygen.
- Assisting passengers in wheelchairs up or down stairs.
- Assisting passengers on ramps deemed unsafe.
- Assisting in carrying personal belongings or purchases.

SPAN IS NOT AN EMERGENCY MEDICAL TRANSPORTATION SERVICE.

PLEASE NOTE THAT SPAN INC. POLICY DOES NOT ALLOW AN OPERATOR TO LOSE VISUAL CONTACT WITH THE AGENCY VEHICLE AT ANY TIME, FOR ANY REASON.

Service Hours

Trips can be scheduled for pick-up as early as 6:00 a.m. and drop off as late as 6:00 p.m., Monday through Friday. Currently, there is no weekend service. Service is provided throughout the year, except for the following observed holidays:

- | | |
|--------------------------|--------------------------|
| • New Year's Day | • Labor Day |
| • Martin Luther King Day | • Thanksgiving Day |
| • Memorial Day | • Day after Thanksgiving |
| • Independence Day | • Christmas Eve |
| | • Christmas Day |

II. APPLICATION

In order to use SPAN Transit, passengers must complete and submit an application. Applications can be obtained by calling the SPAN Dispatch Office at (940) 382-1900. Upon receipt of completed applications, please allow a maximum of 21 days to process applications. SPAN will begin processing properly completed applications immediately upon receipt. Only completed, signed applications will be considered for review. Once the application is fully completed, the signed original should be dropped off, mailed or faxed to:

SPAN
1800 Malone
Denton, TX 76201 940-383-8433 (fax)

Upon completion of review, Applicants will receive written notice via U.S. mail and may begin scheduling trips.

Reapplication Process

Passengers will need to reapply every three years from the date they are initially approved. Reapplication ensures that SPAN's files are accurate and contain up-to-date information. SPAN will notify passengers when they are due for reapplication.

III. DISABILITY CERTIFICATION

People with disabilities that meet regulatory criteria are entitled to reduced fares. In addition to the regular application, applicants must submit a properly completed Certification Form. Both documents must be received and reviewed to begin the application process to qualify for reduced-fare trips due to disability.

A licensed physician or certified human services professional familiar with the applicant's condition must sign the Certification Form verifying the disability and the applicant's functional limitations if applying for reduced-fare based upon disability. It is recommended that the Certification Form and Application be submitted at the same time in order to prevent delay of the application review. Examples of licensed or certified human service professionals include: Medical Doctor, Psychiatrist, Psychologist, Social Worker, Rehabilitation Professional, Physical/Occupational Therapist, Physician's Assistant, Nurse Practitioner, Registered Nurse.

Once all documentation is received, SPAN personnel will evaluate it and request, if necessary, any additional relevant information about the applicant's functional limitations related to transportation. The applicant will be notified in writing of eligibility upon determination.

Notice of Eligibility Determination

An applicant that is determined to be eligible for reduced-fare service due to disability will be mailed (to the address printed on the application) documentation of eligibility. The document will include the name of the eligible individual, the phone number of the SPAN dispatch office, an expiration date for eligibility, and any conditions or limitation on the individual's eligibility including the use of a personal care attendant. If the determination is that the person is not eligible, the written notification will state the specific reason(s) for the finding. All applicants have the right to appeal the initial determination of eligibility (see *Grievance and Appeal Procedures*). SPAN employees and SPAN Board of Directors will strive to maintain an accommodation process that is cooperative rather than adversarial in nature, attempt to fulfill disability eligibility requests when possible and will document any and all attempts at reasonable accommodations.

Recertification Process

Passengers with disabilities will need to recertify their eligibility every three years from the date they are initially approved. Re-certification is done to ensure that circumstances have not changed which would invalidate a passenger's eligibility. Recertification also ensures that SPAN's files are accurate and contain up-to-date information. SPAN reserves the right to re-certify eligibility at any time. SPAN will notify passengers when they are due for recertification.

IV. HOW TO SCHEDULE A TRIP

Trip Requests

1. Requests for service can be made from 8:00 AM until 2:00 PM, Monday through Friday by calling (940)-382-1900.
2. At the time of scheduling your reservation you will need to provide SPAN with your name, addresses of the pick-up/drop off points and the pick-up/drop off times. Please note that all schedule requests can be made as early as 14 days prior or as late as 1 day prior to the day of service.
3. Same day call-ins, including unscheduled requests or will-calls for return trips, will not be accepted. Bus drivers are not able to make unscheduled stops while in-route.

Scheduling

1. SPAN Transit is a shared ride, public transportation service. As such, we will attempt to schedule your pick-up time as close to your requested time as possible. Once our schedule is completed the day before your trip, **you must call us between 5:00 p.m. and 5:30 p.m. the day before your trip to obtain your scheduled pick-up time.** If the scheduled time is not acceptable to you, you may cancel your trip. (The trip must be cancelled by the day before in order to avoid a "late cancellation" or "no show" penalty. See *Failure to Meet the Bus*)
2. Because of traffic and other issues beyond our control, please note the vehicle may arrive **up to 15 minutes before or after** your scheduled pick-up time ("30-minute ready time window"). Once the bus has arrived, the driver **will not wait more than 5 minutes** for the scheduled passenger to board the bus.
3. Whenever possible, SPAN Transit will attempt to notify all passengers that the vehicle will be early or late (beyond the 30-minute window). This will allow the passenger time to make arrangements if the vehicle is unavoidably detained. If SPAN Transit does not have a telephone on record or if the number has been changed, we will not be able to notify the passenger of the change in pick-up time. It is the responsibility of the passenger to provide accurate and up-to-date contact information to SPAN. Please make sure that we have a current telephone number and address on file.
4. Only trips with scheduled pick-up times will be entered on the daily schedules.
5. Subscription service is available to a limited number of passengers that travel to the same place at the same time every week. If a passenger is afforded a subscription slot, the passenger will automatically be placed on the schedule for those trips. The passenger will not be required to schedule each trip separately; however subscription passengers are still required to call the day before (between 5 p.m. and 5:30 p.m.) to get their scheduled pick-up time for the following day, and must cancel subscription trips to avoid penalties.

V. SPAN TRANSIT FARES

Fare for SPAN Transit is established by Flower Mound and approved the SPAN Board of Directors. The current fare for Flower Mound is as follows:

- Flower Mound Trip Fare - \$5.00 per one way trip

Without exception, SPAN passengers must pay the bus driver promptly for that leg of the trip PRIOR to the vehicle's departure. Passengers shall pay the fare in exact change or with a pass. Bus drivers will not make change. Drivers may not take payment for a subsequent leg of your trip if that bus will not be providing the trip. A one way trip ("trip leg") is each boarding of the passenger onto the bus. Please note that if you purchase and use the passes identified below, you will need to use two (2) passes for each one way trip to pay the \$5.00 fare.

Passes

Passes may be purchased in books of 10 (for \$25.00) or 20 (for \$50.00) by submitting requests by mail or in person at the following location:

SPAN Administrative Office
1800 Malone
Denton, TX 76201

Requests submitted by mail should include the address to which the passes should be mailed along with appropriate payment in the form of a check or money order. Please do not mail cash.

VI. AIDES, COMPANIONS AND ANIMALS

Aides

An aide is a social services attendant or personal care assistant required to travel with a passenger. Aides ride for free; the aide must be picked up and dropped off at the same address as the passenger. Aides will need to be placed onto the schedule and the need for an aide must be indicated on the certification form in order for the aide to ride for free.

SPAN may require a passenger to supply their own aide. SPAN does not provide aides. Generally the following conditions warrant an aide:

- Incapable of self-mobility
- Unable to communicate
- Unable to handle common activities
- Unable to control his/her own actions
- Unable to remain seated and belted
- Unable to independently transfer from wheelchair
- Children under 15 years of age

- Others as reasonably determined by SPAN's Transportation Manager

Companions

A companion is anyone *other than an aide* who travels with a disability-certified passenger. Companions may accompany such passengers on a trip. A companion will be charged a fare comparable to the passenger. A companion must be picked up and dropped off at the same address as the passenger. An aide does not count as the one companion. Additional companions may accompany a passenger if space on the vehicle permits. Companions must be scheduled at the same time you call in to schedule your trip.

Animals

Guide dogs and other service animals are permitted on SPAN vehicles and allowed to accompany passengers if this need is indicated in the passenger's SPAN file. Other small animals are also allowed, but must be contained in an approved pet travel kennel and must be restrained in the kennel throughout the trip. When scheduling a trip, passengers must indicate that an animal will be accompanying the passenger.

VII. WAIT TIME, NO SHOWS AND TRIP CANCELLATION

Bus drivers will utilize the following guidelines concerning a person's failure to meet the SPAN vehicle.

Wait Time

SPAN bus drivers will not wait longer than five (5) minutes from the arrival time for passengers to board the vehicle. If the vehicle arrives within the 30-minute ready window (15 minutes before to 15 minutes after the scheduled pick-up time), the passenger must board the vehicle within five minutes of arrival time. Passengers or their associates may not ask the bus driver to delay this five-minute interval under any circumstances; this is to assure the timely pick-up and transportation of all SPAN passengers.

No Show

Failure to meet the vehicle within five minutes from the time of arrival will constitute a no-show. Also if a passenger fails to cancel their trip within 3 hours before the pick-up time it will also be considered a no-show. A passenger is allowed 2 no-shows per calendar month without penalty.

Late Cancellation

If a passenger cancels their trip on the day of service but does so **more than 3** hours before the pick-up time it will be considered a late cancellation. A passenger is allowed 4 late cancellations per calendar month without penalty.

Penalties

- Three (3) no-shows in a 30 day period will result in the suspension of services for 1 month. If the problem continues service can be suspended indefinitely.
- Five (5) Late Cancellations in a 30 day period will result in the suspension of services for 1 month. If the problem continues service can be suspended indefinitely.

- In addition, SPAN may impose reasonable penalties for any passenger that develops a pattern or practice of missing scheduled trips
- Subscription riders that face penalties may lose their subscription slot.

VIII. MOBILITY DEVICES

SPAN vehicles, in compliance with the ADA and the Federal Code of Regulations, are designed to carry passengers utilizing wheelchairs. A wheelchair is defined as a mobility aid belonging to any class of three or more-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. SPAN vehicles are not designed to accommodate wheelchairs weighing 600 pounds or more when occupied by the passenger. Mobility devices that do not meet these criteria are unable to be carried on SPAN vehicles.

SPAN reserves the right to deny service if carrying the passenger would be inconsistent with legitimate safety requirements.

IX. SEATBELTS AND RESTRAINTS

SPAN provides seatbelts for all passengers. Agency policy requires that all passengers utilize them at all times for their own safety as well as the safety of other passengers. All carry-on items must be safely restrained during transport. All wheeled mobility devices must be properly secured at all times the SPAN vehicle is in operation.

X. PASSENGER BEHAVIOR

To assure the safety and comfort of all passengers and the driver, the following activities are prohibited on all vehicles and persons who engage in these activities may be refused service:

- Smoking
- Eating or drinking
- Playing personal radios unless headphones are used at a volume unable to be heard by surrounding passengers
- Consuming alcoholic beverages
- Using illegal drugs
- Using obscene or abusive language
- Violent, disruptive or threatening behavior
- Shoving, pushing, or behaving in a disorderly manner
- Causing actual or potential damage to the vehicle

SPAN reserves the right to deny service (including removing the passenger from the bus) if the situation is determined to be unsafe for the passenger, other passengers, the driver or the public.

XI. TERMINATION OF SERVICES

If a passenger does not follow guidelines and procedures involving the use of SPAN Transit, services will be terminated as follows:

- If feasible a verbal warning will be given.
- If compliance is not achieved after the verbal warning, the passenger will receive a written warning in detail concerning the area of non-compliance and possible sanctions.
- If compliance is not achieved after the written warning, the passenger will be notified in writing that his/her use of all or a portion of SPAN services is terminated, with a statement of reasons for termination.

SPAN reserves the right to immediately terminate services without prior warning if a passenger poses a safety risk to himself/herself or any other person.

XII. GRIEVANCE AND APPEAL PROCEDURES

1. Any individual has the option to appeal a suspension, termination or rate eligibility determination. Appeals must be presented in writing within 60 days. SPAN's Executive Director will first hear appeals. If the Executive Director upholds the determination, the individual may request that the matter be reviewed by a panel of SPAN board members designated by the SPAN Board Chair.
2. Once an individual requests an appeal, the SPAN board member panel will review all material submitted. SPAN service will not be suspended while the SPAN board panel is considering an appeal unless suspension or termination resulted from behavior that was determined to pose a risk to the passenger or others.
3. SPAN will notify the individual, in writing, of the Executive Director's or the board panel's ruling on all appeals. This notification will outline the ruling and the reasons for it.
4. Once the individual has been informed of the board's ruling, the determination will either be dismissed or imposed on the next day of service.
5. SPAN requires that all appeals must be made within 60 days of notification of sanctions or eligibility determination.
6. All decisions made by the SPAN board panel are considered final.

SPAN Employees and SPAN Board of Directors will strive to maintain an accommodation process that is cooperative rather than adversarial in nature, attempt to fulfill eligibility requests when possible and will document any and all attempts at reasonable accommodations.

XIII. TITLE VI COMPLAINTS

A Title VI Complaint may be filed by any individual or individuals who allege they have been subjected to discrimination or adverse impact under any SPAN program or activity based on race, religion, color, national origin, sex, age or disability.

SPAN follows the Texas Department of Transportation's Title VI complaint process. Complaint forms and informational flyers are available from SPAN's Title VI Officer (Executive Director) at SPAN's office (940-382-2224) or from TxDOT (www.TxDOT.gov, 1-866-480-2518).

Complaints may be mailed to SPAN's office in Denton or directly to TxDOT's Office of Civil Rights, 125 E. 11th Street, Austin, TX 78701.

XIV. DEFINITIONS

Aide – An aide is a social services attendant or personal care assistant who accompanies a passenger to assist the passenger in utilizing SPAN's transportation service.

Companion – A companion is anyone *other than an aide* who travels with a disability-certified passenger.

Demand Response Service – Non-fixed-route shared transportation service utilizing vans or buses with passengers boarding and alighting at pre-arranged times and locations within the system's service area.

Disability -- The Americans with Disabilities Act utilizes a three-pronged definition of disability. An individual with a disability is any person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities,
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

An individual must satisfy at least one of the three prongs of the above definition in order to be considered an individual with a disability.

Mobility Device – A mechanism such as a wheelchair, a walker or a scooter, designed to aid passengers with mobility impairments. They can be either manually operated or powered.

Late Cancellation – If a passenger cancels their trip on the day of service but does so **more than 3** hours before the pick-up time it will be considered a late cancellation.

No Show – A no-show occurs when a passenger fails to cancel their trip at least 3 hours before the scheduled pick-up time or board the SPAN vehicle within 5 minutes after it arrives within the 30-minute ready-time window.

Ready Time Window – A 30 minute window from 15 minutes before to 15 minutes after the scheduled pick-up time, during which a passenger should be ready for pick-up.

Service Animals – Animals that are individually trained to perform tasks for people with disabilities, such as guiding people who are blind or who have low vision, alerting people who are deaf, pulling wheelchairs, alerting a person who is having a seizure or performing other special tasks. Service animals are working animals, not pets.

Service Area – Service is provided **to individuals residing in the Town of Flower Mound** to locations in Flower Mound, Lewisville, and Highland Village.

Subscription Service – An ongoing standing order is entered in SPAN's schedule for a passenger travelling to the same place at the same time each week.

Wheelchair – A mobility aid belonging to any class of 3 or 4-wheeled devices, usable indoors, designed for and used by passengers with mobility impairments. They may be either operated manually or powered.

XV. FREQUENTLY ASKED QUESTIONS

Question: What if I run late at my appointment?

Answer: It is suggested that riders over-estimate rather than under-estimate the travel and appointment times.

Question: Do I have to call each day to schedule a trip if the times and days that I travel are the same week to week?

Answer: No, subscription service is available when travel is at the same time and day each week. However, the passenger must call the evening before each trip to get the pick-up time, and when necessary, the passenger must remember to cancel a subscription ride to avoid a no-show being recorded. Three (3) cancellations within a 1-month period shall invalidate the subscription.

Question: Will I be taken directly to and from my destination?

Answer: Not necessarily. SPAN is public transportation and usually passengers share rides. Other passengers may be picked up and/or dropped off during your trip.

Question: What is the service area?

Answer: Service is provided **to individuals residing in the Town of Flower Mound** to locations in Flower Mound, Lewisville, and Highland Village.

Question: How many grocery bags are allowed on the bus? (Cases of drinks and large bags of pet food are not allowed)

Answer: SPAN allows each passenger to carry a maximum of 2 standard size paper grocery bags (or equivalent volume thereof in plastic bags) while riding the bus. Passengers must be able to carry groceries on and off the bus in one trip.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY
DEVELOPMENT BLOCK GRANT FUNDS

1. Statement of Work

During the period October 1, 2017 through September 30, 2018, the Town of Flower Mound may use Community Development Block Grant (CDBG) funds to reimburse SPAN for providing "Demand Response" transit service to the following citizens of the Town of Flower Mound (TOWN):

- Elderly who are 65 years and older
- Severely disabled adults who are 21 years and older and
 - o Use a wheel-chair or another special aid for six months or longer; or
 - o Are unable to perform one or more "functional activities" (i.e., seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs, or walking); or
 - o Need assistance with an "ADL" (i.e., an activity of daily living including getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating, and toileting); or
 - o Need assistance with an "IADL" (i.e., going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone); or
 - o Are prevented from working at a job or doing housework; or
 - o Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia, or mental retardation; or
 - o Are less than 65 years and covered by Medicare or receive Supplemental Social Security Income.

It is expressly agreed and understood that the total amount of CDBG funds to be paid by the TOWN under this Agreement shall not exceed Twenty Six Thousand Four Hundred Twenty Five Dollars (\$26,974.00). Costs exceeding Twenty Five Thousand Dollars (\$26,974.00) for providing Demand Response transit service to the above citizens will be paid with TOWN funds in accordance with the Agreement.

The TOWN's obligations under this Agreement are contingent upon the actual receipt of adequate CDBG funds to meet SPAN's liabilities under this Agreement. If adequate CDBG funds are not available to make payments under this Agreement, the TOWN will notify SPAN in writing within a reasonable time after such fact has been determined, so that SPAN can modify its services. The TOWN may, at its option, either reduce the amount of its liability, or terminate the Agreement. It is expressly understood that this Agreement in no way obligates the TOWN's General Fund or any other monies or credits of the TOWN for payment of the CDBG funds.

CDBG grant funds will not be used for any cost or portion thereof of which:

- Has been paid, reimbursed or is subject to payment or reimbursement from any other source;
- Was incurred prior to the beginning date, or after the ending date specified in this Agreement;

- Is not in strict accordance with the terms of this Agreement; or,
- Has not been billed to TOWN within 30 calendar days following termination of the Agreement.

CDBG grant funds reimbursed under this Agreement will not be paid to any party other than SPAN. Upon termination of this Agreement, should any expense for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by the TOWN, the Department of Housing and Urban Development, or any other federal agency, SPAN will refund such amount to the TOWN within ten working days of a written notice to SPAN, which specifies the amount disallowed. Refunds of disallowed costs may not be made from these or any funds received from or through the TOWN.

2. Records and Reports

SPAN agrees to maintain records that provide accurate, current, separate, and complete disclosure of the status of the CDBG funds received under this Agreement. SPAN shall retain all records pertinent to expenditures incurred under this Agreement for five years from the date of termination of the Agreement. If there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs first.

SPAN agrees to grant access by the TOWN, the U. S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of SPAN which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

At the time SPAN submits a request to TOWN for reimbursement, SPAN shall provide a report to TOWN identifying the costs by line item and the actual ridership provided, including name, address, age, disability, and race. SPAN will provide TOWN staff access to records necessary to obtain documentation to support CDBG eligibility requirements.

3. Program Income

No program income will be generated under this Agreement.

4. Uniform Administrative Requirements

In regard to CDBG funds provided under this Agreement, SPAN agrees to comply with the requirements of Title 24: Housing and Urban Development of the Code of Federal Regulations (CFR) Part 570.502 concerning Community Development Block Grants (CDBG). The TOWN has a copy available for review or reproduction. SPAN also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the CDBG funds provided under this Agreement.

5. Other Program Requirements

SPAN further agrees to utilize CDBG funds available under this Agreement to supplement rather than supplant funds otherwise available. For example, if an eligible rider's fee is partially paid by other funds, CDBG funds will be used to pay only the difference in cost for the ride. CDBG grant funds will not be used to fund any claims, actions, suits, charges or judgments whatsoever that arise out of SPAN's performance or nonperformance of the services or subject matter called for in the Agreement. SPAN shall:

- Hold harmless, defend, and indemnify TOWN from any and all claims, actions, suits, charges and judgments whatsoever that arise out of SPAN's performance or nonperformance of the services or subject matter called for in the Agreement;
- Comply with the bonding and insurance requirements of OMB Circular A-110 (Flower Mound has a copy available for review or reproduction). Actual losses not covered by insurance as required by this Agreement are not allowable costs under this Agreement and remain the sole responsibility of SPAN;
- Comply with all applicable equal employment opportunity and affirmative action laws or regulations;
- Provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement;
- Maintain adequate and continuous liability insurance on all vehicles owned, leased or operated that are used to provide services under this Agreement; and,
- Ensure that all drivers possess a valid Texas driver's license.

6. Conditions for Religious Organizations

SPAN shall provide all services under this Agreement in a manner that is exclusively non-religious in nature and scope. There shall be no religious services, proselytizing, instruction or any other religious preference, influence or discrimination in connection with providing these services.

7. Reversion of Assets

Payment for allowable costs under the terms of the Agreement is on a reimbursement basis. Expenditures will not be reimbursed to SPAN for the purchase of real property or equipment. These are not allowable costs under this Agreement.

SPAN, INCORPORATED

ANNUAL FINANCIAL REPORT

YEAR ENDED SEPTEMBER 30, 2016

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Members:
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC
ACCOUNTANTS
TEXAS SOCIETY OF CERTIFIED
PUBLIC ACCOUNTANTS

**HANKINS, EASTUP, DEATON,
TONN & SEAY**
A PROFESSIONAL CORPORATION

CERTIFIED PUBLIC ACCOUNTANTS

902 NORTH LOCUST
P.O. BOX 977
DENTON, TX 76202-0977

TEL. (940) 387-8563
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INDEPENDENT AUDITORS' REPORT

To the Board of Directors
SPAN, Incorporated
Denton, Texas

Report on the Financial Statements

We have audited the accompanying financial statements of SPAN, Incorporated (a nonprofit organization), which comprise the statement of financial position as of September 30, 2016, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of SPAN, Incorporated as of September 30, 2016, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Other Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards, as required by Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated January 30, 2017, on our consideration of SPAN, Incorporated's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering SPAN, Incorporated's internal control over financial reporting and compliance.

Hankins, Eastup, Deaton, Tonn & Seay

Hankins, Eastup, Deaton, Tonn & Seay, PC
Denton, Texas

January 30, 2017

FINANCIAL SECTION

SPAN, INCORPORATEDSTATEMENT OF FINANCIAL POSITION
SEPTEMBER 30, 2016ASSETS

Current Assets:

Cash	\$ 616,661	
Accounts receivable	374,425	
Prepaid expenses	<u>5,277</u>	
Total Current Assets		\$ 996,363

Property and equipment:

Land	181,100	
Building	599,323	
Transportation equipment	2,087,685	
Office/Shop furniture and equipment	<u>278,015</u>	
	3,146,123	
Less accumulated depreciation	<u>(1,816,268)</u>	
Net Property and Equipment		<u>1,329,855</u>
Total Assets		<u>\$2,326,218</u>

LIABILITIES AND NET ASSETS

Current Liabilities:

Accounts payable	\$ <u>39,531</u>	
Total Current Liabilities		\$ 39,531

Net Assets:

Unrestricted	2,286,687	
Temporarily restricted	<u>-</u>	
Total Net Assets		<u>2,286,687</u>
Total Liabilities and Net Assets		<u>\$2,326,218</u>

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATEDSTATEMENT OF ACTIVITIES
YEAR ENDED SEPTEMBER 30, 2016

	<u>Unrestricted</u>	<u>Temporarily Restricted</u>	<u>Total</u>
Support and Revenue:			
Support			
Contributions	\$ 114,307		\$ 114,307
Support from local governments	168,188		168,188
United Way	59,520		59,520
Total Support	<u>342,015</u>		<u>342,015</u>
Revenue:			
Transportation grants	1,583,718		1,583,718
Transportation contracts	379,783		379,783
Aging grants	482,975		482,975
Aging contracts	87,671		87,671
Transportation program income	295,926		295,926
Meals program income	31,065		31,065
Miscellaneous	5,397		5,397
Interest income	115		115
Loss on disposition of property and equipment	<u>(187,587)</u>		<u>(187,587)</u>
Total Revenue	<u>2,679,063</u>		<u>2,679,063</u>
Net assets released from restrictions:			
Satisfaction of usage restrictions	847	\$ (847)	
Total Support and Revenue	<u>3,021,925</u>	<u>(847)</u>	<u>3,021,078</u>
Expenses:			
Functional Expenses:			
Transportation program	2,148,588		2,148,588
Senior citizen meals and other services	747,975		747,975
Management and general	100,312		100,312
Fundraising	32,960		32,960
Total Expenses	<u>3,029,835</u>		<u>3,029,835</u>
Change in net assets	(7,910)	(847)	(8,757)
Net Assets, Beginning of Year	<u>2,294,597</u>	<u>847</u>	<u>2,295,444</u>
Net Assets, End of Year	<u>\$ 2,286,687</u>	<u>\$ -</u>	<u>\$ 2,286,687</u>

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATEDSTATEMENT OF CASH FLOWS
YEAR ENDED SEPTEMBER 30, 2016

Cash Flows From Operating Activities:

Change in net assets	\$ (8,757)	
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation	365,562	
Increase in accounts receivable	(82,833)	
Increase in prepaid expenses	(2,514)	
Decrease in accounts payable	(5,075)	
Loss on disposition of property and equipment	<u>187,587</u>	
Net Cash Provided By Operating Activities		\$ 453,970

Cash Flows From Investing Activities:

Purchase of property and equipment	(344,883)	
Proceeds from sale of property and equipment	<u>13,432</u>	
Net Cash Used by Investing Activities		<u>(331,451)</u>

Net increase in cash and cash equivalents	122,519
Cash and cash equivalents - September 30, 2015	<u>494,142</u>
Cash and cash equivalents - September 30, 2016	<u>\$ 616,661</u>

Supplemental disclosure:

Interest paid during the year	\$	-
Income taxes paid during the year	\$	-

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATEDSTATEMENT OF FUNCTIONAL EXPENSES
YEAR ENDED SEPTEMBER 30, 2016

	<u>Program Services</u>		<u>Support Services</u>		
		Senior Citizen	Management		
		Meals and	and		
	<u>Transportation</u>	<u>Other Services</u>	<u>General</u>	<u>Fundraising</u>	<u>Total</u>
Salaries and wages	\$ 1,087,832	\$ 225,189	\$ 74,123	\$ 24,707	\$1,411,851
Payroll taxes	85,656	17,922	5,847	1,949	111,374
Workers compensation					
insurance	27,827	10,875	2,185	728	41,615
Health insurance	112,320	34,705	8,299	2,767	158,091
Retirement	9,002	4,673	773	257	14,705
Travel	2,092	2,900			4,992
Occupancy	18,454	7,195	1,013	337	26,999
Insurance	53,035	3,715	864	288	57,902
Telephone	20,909	6,791	1,093	364	29,157
Office expense	9,742	5,002	832	278	15,854
Conferences and meetings	4,050	2,391	537	179	7,157
Advertising	7,995	218			8,213
Professional fees	8,088	3,160	938	312	12,498
Computer and					
equipment expenses	16,233	1,508	700	233	18,674
Fundraising expenses				390	390
Fuel and oil	168,815				168,815
Licensing	6,609				6,609
Vehicle repairs					
and maintenance	127,863				127,863
Health testing	2,265				2,265
Uniforms	5,900				5,900
Miscellaneous	21,160	2,679	2,594		26,433
Cost of meals		402,157			402,157
Equipment maintenance/fees		4,759			4,759
 Total Expenses					
Before Depreciation	1,795,847	735,839	99,798	32,789	2,664,273
 Depreciation of Property					
and Equipment	352,741	12,136	514	171	365,562
 Total Expenses	<u>\$2,148,588</u>	<u>\$ 747,975</u>	<u>\$ 100,312</u>	<u>\$ 32,960</u>	<u>\$3,029,835</u>

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATEDNOTES TO THE FINANCIAL STATEMENTS
SEPTEMBER 30, 2016

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**A. Nature of Activities**

SPAN, Incorporated (SPAN) is a not-for-profit agency established to provide transportation, meals and other services to senior citizens and others within the community.

B. Financial Statement Presentation

The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States. Net assets and revenues, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Organization and changes therein are classified and reported as follows:

Unrestricted net assets - Net assets that are not subject to donor-imposed stipulations.

Temporarily restricted net assets - Net assets subject to donor-imposed stipulations that may or will be met, either by actions of the Organization and/or the passage of time. When a restriction expires, temporarily restricted net assets are reclassified to unrestricted net assets and reported in the statement of activities as net assets released from restrictions.

C. Description of Programs

Transportation - SPAN provides transportation programs for citizens throughout Denton County. Programs include demand response transportation in Denton County for senior citizens, persons with disabilities, and the general public. Funding for these programs is provided through Federal and State transportation grants and contracts; fares and donations received from riders; and local public and private support.

Senior Citizen Meals and Other Services - Daily (Monday through Friday) hot meals are served to senior citizens at ten sites throughout Denton County. The program also includes home delivered meals to qualifying home-bound senior citizens. Funding for the meal programs is provided by Federal and State aging grants, donations from meal recipients and local public and private support. SPAN also provides a variety of programs for senior citizens including information and referral and recreational activities at senior centers.

SPAN, INCORPORATEDNOTES TO THE FINANCIAL STATEMENTS
SEPTEMBER 30, 2016

NOTE 1 – SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**D. Contributions**

Contributions, including unconditional promises to give, are recorded as made. All contributions are available for unrestricted use unless specifically restricted by the donor. Conditional promises to give are recognized when the conditions on which they depend are substantially met. Unconditional promises to give due in the next year are recorded at their net realizable value. Unconditional promises to give due in subsequent years are reported at the present value of their net realizable value, using risk-free interest rates applicable to the years in which the promises are to be received.

E. Property and Equipment

Expenditures for property and equipment are stated at cost. Donated property and equipment is recorded at its estimated fair market value at the date of donation.

Depreciation of property and equipment is calculated on the straight-line method over the following estimated useful lives:

Buildings	31.5 years
Vehicles	4-10 years
Equipment	4-8 years
Furniture and fixtures	7-10 years

F. Contributed Services and Materials

SPAN receives donated services from a variety of unpaid volunteers assisting SPAN in its programs. No amounts have been recognized in the accompanying statement of activities because the criteria for recognition of such volunteer effort under SFAS No. 116 have not been satisfied.

G. Income Taxes

SPAN is exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3) and therefore has made no provision for Federal income taxes. In addition, SPAN has been determined by the Internal Revenue Service not to be a "private foundation" within the meaning of Section 509(a) of the Internal Revenue Code. There was no unrelated business income.

H. Functional Allocation of Expenses

The costs of providing SPAN's various programs and supporting services have been summarized on a functional basis in the statement of activities. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

SPAN, INCORPORATED**NOTES TO THE FINANCIAL STATEMENTS
SEPTEMBER 30, 2016**

NOTE 1 – SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**I. Cash Equivalents**

For purposes of the statement of cash flows, SPAN considers all cash and other highly liquid investments with initial maturities of three months or less to be cash equivalents.

J. Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

NOTE 2 – LINE OF CREDIT

SPAN has entered into a line of credit financing agreement with Wells Fargo Bank. The agreement allows for borrowings of up to \$175,000. Interest payments are due monthly at the prime rate plus 1.50% (4.75% at September 30, 2016) with a minimum interest rate of 5.0%. During the year ended September 30, 2016, there were no borrowings outstanding under the line of credit. The financing agreement expires February 2, 2017 at which time any amounts of principal and interest are due.

NOTE 3 – CONCENTRATIONS OF RISK

SPAN maintains several bank accounts at three banks. Accounts at an institution are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000. Cash held at Wells Fargo Bank exceeded Federally insured limits at certain times during the year. At September 30, 2016, cash balances at Wells Fargo Bank were \$438,546.

SPAN receives a significant portion of its revenues under transportation grants from Texas Department of Transportation (TXDOT) and North Central Texas Council of Governments (NCTCOG). Revenue from these grants were \$685,258 from TXDOT and \$854,561 from NCTCOG during the year ended September 30, 2016.

SPAN also received \$499,859 in aging and transportation grants from the Area Agency on Aging.

NOTE 4 – RETIREMENT PLAN

SPAN sponsors a retirement plan for its employees. The plan is a salary reduction retirement plan under Internal Revenue Code Section 403(b). Under the plan, employees can elect to contribute to the plan, up to Internal Revenue Code limits. SPAN matches eligible employee's contributions up to three percent of the employee's compensation. During the fiscal year ended September 30, 2016, SPAN contributed \$14,705 in matching contributions to the plan.

SPAN, INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS
SEPTEMBER 30, 2016

NOTE 5 – FAIR VALUE OF FINANCIAL INSTRUMENTS

The carrying amounts of cash, accounts receivable, accounts payable, and deferred revenue reported in the statement of financial position approximate fair values because of the short maturities of those instruments.

NOTE 6 – SUBSEQUENT EVENTS

Management has reviewed events subsequent to September 30, 2016 through January 30, 2017, which is the date the financial statements were available to be issued. No subsequent events were identified that were required to be recorded or disclosed in the financial statements.

FEDERAL AWARDS SECTION

✱

Members:
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC
ACCOUNTANTS
TEXAS SOCIETY OF CERTIFIED
PUBLIC ACCOUNTANTS

**HANKINS, EASTUP, DEATON,
TONN & SEAY**
A PROFESSIONAL CORPORATION
CERTIFIED PUBLIC ACCOUNTANTS

902 NORTH LOCUST
P.O. BOX 977
DENTON, TX 76202-0977
TEL. (940) 387-8563
FAX (940) 383-4746

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

To the Board of Directors
SPAN, Incorporated
Denton, Texas

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of SPAN, Incorporated (a nonprofit organization), which comprise the statement of financial position as of September 30, 2016, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated January 30, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered SPAN, Incorporated's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of SPAN, Incorporated's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether SPAN, Incorporated's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. This report is an integral part of the audit performed in accordance with *Government Auditing Standards* in considering the organization's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



Hankins, Eastup, Deaton, Tonn & Seay, PC
Denton, Texas

January 30, 2017

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INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM
AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY
THE UNIFORM GUIDANCE

To the Board of Directors
SPAN, Incorporated
Denton, Texas

Report on Compliance for Each Major Federal Program

We have audited SPAN, Incorporated's compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of SPAN, Incorporated's major federal programs for the year ended September 30, 2016. SPAN, Incorporated's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of finding and questioned costs.

Management's Responsibility

Management is responsible for compliance with the requirements of laws, regulations, contracts, and grants applicable to its federal programs.

Auditors' Responsibility

Our responsibility is to express an opinion on compliance for each of SPAN, Incorporated's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about SPAN, Incorporated's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of SPAN, Incorporated's compliance.

Opinion on Each Major Federal Program

In our opinion, SPAN, Incorporated complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2016.

Report on Internal Control Over Compliance

Management of SPAN, Incorporated is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered SPAN, Incorporated's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of SPAN, Incorporated's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Hankins, Eastup, Deaton, Tonn & Seay

Hankins, Eastup, Deaton, Tonn & Seay, PC
Denton, Texas

January 30, 2017

SPAN, INCORPORATED

**SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED SEPTEMBER 30, 2016**

I. Summary of Auditors' Results**Financial Statements**

Type of auditors' report issued:	Unmodified
Internal control over financial reporting:	
Material weakness(es) identified?	No
Significant deficiencies identified that are not considered to be material weaknesses?	None reported.
Noncompliance material to financial statements noted?	No

Federal Awards

Internal control over major federal programs:	
Material weakness(es) identified?	No
Significant deficiencies identified that are not considered to be material weaknesses?	None reported.
Type of auditors' report issued on compliance for major federal programs:	Unmodified
Any audit findings disclosed which are required to be reported in accordance with 2 CFR 200.516(a)?	No
Identification of major programs:	
Name of Federal Program or Cluster	CFDA Numbers
U.S. Department of Transportation: Public Transportation for Nonurbanized Areas	20.509
Dollar threshold used for distinguishing between Type A and Type B federal programs?	\$750,000
Auditee qualified as low-risk auditee?	Yes

SPAN, INCORPORATED

SCHEDULE OF FINDINGS AND QUESTIONED COSTS (CONTINUED)
YEAR ENDED SEPTEMBER 30, 2016

II. Financial Statement Findings

None

III. Federal Awards Findings and Questioned Costs

None

SPAN, INCORPORATED

SCHEDULE OF STATUS OF PRIOR FINDINGS
YEAR ENDED SEPTEMBER 30, 2016

PROGRAM

DESCRIPTION

No findings were noted in the prior year.

SPAN, INCORPORATED

CORRECTIVE ACTION PLAN
YEAR ENDED SEPTEMBER 30, 2016

PROGRAM

DESCRIPTION

None required.

SPAN, INCORPORATEDSCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED SEPTEMBER 30, 2016

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Agency or Pass-Through Number</u>	<u>Federal Expenditures</u>
<u>U.S. Department of Health and Human Services</u>			
Pass-through Texas Department on Aging: Contracted through the North Central Texas Council of Governments Area Agency on Aging:			
Special Programs for the Aging; Title III, Part D	93.043	N/A	<u>310</u>
Aging Cluster:			
Title III, Part B – Supporting Services and Senior Centers *	93.044	N/A	\$ 28,543
Title III, Part C – Nutrition Services *	93.045	N/A	380,215
Nutrition Services Incentive Program *	93.053	N/A	<u>57,158</u>
Subtotal – Aging Cluster			<u>465,916</u>
Total U.S. Department of Health and Human Services			<u>466,226</u>
<u>U.S. Department of Transportation</u>			
Pass-through Texas Department of Transportation:			
Public Transportation for Nonurbanized Areas	20.509	RPT-1602(18)013/7310	7,729
Public Transportation for Nonurbanized Areas	20.509	RPT-1502(18)39/5327	<u>389,010</u>
Total CFDA 20.509			<u>396,739</u>
Enhanced Mobility of Seniors and Individuals with Disabilities	20.513	ED-1602(18)30/7639	<u>30,000</u>
Bus and Bus Facilities Formula Program **	20.526	VCR-1401(18)03/51418F7249	<u>24,372</u>
Subtotal			<u>451,111</u>

SPAN, INCORPORATEDSCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (CONTINUED)
YEAR ENDED SEPTEMBER 30, 2016

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Agency or Pass-Through Number</u>	<u>Federal Expenditures</u>
<u>U.S. Department of Transportation (continued)</u>			
Pass-through North Central Texas Council of Governments:			
Federal Transit – Formula Grants (Urbanized Area Formula Program) **	20.507	N/A	787,697
Enhanced Mobility of Seniors And Individuals with Disabilities	20.513	N/A	66,864
Subtotal			<u>854,561</u>
Total U.S. Department of Transportation			<u>1,305,672</u>
Total Expenditures of Federal Awards			<u>\$1,771,898</u>

* Clustered Programs – Aging Cluster

** Clustered Programs – Federal Transit Cluster

SPAN, INCORPORATED**NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED SEPTEMBER 30, 2016**

NOTE 1 – BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards (the "Schedule") includes the federal grant activity of SPAN, Incorporated ("SPAN") under programs of the federal government for the year ended September 30, 2016. The information in this schedule is presented in accordance with the requirements of the Uniform Guidance. Because the schedule presents only a selected portion of the operations of SPAN, it is not intended to and does not present the financial position, changes in net assets or cash flows of SPAN.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

SPAN accounts for all awards under federal programs using the accrual basis of accounting in accordance with accounting principles generally accepted in the United States. This basis of accounting recognizes revenue in the accounting period in which they are earned, and expenses in the accounting period in which the liability is incurred. Expenses are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenses are not allowable.



July 27, 2017

Mr. Chuck Jennings
Recreation Superintendent
Town of Flower Mound
2121 Cross Timbers Rd.
Flower Mound, TX 75028

Dear Mr. Jennings:

We are pleased to submit a proposal for fiscal year 2018 to again provide transportation service for Town of Flower Mound citizens who are elderly persons and Town citizens with verifiable disabilities that prevent them from driving. Eligible riders would be taken anywhere in the service area (Flower Mound, Lewisville and Highland Village) for the limited purposes of medical treatments, doctor and dentist appointments, employment, shopping for necessities, and participation in the Town's Seniors In Motion senior citizen program.

The new rate proposed by SPAN is \$29.96 per one-way trip for fiscal year 2018. This is less than our projected cost based on Span's per-trip cost for last year as reported to TxDOT and year-to-date efficiency data for Flower Mound trips for the current fiscal year. However, we have decided to keep your rate the same as FY 2017. After deducting the \$5.00 fare that passengers pay, the Town of Flower Mound would subsidize \$24.96 for each ride. Furthermore, Span understands the program budget is \$46,725.12 for Fiscal Year 2018, which averages about 156 trips per month and we will notify Town staff if service levels begin trending over budget.

Please let me know if you have any questions regarding this proposal or require additional information. We will be happy to appear at the Town Council meeting when scheduled to answer questions or address any issues the Council or public may have.

Thanks again for the opportunity to continue to serve Flower Mound through our transportation services.

Best regards,

A handwritten signature in blue ink, appearing to read 'Deborah Robertson'.

Deborah Robertson
Executive Director



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: August 21, 2017

FROM: Andy Kancel, Chief of Police *AK*
Wendell Mitchell, Assistant Chief of Police *WM*

ITEM: **Consider approval of an agreement with LexisNexis for the Desk Officer Reporting System in the amount of \$24,750.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: Desk Officer Reporting (DOR) is a web based system that was an approved decision package in FY 2016-2017 budget. The system allows an individual who is the victim or of select offenses, generally misdemeanor property and identity theft crimes, the opportunity and flexibility of reporting incidents to the Flower Mound Police Department at their convenience from any location with web access. The impetus for this service was those offenses, which often require a report to law enforcement for either insurance purposes or to submit an identity theft affidavit. The use of DOR to report these types of offenses also benefits the police department by keeping officers available to respond to emergency calls for service.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: To continue to have officers respond to the location or for the victim to come by the police department to file an offense report.

FISCAL IMPACT: 24,750.00

Proposed Expenditure:	Account Number(s):
\$24,750.00	100-640-43500-5110

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

LEGAL REVIEW: Jeremy Page of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the agreements as to form and legality.

ATTACHMENTS:

1. Order No. 1 LexisNexis® Desk Officer Reporting System (DORS)
2. LAW ENFORCEMENT AGREEMENT
3. LexisNexis® Desk Officer Reporting System (DORS) Quote
4. LexisNexis® Desk Officer Reporting System (DORS) Sole Source Letter
5. Town of Flower Mound Sole Source Justification

DRAFT MOTION: Move to approve the agreement with LexisNexis for the Desk Officer Reporting System in the amount of \$24,750.00; and authorization for the Mayor to execute same on behalf of the Town.



Order No. 1
LexisNexis® Desk Officer Reporting System (DORS)

This Order No. 1 ("Order") is entered into this 21st day of August 2017 ("Order Effective Date") between Flower Mound Police Department ("Agency") and LexisNexis Claims Solutions Inc., on behalf of itself and its Affiliates ("Provider") and subject to the terms and conditions of the Law Enforcement Agreement effective August 21, 2017 ("Agreement") between the Parties.

1. TERMS AND CONDITIONS.

All of the terms and conditions contained in the Agreement shall remain in full force and effect and shall apply to the extent applicable to this Order except as expressly modified herein. To the extent that the terms and conditions of this Order are in conflict with the terms and conditions of the Agreement, or any other incorporated item, this Order shall control. Capitalized terms used herein but not defined shall have the same meaning as set forth in the Agreement.

2. DESCRIPTION OF SERVICES.

Provider, as part of its business has developed and makes available to law enforcement entities an online citizen reporting system called LexisNexis® Desk Officer Reporting System ("DORS") enabling individuals, retail companies and other organizations to file reports, crime tips and other forms online to law enforcement.

3. SCOPE OF SERVICES.

Provider agrees to provide the following Services to Agency subject to the provisions of this Order. Any change to the Services as set forth in this Order that occur after the Order Effective Date must be made by amendment to this Order, signed by both Parties. Provider will provide the following Services described below subject to Agency's technology capabilities, processes, and work-flow functionality.

3.1. Services. DORS uses the J2EE standard. DORS is designed to gather information on incidents from a member of the general public (user) via an SSL connection. DORS will issue a temporary report number to the user and place the temporary report into an administrative holding area for review and modification by appropriate Agency administrator. An email is generated to the user that the report has been submitted. The Agency administrator logs in via an SSL connection and approves, rejects, edits or prints reports as appropriate. Rejecting a report deletes it from the DORS system and sends an appropriate email to the user. Approving the report issues a number, places it in a queue to be exported (as determined during implementation), and sends an appropriate email to the user. The Agency administrator and user can download the approved report and/or print the approved report out. Provider shall provide Report retention and distribution services as set forth in in Section 3 of the Agreement, including an on-line Report distribution website.

3.2. Setup and Access.

Agency Responsibilities.

- a) Coordinate with Provider to establish dates for deployment within the DORS implementation schedule tab;
- b) Provide images for (i) website header image (ii) temporary citizen report image and (iii) final printed PDF report image;
- c) Load provided HTML pages onto Agency website which links to Provider's servers for the Services;
- d) Provide Provider with the schema for the desired file format and/or database schema;
- e) Enable Provider read /write access and test environment with current configuration
- f) Enable Provider VPN access to the exporter, RMS application(s), and other information required for report bridge installation;
- g) Provide timely responses to Provider's questions, which may arise during the setup and configuration process.

Provider Responsibilities.

- a) Coordinate with Agency to establish schedule for deployment within the DORS implementation schedule tab.

- b) Register Agency within Provider's network and load Agency provided images into Agency's implementation of DORS.
- c) Provide Agency with administrator password and credentials for the Services.
- d) Provide Agency with sample operational directives, deployment strategies and sample press release.
- e) Provide Agency with suggestions for the successful deployment of the Services.
- f) Provide Agency with instructions on the easy setup of a kiosk for Agency's headquarters lobby, etc.

Completion Criteria.

This task is considered complete after Provider has delivered listed materials.

3.3. Configuration.

Agency Responsibilities.

- a) Coordinate with Provider for web training session on administering the program, using the dynamic creation tools, "Triple Lock" login features, user account including deploying the "Secure side filing feature".
- b) Using the administrator account, login in and configure the code tables, crime types, user account, and dynamic content for Agency.
- c) Test the optional interface with the RMS application.
- d) Review resulting files with Provider, document any problems, and collaborate with Provider on a plan for corrective action(s).
- e) Provide necessary files for RMS integration.

Provider Responsibilities

- a) Coordinate with Agency for web training session on administering the program, using the dynamic creation tools, "Triple Lock" login features, user account including deploying the "Secure side filing feature".
- b) Configure export routine for the optional RMS Interface with information provided.
- c) Review resulting files with Agency, document any problems, and collaborate with Agency on a plan for corrective action(s).

Completion Criteria

This task is considered complete when the DORS is accessible on Provider's web server and reports can be filed and Provider has completed development of the RMS interface.

- 3.4. Support and Maintenance.** Provider will provide Support and Maintenance Services in accordance with the terms and conditions set forth in Section 4 of the Agreement.

4. TERM AND TERMINATION.

This Order shall commence upon the Order Effective Date and shall continue for an initial term of twelve (12) months ("Initial Term"), whereupon this Order shall automatically renew for additional four (4) twelve (12) month periods (each twelve month period a "Renewal Term") unless either Party provides written notice to the other Party, at least forty five (45) days prior to the expiration of a Renewal Term.

5. FEES AND PRICE ADJUSTMENTS.

The Fees for the Services shall be subject to the terms set forth in Section 5 of the Agreement.

- 5.1.** Provider will not charge an Agency Fee for the sale of Reports under this Order. Additionally, Provider will not charge a Convenience Fee for Reports provided to the individual or entity that created the Report using the Services. Provider will charge a Convenience Fee for those Reports provided to Authorized Requestors who are representatives of individuals involved in the incident and/or authorized entities permitted access to Reports by law.

- 5.2.** One Time Set Up Fee. Agency shall pay a one-time set up fee for the Services in the amount of Thirteen Thousand Five Hundred and 00/100 (\$13,500.00) which shall be invoiced on the Order

Effective Date.

5.3. Annual Fee. Agency shall pay an annual license fee for the Services which includes Support and Maintenance Services as follows:

Year 1 Annual Fee: Eleven Thousand Two Hundred Fifty and 00/100 (\$11,250.00)
 Year 2 Annual Fee: Eleven Thousand Eight Hundred Thirteen and 00/100 (\$11,813.00)
 Year 3 Annual Fee: Twelve Thousand Four Hundred Four and 00/100 (\$12,404.00)
 Year 4 Annual Fee: Thirteen Thousand Twenty Four and 00/100 (\$13,024.00)
 Year 5 Annual Fee: Thirteen Thousand Six Hundred Seventy Five and 00/100 (\$13,675.00)

IN WITNESS WHEREOF, the Parties have caused this Order to be executed by their respective authorized representatives as of the Effective Date.

Provider: LexisNexis Claims Solutions Inc.

Agency: Town of Flower Flower Mound

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

LAW ENFORCEMENT AGREEMENT

This Law Enforcement Agreement (“Agreement”) is dated August 21, 2017 (“Effective Date”) by and between LexisNexis Claims Solutions Inc., on behalf of itself and its Affiliates with its principal place of business at 1000 Alderman Drive, Alpharetta, Georgia 30005 (“Provider”), and Flower Mound Police Department, with its principal place of operations at 4150 Kirkpatrick Lane, Flower Mound, Texas 75028 (“Agency”). Provider and Agency may be referred to herein individually as a “Party” and collectively referred to as “Parties”. “Affiliate” means any corporation, firm, partnership or other entity that directly or indirectly controls, or is controlled by, or is under common control with Provider.

1. SCOPE.

Provider as part of its business has developed several comprehensive products and services for law enforcement. Subject to the terms and conditions of this Agreement, Agency desires to order and Provider agrees to provide the various products and services contained herein (collectively referred to as the “Services”) as described in an applicable order to this Agreement (“Order”). The Parties acknowledge Agency is a law enforcement entity with responsibility for the documentation, retention, and management of information and reporting related to vehicle accidents, citations, and incidents occurring within its jurisdiction (as used within this Agreement, each documented event is a “Report”). “Report” shall also include any associated or supplemental information provided with the Report including Agency name, images and upload date, as applicable.

2. LICENSE AND RESTRICTIONS.

- 2.1 License Grant and License Restrictions. Upon execution of an applicable Order, Provider hereby grants to Agency a restricted, limited, revocable license to use the Services only as set forth in this Agreement and any applicable Order, and for no other purposes, subject to the restrictions and limitations set forth below:
- a. Agency shall not use the Services for marketing or commercial solicitation purposes, resell, or broker the Services to any third-party or otherwise use the Services for any personal (non-law enforcement) purposes; and
 - b. Agency shall not access or use Services from outside the United States without Provider’s prior written approval; and
 - c. Agency shall not use the Services to create a competing product or provide data processing services to third parties; and
 - d. Agency’s use of the Services hereunder will not knowingly violate any agreements to which Agency is bound; and
 - e. Agency shall not harvest, post, transmit, copy, modify, create derivative works from, tamper, distribute the Services, or in any way circumvent the navigational structure of the Services, including to upload or transmit any computer viruses, Trojan Horses, worms or anything else designed to interfere with, interrupt or disrupt the normal operating procedures of Services; and
 - f. Agency may not use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortuous material, or to store or transmit material in violation of third-party privacy rights or otherwise infringe on the rights of others; and
 - g. Agency shall not reveal any user accounts or passwords for the Services to any third parties (third parties shall not include Agency’s employees who have a need to know such information); and
 - h. Agency shall not permit any third party (third parties shall not include Agency’s employees who have a need to know such information) to view or use the Services, even if such third party is under contract to provide services to Agency; and
 - i. Agency shall comply with all laws, regulations, and rules which govern the use of the Services.
- 2.2 Other Restrictions. In addition Provider may impose restrictions and/or prohibitions on the Agency’s use of the Services, or certain data or no longer offer certain functionalities or features that may be the result of a modification in Provider policy, a modification of third-party agreements, a modification in industry standards, a Security Event (defined below), a change in law or regulation, or the interpretation thereof. Upon written notification by Provider of such restrictions, Agency agrees to comply with such restrictions or, in the event that Agency is unable to comply, it shall notify Provider in writing of its inability to comply within ten (10) days after receipt of Provider’s written notification. In that event, either Party may immediately terminate this Agreement by providing written notice thereof to the other Party without such termination constituting a breach of this Agreement. Provider shall be Agency’s designated preferred provider of such Services as are mutually agreed to and defined hereunder, related to the handling of Agency’s Reports.
- 2.3 Violation of License Terms and / or Restrictions. Agency agrees that, if Provider determines or reasonably suspects that: (i) Agency is violating any license terms, restrictions, or other material provision of the Agreement; or (ii) Agency has experienced a Security Event (as herein defined), Provider may, at its sole option, take immediate action up to and including, without further obligation or liability of any kind, terminating Agency’s account and the license to use the Services.

3. RETENTION / DISTRIBUTION.

For all Services provided hereunder that involve Reports, Provider will maintain a copy of each Report for a period of no less than seven (7) years from the date of the Report. Provider will distribute Reports and/or specific data extracted from the Report to individuals or legal entities ("Authorized Requestors") and other authorized law enforcement entities ("Agency Requestors") in accordance with an applicable Order and all applicable laws and regulations.

4. SUPPORT AND MAINTENANCE.

- 4.1. Ongoing Maintenance. Provider will, from time-to-time issue and/or provide maintenance including bug fixes, enhancements, new features, or new functionality that are generally made available to customers along with any corresponding changes to documentation ("Maintenance"). Maintenance does not include work to custom code, customized configurations, or to unauthorized modifications of the Services. Any Provider assistance beyond standard Maintenance will be billed at Provider's then current pricing schedule, as agreed upon in advance by the Parties. Additionally, upon Agency's written notice of new or revised legislation, statutes, or ordinances requiring any Services to be updated, Provider shall update or modify the Services or particular form consistent with such new regulation within a reasonable time.
- 4.2. Support Services. Provider will provide ongoing support services for problems, queries or requests for assistance ("Support") provided that all requests for Support must be made to Provider Monday through Friday from 8:00 AM ET to 8:00 PM ET at 1-888-949-3835. Provider will also provide limited after hours Support including the ability to leave a message and receive a call back the following business day or sooner, if critical. In order to provide Support, Agency will provide all information reasonably required by Provider to identify the issue, including: an Agency point of contact (familiar with the Services and issue), description of issue, screenshots, the impact, and assist in Provider's efforts to reproduce the problem (as applicable). Provider will work to resolve problem with reasonable promptness for issues that are application or Services related (Provider is not responsible for resolving issues caused by Agency hardware). The Agency agrees to provide Provider with data transfers, as requested, remote access to the Services system, and with sufficient test time on the Agency's computer system to duplicate the problem, to certify that the problem is with the Services, and to certify that the problem has been corrected. If the problem cannot readily be resolved, Provider will attempt to identify a work around. Upon resolution of any issue, Provider shall notify the Agency of such resolution via email. The Parties agree that Provider is not obligated to ensure that its Services are compatible with outdated (exceeding 4 years from date of initial release) hardware, computer operating services or database engines.
- 4.3. On Site Support. In response to written Agency requests for Provider to provide on-site routine non-emergency support, Provider shall produce a written estimate of the time required to provide the requested support and state any requirements, such as the presence of Agency staff or other resources or materials. Any on-site support provided by Provider shall only be invoiced by Provider or paid by Agency if the problem arose due to something other than a defect in the Services. If the Parties agree that onsite support is necessary, the Agency shall reimburse Provider at the rate of two thousand five hundred (\$2,500.00) dollars per day for each Provider employee who provides any on-site support, and such fees will not include any reimbursement for Provider travel time or travel expenses.

5. FEES.

- 5.1. Fees due to Provider. Any fees due to Provider for Services hereunder shall be specified in an Order ("Fees"). For any Order where Fees are specified, Provider will issue an invoice to Agency pursuant to the terms in the Order. Invoices shall be paid in full by Agency within thirty (30) days from invoice date. Provider may increase or decrease the Fee following the Initial Term (as defined in an applicable Order) in an Order by providing Agency no less than sixty (60) days written notice prior to the effective date of such pricing change. In the event Agency has a good faith dispute on all or a portion of an unpaid invoice ("Dispute"), Agency shall notify Provider in writing and follow the procedures set forth below. To the extent an interface or other technological development is required to enable an Agency designated third party (i.e., RMS Vendor) to receive Reports from Provider at Agency's request or to enable Provider to intake Agency Data, such cost shall not be borne by Provider. If any invoice (or undisputed portion thereof) remains unpaid and not subject to a Dispute after sixty (60) days from the invoice date, Provider shall have the right to terminate this Agreement (including all Services) or the right to discontinue the applicable Service immediately, without such action constituting a breach or incurring any liability herein. All Fees not properly disputed or paid shall accrue interest at the rate of eighteen percent (18%) per annum. All Fees are calculated for payment made via ACH, Wire, or Agency check. Agency agrees that Fees exclude taxes (if applicable) or other cost incurred by Agency's RMS Vendor or other third parties and agrees such costs shall be passed on to Agency. Provider shall not be required to enter into a third-party relationship to obtain payment for the Service provided to Agency; however, should Provider elect to do so, Provider reserves the right to charge Agency additional fees for such accommodation.
- 5.2. Fees due to Agency. All Reports requested by Agency Requestors shall be provided free of charge. Provider will collect a fee as set forth in an applicable Order ("Agency Fee(s)") on behalf of Agency for Report requests by an Authorized Requestor. Provider will remit any Agency Fees to Agency using the process as herein defined. For clarity, if a fee is not charged to an Authorized Requestor for the Report, no Agency Fee shall be collected or paid to Agency. In connection with this Section, on a monthly basis, Provider will electronically transfer to Agency's designated account, the total amount of applicable Agency Fees collected by Provider during the previous month. Provider will provide a monthly report to Agency identifying the number of Reports provided on its behalf.

- 5.3. Fees retained by Provider. Where permitted by law, Provider will charge a convenience fee for each Report provided to an Authorized Requestor ("Convenience Fee") which shall be retained by Provider. The Convenience Fee shall be established by Provider at its discretion, but in no event shall exceed the amount a provider may legally charge an Authorized Requestor.

6. TERMS AND TERMINATION.

- 6.1. Term. This Agreement shall commence upon the Effective Date and shall continue until terminated in accordance with this Agreement, for a period of no longer than 5 years. Each Order shall set forth the specified term for the particular Service.
- 6.2. Termination.
- 6.2.1. Either Party may terminate this Agreement or any Order for cause if the other Party breaches a material obligation under the terms of this Agreement and fails to cure such breach within thirty (30) days of receiving written notice thereof from the non-breaching Party, provided, however, that if such material breach is of a nature that it cannot be cured, immediate termination shall be allowed. Failure to pay by either Party shall be considered a material default.
 - 6.2.2. Either Party may elect to terminate this Agreement or any Order by providing written notice to the other of such intent, at least ninety (90) days prior to the end of the applicable Order term.
 - 6.2.3. Provider may, upon six (6) months written notice to Agency, terminate any Service that will no longer be supported or offered by Provider. Provider will make reasonable efforts to transition Agency to a similar Service, if available. Further, Provider may at any time cease to provide Agency access to any portions of features of the Services thereof which Provider is no longer legally or contractually permitted to provide.
- 6.3. Effect of Termination. Upon termination of this Agreement, each Party shall be liable for payment to the other Party of all amounts due and payable for Services provided through the effective date of such termination. Upon receipt of Agency's written request after termination, Provider shall provide Agency with access to Reports provided by Agency under this Agreement and/or data provided through provision of the Services by Agency under an applicable Order so Agency may download and/or copy such information. Provider shall not be obligated to delete from its databases (or from other storage media) and/or return to Agency, Reports already provided to Provider by Agency, and shall be permitted to continue to maintain and distribute the Reports already in its possession to Authorized Requestors in compliance with applicable laws and regulations.

7. RELEVANT LAWS.

Each Party shall comply with all applicable federal, state, and local laws and regulations related to its performance hereunder, including:

- 7.1. Driver's Privacy Protection Act. Agency acknowledges that certain Services provided under this Agreement may include the provision of certain personal information from a motor vehicle record obtained by Provider from state Departments of Motor Vehicles as those terms are defined by the Federal Driver's Privacy Protection Act, 18 U.S.C. § 2721 et seq., ("DPPA") and its state analogues ("DMV Data"), and that Agency is required to comply with the DPPA or its state analogues, as applicable. Agency agrees that it may be required to certify its permissible use of DPPA or DMV Data at the time it requests information in connection with certain Services and will recertify upon request by Provider.
- 7.2. Fair Credit Reporting Act. The Services provided pursuant to this Agreement are not provided by "consumer reporting agencies" as that term is defined in the Fair Credit Reporting Act (15 U.S.C. § 1681, et seq.) ("FCRA") and do not constitute "consumer reports" as that term is defined in the FCRA. Agency certifies that it will not use any of the information it receives through the Services in whole or in part as a factor in determining eligibility for credit, insurance, or employment or for any other eligibility purpose that would qualify the information in as a consumer report
- 7.3. Protected Health Information. Unless otherwise contemplated by an applicable Business Associate Agreement executed by the Parties, Agency will not provide Provider with any Protected Health Information (as that term is defined in 45 C.F.R. Sec. 160.103) or with Electronic Health Records or Patient Health Records (as those terms are defined in 42 U.S.C. Sec. 17921(5), and 42 U.S.C. Sec. 17921(11), respectively) or with information from such records without the execution of a separate agreement between the Parties.
- 7.4. Social Security Numbers. Social Security Numbers may be available hereunder as part of Reports and/or related data provided from certain states. However, Agency shall not provide Social Security Numbers to Provider under any circumstance under this Agreement. Should Agency require more information on Social Security Numbers or its obligations in relation thereto, Agency should contact Provider Agency Service at 1-866-215-2771 for assistance.
- 7.5. Privacy Principles. Agency shall comply with the "Provider Data Privacy Principles" available at <http://www.lexisnexis.com/privacy/data-privacy-principles.aspx>, as updated from time to time. Provider shall notify Agency in writing in the event that material changes are made to the Provider Data Privacy Principles.
- 7.6. Security. Agency agrees to protect against the misuse and/or unauthorized access of the Services provided to Agency in accordance with this Agreement and as set forth in Exhibit A, attached hereto.

8. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY OWNERSHIP.

- 8.1. Definition. “Confidential Information” means all non-public information provided by the disclosing Party to the receiving Party hereunder, including, without limitation, the terms of this Agreement, all information related to technical, financial, strategies and related information, business information, computer programs, algorithms, know-how, processes, databases, systems, ideas, inventions (whether patentable or not), schematics, Trade Secrets (as defined by applicable law) and other information (whether written or oral). Confidential Information does not include Reports and information related thereto. Confidential Information does not include information that was, at the time of the disclosure: (a) or becomes (through no improper action or inaction by the recipient) generally known to the public; (b) lawfully disclosed to recipient by a third-party and received in good faith and without any duty of confidentiality by the recipient or the third-party; (c) in recipient’s possession or known to it prior to receipt from discloser; or (d) independently developed by recipient; provided in each case that such forgoing information was not delivered to or obtained by recipient as a result of any breach of this Agreement.
- 8.2. Treatment of Confidential Information. Each Party agrees to protect the Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature, but not less than a reasonable standard of care and not to use the other Party’s Confidential Information other than as necessary to perform its obligations or as permitted under this Agreement. A Party shall not remove or destroy any proprietary or confidential legends or markings placed upon or contained within any Confidential Information. Notwithstanding the above, Provider understands that Agency is a municipality and subject to the requirements of the Texas Public Information Act (“the Act”). Prior to any disclosure of Confidential Information under the Act, Agency shall give Provider prompt written notice of such request, Provider shall have seven (7) days from the date it receives such notice to provide evidence of a statutory exemption under applicable law sufficient to protect the information or obtain a protective order or equivalent from a court of competent jurisdiction. If Confidential Information is disclosed pursuant to a request under the Act, Agency will take reasonable steps to limit any such provision of Confidential Information to the specific information requested. The Parties understand and agree that the failure by Provider to timely respond to the notice provided by Agency may result in the disclosure of the requested information pursuant to the Act.
- 8.3. Intellectual Property Ownership. Each Party retains all right, title, and interest under applicable contractual, copyright and related laws to their respective Confidential Information, including the right to use such information for all purposes permissible by applicable laws, rules, and regulations. Provider retains all rights (other than the limited license granted herein), title, interest, ownership and all intellectual property rights in the Services including any improvements or modifications thereto, and Agency shall use such information consistent with such right, title and interest and notify Provider of any threatened or actual infringement thereof. Agency shall not remove or obscure any copyright or other notices from the Services or materials provided hereunder.
- 8.4. Exception for Subpoenas and Court Orders. Except as otherwise provided herein, a Party may disclose Confidential Information solely to the extent required by subpoena, court order or other governmental authority, provided that the receiving Party provides the disclosing Party prompt written notice of such subpoena, court order or other governmental authority so as to allow the disclosing Party an opportunity to obtain a protective order to prohibit or limit such disclosure at its sole cost and expense. Confidential Information disclosed pursuant to subpoena, court order or other governmental authority shall otherwise remain subject to the terms applicable to Confidential Information.
- 8.5. Duration. Each Party’s obligations with respect to Confidential Information shall continue for the term of this Agreement and for a period of five (5) years after termination of this Agreement, provided however, that with respect to Trade Secrets, each Party’s obligations shall continue for so long as such Confidential Information continues to constitute a Trade Secret.
- 8.6. Return of Confidential Information. Upon the written request of a Party (and except as otherwise specifically set forth in an applicable Order), each Party shall return or destroy (and certify such destruction in a signed writing) any of the other Party’s Confidential Information unless retention of such information is required by law, regulation, court order, or other similar mandate.
- 8.7. Injunctive Relief. In the event of a breach or a threatened breach of the confidentiality or privacy provisions of this Agreement, the non-breaching Party may have no adequate remedy in monetary damages and, accordingly, may seek an injunction against the breaching Party.
- 8.8. Other. During the term of this Agreement and subject to approval by Agency, Agency agrees to serve as a reference for the Services, which may include (i) reference calls with mutually acceptable prospects; (ii) a published “success story” describing the partnership with Provider; (iii) the use of Agency’s name in Provider marketing activities; or (iv) a favorable reference of Provider to an industry analyst or at an industry conference.

9. PROVIDER AUDIT RIGHTS.

Agency understands and agrees that, in order to ensure Agency’s compliance with the Agreement, as well as with applicable laws, regulations and rules, Provider’s obligations under its contracts with its data providers, and Provider’s internal policies, Provider may conduct periodic reviews of Agency’s use of the Services and may, upon reasonable notice, audit Agency’s records, processes and procedures related to Agency’s use, storage and disposal of the Services and information received therefrom. Agency agrees to cooperate fully with any and all audits and to respond to any such audit inquiry within ten (10) business days, unless an expedited response is required. Violations discovered in any review and/or audit by Provider will be subject to immediate action including, but not limited to, invoicing for any applicable Fees (if Services are based on number of users and Agency’s use exceeds licenses granted), suspension or termination of the license to use the Services, legal action, and/or referral to federal or state regulatory agencies.

10. REPRESENTATIONS AND WARRANTIES.

Agency represents and warrants to Provider that Agency is fully authorized to disclose Reports, information, and related data or images to Provider in accordance with this Agreement and to grant Provider the rights to provide the Services as described herein. Where redaction of Reports is required prior to provision to Provider, Agency represents and warrants it will redact applicable Reports consistent with all laws and regulations. In performing their respective obligations under this Agreement, each Party agrees to use any data and provide any services, in strict conformance with applicable laws and regulations, and further, to comply with all applicable binding orders of any court or regulatory entity and consistent with the terms of this Agreement.

11. LIMITATION OF WARRANTY.

For purposes of this section, "Provider" includes Provider and its Affiliates, subsidiaries, parent companies, and data providers. THE SERVICES PROVIDED BY PROVIDER ARE PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING ITS ACCURACY OR PERFORMANCE INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, ORIGINALITY, OR OTHERWISE, OF ANY SERVICES, SYSTEMS, EQUIPMENT OR MATERIALS PROVIDED HEREUNDER.

12. LIMITATION OF LIABILITY.

To the extent permitted by applicable law, Provider's entire liability for any claims(s) resulting from its acts or omissions, including, but not limited to negligence claims under this Agreement shall not exceed the total amount of Fees actually received by Provider from Agency (excluding pass through or out of pocket expenses) for the specific Services from which liability arises during the twelve (12) month period immediately preceding the event first giving rise to such liability, and if not yet in the twelfth (12th) month of this Agreement, for the period leading up to such event. To the extent the relevant Services are made available at no cost to Agency, then in no event shall Provider's liability to Agency under this Agreement exceed One Hundred dollars (\$100.00) in the aggregate. This limitation of liability will not apply to any claims, actions, damages, liabilities or fines relating to or arising from Provider's gross negligence or willful misconduct. In no event shall Provider be liable for any indirect, special, incidental, or consequential damages in connection with this Agreement or the performance or failure to perform hereunder, even if advised of the possibility of such damages.

13. INDEMNIFICATION.

To the extent permitted under applicable law, each Party shall defend, indemnify, and hold harmless the other Party, its Affiliates, and their officers, directors, employees, and Agents (the "Indemnified Parties") against and from any and all losses, liabilities, damages, actions, claims, demands, settlements, judgments, and any other expenses (including reasonable attorneys' fees), which are asserted against the Indemnified Parties by a third party, but only to the extent caused by (i) violation of law in the performance of its obligations under this Agreement by the indemnifying party, its Affiliates, or the officers, Agents or employees of such party (the "Indemnifying Parties"); (ii) the gross negligence or willful misconduct of the Indemnifying Parties during the term of this Agreement; (iii) violation, infringement or misappropriation of any U.S. patent, copyright, trade secret or other intellectual property right; or (iv) with respect to Agency, violation of any of the license terms or restrictions contained in this Agreement. The indemnities in this section are subject to the Indemnified Parties promptly notifying the Indemnifying Parties in writing of any claims or suits.

14. FORCE MAJEURE.

Neither Party will be liable for any delay or failure to perform its obligations hereunder due to causes beyond its reasonable control, including but not limited to natural disaster, pandemic, casualty, act of God or public enemy, riot, terrorism, or governmental act; provided, however, that such Party will not have contributed in any way to such event. If the delay or failure continues beyond thirty (30) calendar days, either Party may terminate this Agreement or any impacted Order with no further liability, except that Agency will be obligated to pay Provider for the Services provided under this Agreement prior to the effective date of such termination.

15. NOTICES.

All notices, requests, demands or other communications under this Agreement shall be in writing to the address set forth in the opening paragraph and shall be deemed to have been duly given: (i) on the date of service if served personally on the Party to whom notice is to be given; (ii) on the day after delivery to a commercial or postal overnight carrier service; or (iii) on the fifth day after mailing, if mailed to the Party to whom such notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed. Any Party hereto may change its address for the purpose of this section by giving the other Party timely, written notice of its new address in the manner set forth above.

16. MISCELLANEOUS.

16.1 Affiliates. Agency understands and agrees that certain Services furnished under this Agreement may actually be provided by one or more of Provider's Affiliates.

- 16.2 Independent Contractor/No Agency. Each Party acknowledges that it has no authority to bind or otherwise obligate the other Party.
- 16.3 Assignment. Neither Party shall assign this Agreement in whole or in part without the prior written consent of the other Party, and any such attempted assignment contrary to the foregoing shall be void. Notwithstanding the foregoing, an assignment by operation of law, as a result of a merger or consolidation of a Party, does not require the consent of the other Party. This Agreement will be binding upon the Parties' respective successors and assigns.
- 16.4 Headings, Interpretation, and Severability. The headings in this Agreement are inserted for reference only and are not intended to affect the meaning or interpretation of this Agreement. The language of this Agreement shall not be construed against either Party. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 16.5 Waiver; Remedies Non-Exclusive. No failure or delay on the part of any Party in exercising any right or remedy provided in this Agreement will operate as a waiver thereof. Unless otherwise provided herein, any remedy will be cumulative to any other right or remedy available at law or in equity.
- 16.6 Survival. Sections 2-4, 7-12, and 15 shall survive the termination or rescission of this Agreement.
- 16.7 Provider Shared Facilities. Provider may utilize facilities located outside the United States to provide support or the Services under this Agreement, and if such centers are utilized they shall be under the control of Provider and subject to all Provider policies that govern data access, protection and transport in the United States.
- 16.8 Entire Agreement. This Agreement represents the entire agreement of the Parties and supersedes all previous and contemporaneous communications or agreements regarding the subject matter hereto. Agency by its signature below hereby certifies that Agency agrees to be bound by the terms and conditions of this Agreement including those terms and conditions posted on web pages specifically set forth herein or contained with any software provided under this Agreement, as may be updated from time to time. Any additional terms or conditions contained in purchase orders or other forms are expressly rejected by Provider and shall not be binding. Acceptance or non-rejection of purchase orders or other forms containing such terms; Provider's continuation of providing Products or Services; or any other inaction by Provider shall not constitute Provider's consent to or acceptance of any additional or different terms from that stated in this Agreement. This Agreement may only be modified by a written document signed by both Parties.
- 16.9 Governing Law. The Agreement will be governed by and construed under the laws of the State of Texas, excluding its conflict of law rules.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized representatives as of the Effective Date.

Provider: **LexisNexis Claims Solutions Inc.**

Agency: **Town of Flower Mound**

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A - SECURITY AND NOTIFICATION REQUIREMENTS**1. Data Protection.**

Agency shall take appropriate measures to protect against the misuse and unauthorized access through or to Agency's (i) credentials ("Account IDs") used to access the Services; or (ii) corresponding passwords, whether by Agency or any third party; or (iii) the Services and/or information derived therefrom. Agency shall manage identification, use, and access control to all Account IDs in an appropriately secure manner and shall promptly deactivate any Account IDs when no longer needed or where access presents a security risk. Agency shall implement its own appropriate program for Account ID management and shall use commercially reasonable efforts to follow the policies and procedures for account maintenance as may be communicated to Agency by Provider from time to time in writing.

2. Agency's Information Security Program.

Agency shall implement and document appropriate policies and procedures covering the administrative, physical and technical safeguards in place and relevant to the access, use, storage, destruction, and control of information which are measured against objective standards and controls ("Agency's Information Security Program"). Agency's Information Security Program shall: (1) account for known and reasonably anticipated threats and Agency shall monitor for new threats on an ongoing basis; and (2) meet or exceed industry best practices. Agency will promptly remediate any deficiencies identified in Agency's Information Security Program. Agency shall not allow the transfer of any personally identifiable information received from Provider across any national borders outside the United States without the prior written consent of Provider.

3. Agency Security Event.

In the event Agency learns or has reason to believe that Account IDs, the Services, or any information related thereto have been misused, disclosed, or accessed in an unauthorized manner or by an unauthorized person (an "Agency Security Event") Agency shall:

- (i) provide immediate written notice to:
 - a) the Information Security and Compliance Organization at 1000 Alderman Drive, Alpharetta, Georgia 30005; or
 - b) via email to (security.investigations@lexisnexis.com); or
 - c) by phone at (1-888-872-5375) with a written notification to follow within twenty four (24) hours; and
- (ii) promptly investigate the situation; and
- (iii) obtain written consent from Provider, not to be unreasonably withheld, prior to disclosing Provider or the Services to any third party in connection with the Agency Security Event; and
- (iv) if required by law, or in Provider's discretion, Agency shall:
 - a) notify the individuals whose information was disclosed that an Agency Security Event has occurred; and
 - b) be responsible for all legal and regulatory obligations including any associated costs which may arise in connection with the Agency Security Event; and
- (v) remain solely liable for all costs and claims that may arise from the Agency Security Event, including, but not limited to: litigation (including attorney's fees); reimbursement sought by individuals (including costs for credit monitoring and other losses alleged to be in connection with such Agency Security Event); and
- (vi) provide all proposed third party notification materials to Provider for review and approval prior to distribution.

In the event of an Agency Security Event, Provider may, in its sole discretion, take immediate action, including suspension or termination of Agency's account, without further obligation or liability of any kind.

Quote**LexisNexis® Risk Solutions**

1000 Alderman Drive
Alpharetta, GA 30005



August 10, 2017

Quote No.: 170512 Flower Mound TX**ATTN:** Chief Andy Kancel**To:**

Flower Mound Police Department
4150 Kirkpatrick Ln
Flower Mound, TX 75028

Ship To:

Flower Mound Police Department
4150 Kirkpatrick Ln
Flower Mound, TX 75028

Term	Description	Price	Amount
Year One Only	<u>Set-Up for LexisNexis® Desk Officer Reporting System</u> - Dedicated project manager and implementation assistance - Interface development for RMS/report writing software* - Operational/Procedural Directive templates - Web-Based training with a live trainer <i>*LexisNexis is not responsible for associated RMS vendor</i>	\$ 13,500.00	\$ 13,500.00
Year One	<u>LexisNexis® Desk Officer Reporting System Annual Fee</u> - Unlimited users, incident types, and report intake - Unlimited customer support (phone and e-mail) - Unlimited maintenance including every update and upgrade released - Hosting in the LexisNexis® Secure Hosting Environment	\$ 11,250.00	\$ 11,250.00
Year Two	<u>LexisNexis® Desk Officer Reporting System Annual Fee</u>	\$ 11,813.00	<i>Invoiced Year Two</i>
Year Three	<u>LexisNexis® Desk Officer Reporting System Annual Fee</u>	\$ 12,403.65	<i>Invoiced Year Three</i>
Year Four	<u>LexisNexis® Desk Officer Reporting System Annual Fee</u>	\$ 13,023.83	<i>Invoiced Year Four</i>
Year Five	<u>LexisNexis® Desk Officer Reporting System Annual Fee</u>	\$ 13,675.02	<i>Invoiced Year Five</i>
Quote Subtotal			\$ 24,750.00
Sales Tax			As Applicable

Contact your account manager if you have questions about this quote and to learn how LexisNexis® can help off-set the cost of the LexisNexis® Desk Officer Reporting System:

Julie Oleson
julie.oleson@lexisnexisrisk.com
512.840.0873

Signature to Acknowledge Receipt of Quote: _____ Date: _____

Pricing is guaranteed for 90 days from date this quote was issued

THANK YOU FOR YOUR BUSINESS!



June 13, 2017

Chief Andy Kancel
Flower Mound Police Department
4150 Kirkpatrick Lane
Flower Mound, TX 75028

Dear Chief Kancel,

LexisNexis® is the creator and sole source vendor of the Desk Officer Reporting System (DORS). No other company, entity, or individual has re-seller or distribution rights to DORS or any of its accompanying documentation.

LexisNexis® designed DORS to gather information on non-violent, no suspect crimes from members of the general public (Users) via a 128 bit encrypted SSL connection. DORS uses the J2EE standard. The system does not rely on cookies or user permissions. The application will issue a temporary report number to the Users and places the temporary report into an administrative holding area for review and modification by the appropriate administrator within your department. An email is generated to the Users once the report has been submitted. The administrator logs into the system via a 128 bit encrypted SSL connection to approve, reject, edit or print reports as appropriate. Rejecting a report deletes it from the system and sends an appropriate email to the citizen. Approving the report issues an official case number that is pulled from an upper-block of reserved case numbers, places it in a queue to be exported, and sends an appropriate email to the user. The administrator can download the approved report or print the report.

DORS is designed to allow the dynamic creation of crime types and incidents within the administrative area. The administrative area allows for the activation of a supplemental reporting system to allow citizens to submit supplemental type reports as well as property lists to the agency. The program is distributed with the ability for the agency to allow citizens to choose several languages including English, Spanish, French, Chinese and Simplified Chinese in which to read instructions and this information is dynamically configurable. The program also allows the agencies to add additional languages of their choosing. The program provides a separate secure filing area and login to allow agency-designated personnel such as loss prevention officers etc. to login and file dynamically created agency report types, such as a shoplifting report, which do not have to be offered to the general public. The LexisNexis Desk Officer Reporting System collects UCR and NIBRS compliant data and, upon agency approval of the submitted reports, will transfer the appropriate values into your records management system (RMS).

There are currently no other off-the-shelf citizen online police reporting systems available with the ability to interface with nearly every RMS, to collect incident reports from the general public and from agency designated personnel who can be provided access to reports not available to the general public, to identify potentially fraudulent reports, to identify duplicate reports, or to identify related reports (such as multi-driver accident reports or multiple reports for the same incident) that can be added as supplements to the previously filed report. No other companies providing citizen online reporting systems can provide hosting facilities that are as secure as those provided by LexisNexis®. LexisNexis® is the only vendor that can apply report sales revenue from its other products to directly offset the cost of

DORS. The LexisNexis® Desk Officer Reporting System has the ability to interface with most records management systems.

If you have any questions or would like clarification on any of these items, please contact us.

Sincerely,

Seth Perlmutter

Senior Director

Coplogic Solutions

LexisNexis Risk Solutions



SOURCING JUSTIFICATION FORM

FOR SPECIAL SOURCING REQUESTS GREATER THAN \$3,000

Requests for special sourcing must be justified in writing by the requestor and approved by the appropriate authorities. Every effort should be made to avoid special sourcing purchases as they limit competition and place the Town at risk of paying a premium for a product or service. To submit a request for a sole source or emergency purchase, please check the appropriate category and circumstance boxes below, complete the Sourcing Request Documentation Form, and forward all pages (including attachments) to the Purchasing Department for approval. Purchasing will request additional information if required.

☒ **SOLE SOURCE**

A sole source purchase is applicable **when the product or service required can only be obtained from one supplier** and there is adequate justification that no other product or service exists that will meet the Town needs. Allowable circumstances are limited by law to:

- ☒ Patents, copyrights, secret processes, or natural monopolies
- ☐ Films, manuscripts, or books
- ☐ Gas, water, and other utility services
- ☐ Captive replacement parts or components for equipment

☐ **EMERGENCY PURCHASE**

An emergency purchase may be made in extraordinary circumstances where a delay in the purchase until after a competitive bid process and Board action would have severe operational or cost impacts to the Town or cause harm to the public. **Lack of planning is not an allowable circumstance.** Allowable circumstances are limited to:

- ☐ A procurement made because of a public calamity that requires the immediate appropriation of money to preserve Town property
- ☐ A procurement necessary to preserve or protect the public health or safety
- ☐ A procurement necessary because of unforeseen damage to public machinery, equipment or other property

SOURCING REQUEST DOCUMENTATION

Requesting Department: PoliceRequest Submitted By: Wendell Mitchell, Assistant Chief of PoliceRequested Supplier: Lexis NexisProduct or Service: Coplogic SolutionsRequisition # Is this a one-time or a recurring requirement? ☒ One-Time ☐ Recurring

To Be Completed by the Requesting Department:

1. FOR SOLE SOURCE REQUESTS: The scope of work or specifications for the requested product(s) or service(s) must be attached.

☐ Scope of Work Attached (for services) ☒ Specifications Attached (for products)

a. Who was the source of the scope of work or specifications? Lexis Nexis

b. Attach the supplier's proposal, including detailed/itemized pricing.

2. FOR SOLE SOURCE REQUESTS: To the best of your knowledge, is the above referenced supplier the **only** provider of this product or service?

Yes

3. FOR SOLE SOURCE REQUESTS: Have other product or service options been explored? If yes, explain in detail.

Yes. We did consult with our RMS/CAD vendor, Integrated Computer Systems, about building an online offense reporting system. They did not have a product like this currently in development.

4. FOR SOLE SOURCE REQUESTS: What are the characteristics of this product or service that makes it unique and why are these characteristics vital to Town operations? What market research was performed by your department to arrive at the recommended supplier?

The Desk Officer Reporting SYSTEM (DORS) has the ability to integrate with nearly every RMS and is used widely by municipalities for online reporting. We reviewed what other police agencies were using for online police reporting and DORS was a standard for this service.

5. FOR SOLE SOURCE REQUESTS: How would job accomplishment and/or cost to the Town be impacted if another supplier's product or service with similar capabilities was substituted?

We have not found a supplier with similar capabilities. However, if a supplier was available with similar capabilities the impact should be none or negligible.

6. FOR EMERGENCY PURCHASE REQUESTS: Fully describe the emergency circumstances and the immediate risk that justifies exemption to a competitive solicitation process.
7. FOR EMERGENCY PURCHASE REQUESTS: How would job accomplishment be impacted if the competitive bid procurement process was followed?

Approved:

 7/31/17
Department Head Date

To Be Completed by Purchasing Department:

Sourcing research performed by: Sharon Jodan 7/5/17
Name

Purchasing Manager position regarding this request:

☒ Concurs ☐ Rejects

Justification for position (include attachments if applicable).

Check if attachment(s) added ☐



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: August 21, 2017

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

ITEM: Consider approval of Change Order No. 2 and final acceptance of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., for an increase to the contract in the amount of \$5,995.10, and authorization of final payment to Felix Construction Company, Corp., in the amount of \$58,824.72; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Pintail Pump Station Capacity Improvements project is complete. Change Order No. 2 provides for line item adjustments to match in-place quantities. Final Payment consists of \$52,829.62 of retainage, and \$5,995.10 of work completed, for a final contract amount of \$1,062,587.47.

FISCAL IMPACT: \$58,824.72

Proposed Expenditure:	Account Number(s):
\$58,824.72	630-960-98342

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

ATTACHMENTS:

1. Change Order No.2
2. Consent of Surety
3. Affidavit of Bills Paid

DRAFT MOTION: Move to approve Change Order No. 2 and final acceptance of the Pintail Pump Station Capacity Improvements project, amending the contract with Felix Construction Company, Corp., for a increase to the contract in the amount of \$5,995.10 and authorize final payment to Felix Construction Company, Corp., in the amount of \$58,824.72; and authorize the Mayor to execute same on behalf of the Town.

CHANGE ORDER 2

Effective Date Upon execution by the Mayor

Owner: Town of Flower Mound

Contractor: Felix Construction Company

Attn: Ryan Koontz

3321 Towerwood Drive, Suite 120

Farmers Branch, Texas 75234

Project: Pintall Pump Station Capacity Improvements

CHANGE ORDER NO. 2

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	Quan	Unit Price	Extended Amount
CO2A	Plug and cap the existing water line to bldg found during construction	LS	Add	1.00	\$634.16	\$634.16
CO2B	Demo of concrete and removal of 12-inch pipe	LS	Add	1.00	\$2,619.94	\$2,619.94
CO2C	Relocate HVAC	LS	Add	1.00	\$2,741.00	\$2,741.00
Subtotal						\$5,995.10

Contract Price After CO No 1

Change Order No. 2

Revised Contract Price

\$	1,056,592.37
\$	5,995.10
\$	1,062,587.47

JUSTIFICATION

Item CO2A provides for capping and plugging an existing water line to the building that was found during construction.

Item CO2B provides for the demolition of concrete and the removal of an abandoned 12-inch discharge pipe found during construction.

Item CO2C provides for the relocation of HVAC within the building to better accommodate mobility and access for maintenance within the electrical area of the building.

Recommended
for ApprovalTiffany Bruce, P.E.
CIP Engineering Manager

Date

7-17-17

Contractor

RYAN KOONTZ - PROJECT MANAGER

Date

6/30/17

Approved

Thomas E. Hayden
Mayor

**CONSENT OF SURETY COMPANY
TO FINAL PAYMENT**

PROJECT:	<u>Pintail Pump Station</u>	PROJECT NUMBER:	
OWNER:	<u>Town of Flower Mound</u>		
CONTRACTOR:	<u>Felix Construction Company</u>	<u>1779</u>	
ENGINEER:	<u>Kimley-Horn</u>		

The Surety Company, on bond of the Contractor listed above for the referenced project, in accordance with the Contract Documents, hereby approves final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to the Owner under the terms of the Contract and as set forth in said Surety Company's bond.

In witness whereof, the Surety Company has hereunto set its hand this 18th day of July 2017.

Travelers Casualty and Surety Company of America
Surety Company

By 
Authorized Representative

Title Debra K. Williams, Attorney-in-Fact

Address:

One Tower Square

Hartford, CT 06183

Attach Power of Attorney



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 229283

Certificate No. 006237880

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Barry R. Farr, Andrew Farr, Gregory P. Griffith, Debra K. Williams, and Stephanie L. Bucholz

of the City of Mesa, State of Arizona, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 13th day of April, 2015.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By:

Robert L. Raney, Senior Vice President

On this the 13th day of April, 2015, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

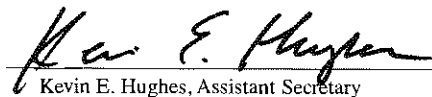
FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 18th day of July, 20 17.


Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.



CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS

PROJECT:	<u>Pintail Pump Station</u>	PROJECT NUMBER:	<u>1779</u>
OWNER:	<u>Town of Flower Mound</u>		
CONTRACTOR:	<u>Felix Construction Company</u>		
ENGINEER:	<u>Kimley-Horn</u>		

The Contractor, in accordance with the Contract Documents, hereby certifies that, except as listed below, all obligations for all materials and equipment furnished, for all work labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or his property might in any way be held responsible have been paid in full or have otherwise been satisfied in full.

EXCEPTIONS:

Business Owed	Amount Owed	Reason
CF Electric	\$25,597.05	Retention
Garland Heating and Air	\$1,033.31	Retention
Texas Premier Coatings LLC	\$730.00	Retention

CONTRACTOR FELIX CONSTRUCTION COMPANY

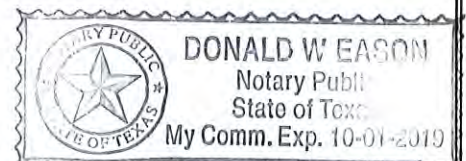
BY [Signature] RYAN KOONTZ

TITLE PROJECT MANAGER

Subscribed and sworn to before me this 26th day of JULY, 2017.

Notary Public: [Signature]

My Commission Expires: 10-01-2019





CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

PROJECT:	Pintail Pump Station	PROJECT NUMBER:	
OWNER:	Town of Flower Mound		
CONTRACTOR:	Felix Construction Company	1779	
ENGINEER:	Kimley-Horn		

The Contractor, in accordance with the Contract Documents, and in consideration for the full and final payment to the Contractor for all services in connection with the project, does hereby waive and release any and all liens, or any and all claims to liens which the Contractor may have on or affecting the project as a result of its contract(s) for the Project or for performing labor and/or furnishing materials in any way connected with the construction of any aspect of the project. The Contractor further certifies and warrants that all subcontractors of labor and/or materials for the Project, except as listed below, have been paid in full for all labor and/or materials supplied to, for, through or at the direct or indirect request of the Contractor prior to, through and including the date of this affidavit.

EXCEPTIONS:

Business Owed	Amount Owed	Reason
CF Electric	\$25,597.05	Retention
Garland Heating and Air	\$1,033.31	Retention
Texas Premier Coatings LLC	\$730.00	Retention

CONTRACTOR FELIX CONSTRUCTION COMPANY

By

[Signature] RYAN KOONTZ

Title

PROJECT MANAGER

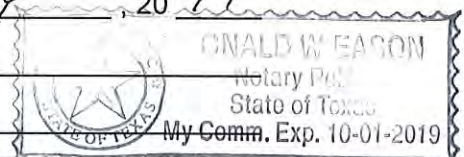
Subscribed and sworn to before me this 26th day of JULY, 20 17

Notary Public:

[Signature]

My Commission Expires:

10-01-2019





TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: August 21, 2017

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 lowering the prima facie speed limit on Surrey Lane between Solano Drive and Lakeside Parkway to 25 mph (*The Transportation Commission recommended approval of the exception request for Surrey Lane by a vote of 7 to 0 at its July 11, 2017, meeting.*)

BACKGROUND INFORMATION:

Clearpoint Drive

Attached (Attachment 1) is the Transportation Commission (TRC) report and backup for Surrey Lane. The Surrey Lane exception request is to consider a speed limit reduction along Surrey Lane between Solano Drive and Lakeside Parkway from 30 mph to 25 mph. During the 79th Texas Legislature, House Bill 87 was signed into legislation providing authority for municipalities to alter speed limits on residential streets. This legislation was amended during the 81st Texas Legislature with House Bill 2682. On December 4, 2006, the Town Council approved a policy for the implementation of 25 mph speed limits on certain residential streets. In addition to the requirements included in the State law, the policy establishes that streets are only eligible if all or part is located within $\frac{1}{4}$ mile of a school property or $\frac{1}{4}$ mile of a construction zone for a major or minor arterial street. On June 7, 2010, the Town Council amended the policy for implementation of 25 mph streets to include an exception process for those streets that are outside of the $\frac{1}{4}$ mile boundaries.

The attached Vicinity Map, Attachment 3, indicates the location of the $\frac{1}{4}$ mile boundary surrounding Bluebonnet Elementary/Shadow Ridge Middle Schools which this section of Surrey Lane is approximately 500 feet just outside of the $\frac{1}{4}$ mile boundary of Bluebonnet Elementary School. Since this area is outside of the $\frac{1}{4}$ mile buffer it does require an exception according to Town policy. This exception was heard at the July 11th TRC meeting. The TRC discussion can be viewed as Item F2 at the following link: <http://flowermoundtx.swagit.com/play/07112017-1341>

BOARD REVIEW/CITIZEN FEEDBACK: The TRC heard the Surrey Lane exception request item at their July 11, 2017, regular meeting. Discussion was held on the exception request. The neighborhood representative that conducted a survey of the neighborhood was present to answer questions. The neighborhood responded with a majority, over 60% of the entire street in favor of the speed limit change. The TRC recommended approval of the exception by a vote of 7 to 0.

ALTERNATIVES/OPTIONS: Leave speed limits as they currently exist (30 mph).

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

LEGAL REVIEW: Jeremy Page of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the resolution as to form and legality.

ATTACHMENTS:

1. Excerpt from the 7/11/2017 Transportation Commission Meeting, Agenda Item 2
2. Draft Ordinance
3. Vicinity Map

DRAFT MOTION: 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 lowering the prima facie speed limit on Surrey Lane between Solano Drive and Lakeside Parkway to 25 mph.

**TRANSPORTATION COMMISSION AGENDA ITEM NO. 2****REGULAR ITEM**

DATE: July 11, 2017

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

ITEM: **Exception request for Surrey Lane between Solano Drive and Lakeside Parkway to allow for a permanent speed limit change to 25 mph for areas outside of the ¼ mile boundary of a school or major construction project.**

BACKGROUND INFORMATION: This item is a regular item to allow the Transportation Commission the opportunity to provide input and recommendation to the Town Council regarding the exception request for Surrey Lane between Solano Drive and Lakeside Parkway to allow for a permanent speed limit change to 25 mph for areas outside of the ¼ mile boundary of a school or major construction project. See vicinity map (Attachment 1) for the location of the street affected by this request. This section of Surrey Lane is approximately 500 feet from the closest point to the ¼ mile boundary from Bluebonnet Elementary School.

During the 79th Texas Legislature, House Bill 87 was signed into legislation providing authority to municipalities to alter speed limits on residential streets. This legislation was amended during the 81st Texas Legislature with House Bill 2682. On December 4, 2006, the Town Council approved a policy for the implementation of 25 mph speed limits on certain residential streets. In addition to the requirements included in the State law, the policy establishes that streets are only eligible if all or part is located within ¼ mile of a school property or ¼ mile of a construction zone for a major or minor arterial street. On March 9, 2010, a review of this policy was brought forward to the Transportation Commission for input and recommendation to Town Council. The recommendation to Town Council was to keep the existing policy, but institute an exception process without the need for an engineering study. On June 7, 2010, Town Council amended the policy for 25 mph streets with Resolution 12-10. Resolution 12-10 is included as Attachment 2. Resolution 12-10 added an exception process to the residential speed limit policy that requires an engineering study and a recommendation from the Transportation Commission.

The current practice is to post speed limit signs at the entrances to the subdivision. When all street are inclusive of a subdivision the signs will be indicated with a neighborhood plaque. This practice has been verified with the Police Department as acceptable to them and they have confirmed that they are able to enforce the speed limit. This will not be the case for this request as it is for only Surrey Lane so only it will be signed.

ENGINEERING STUDY: An engineering study to determine the speed limit of a local street consists of the following information:

- 85th percentile speed
- Road characteristics, shoulder condition, grade, alignment, and sight distance
- Pace speed
- Roadside development and environment
- Parking practices and pedestrian activity
- Reported crash experience for at least a 12-month period

The 85th percentile speed is the speed at which 85% of the traffic travels at or below. The speed limit for a particular street is generally set within +/- 5 mph of the 85th percentile speed. The 85th percentile speed for this location was 38 mph northbound and 32 mph southbound.

Staff has determined the road characteristics, shoulder condition, grade, alignment and sight distance for the streets along Surrey Lane. It is a wider than typical residential concrete street and is slightly

curvilinear. It does not have a shoulder, and generally have good sight distance. No intersections within the neighborhood are controlled by an all way stop condition. The intersection of Surrey Lane and Lakeside Parkway controlled by a stop sign as is the intersection with FM 2499. All of the intermediate side streets stop on their respective approaches to Surrey Lane.

The pace speed is the 10 mph range of speed which the largest majority of drivers are driving. The pace speed within the subject area was 26-35 mph (55%) for northbound and 21-30 mph (67.5%) for southbound

The roadside development for Surrey Lane north of Solano Drive is primarily commercial property. The roadside development between Solano Drive and Lakeside Parkway the roadway is primarily residential with the exception of south of Virginia Parkway which is mixed use.

The parking practices and pedestrian activity for this area are primarily related to the residential homes with the exception of the mixed use portion of Surrey Lane. Very little parking activity takes place on Surrey Lane itself.

Research of reported crash experience for the past 12 months for the entire stretch of Surrey Lane reveals that 0 reported accident had occurred. Doing research through 2014 also reveals that 0 reported accidents have occurred on Surrey Lane.

NEIGHBORHOOD SUPPORT: At previous Transportation Commission meetings, the neighborhood support has always been a question of the Commission. The support from the residents along Surrey Lane is a critical component. Over 60% of residential homes along Surrey Lane support the reduction in speed limit. All owners that were asked were in support. Attachment 3 contains the signatures of the survey. The neighborhood representatives have been made aware of the meeting and are scheduled to be in attendance at the meeting to answer questions from the Commission and how support was gathered and if additional support has been received since the turning in of the survey. The Lakeside DFW development has also been made aware of this request.

FISCAL IMPACT: N/A

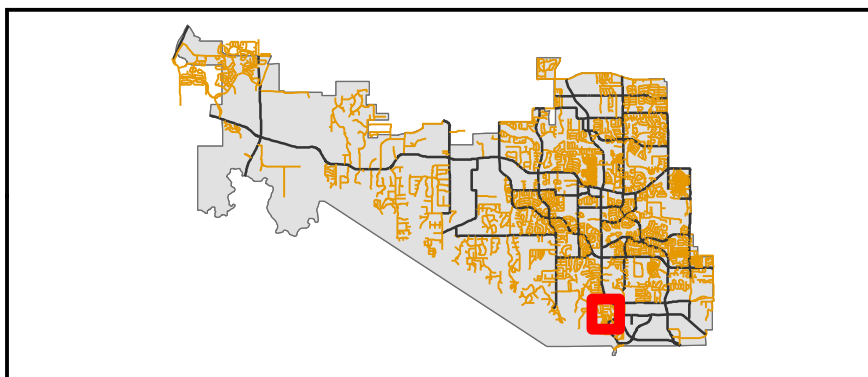
LEGAL REVIEW: N/A

ATTACHMENTS:

1. Vicinity Map of Affected Streets
2. Resolution 12-10
3. Signed Survey

RECOMMENDATION: Move to recommend approval of the exception request for Surrey Lane to allow for a permanent speed limit change to 25 mph for areas outside of the ¼ mile boundary of a school or major construction project.

Vicinity Map - Surrey Lane Speed Limit Request



Legend

-  Parcels
-  Surrey Speed Limit Area

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. 12-10**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING RESOLUTION 35-06 BY REPEALING THE POLICY ON IMPLEMENTING REDUCED SPEED LIMITS ON CERTAIN RESIDENTIAL STREETS AND ADOPTING A NEW POLICY IMPLEMENTING REDUCED SPEED LIMITS ON CERTAIN RESIDENTIAL STREETS IN CERTAIN NEIGHBORHOODS IN THE TOWN OF FLOWER MOUND.

WHEREAS, the 79th Texas Legislature adopted House Bill 87 amending Section 545.356 of the Texas Transportation Code to allow municipalities to reduce the speed limit on certain types of streets to no less than twenty-five (25) miles per hour if the governing body determines that the prima facie speed limit on the road is unreasonable or unsafe; and

WHEREAS, the Town previously approved Resolution 35-06 which adopted a policy pertaining to establishing 25 mph speed limits on residential streets; and

WHEREAS, the Town desires to establish revised parameters or criteria that may be relied upon by the Town's residents and Town staff to identify the types of roads that may be eligible for a reduction in the prima facie speed limit; and

WHEREAS, the decision regarding whether the prima facie speed limit on a particular road or road segment is either unsafe or unreasonable and should be reduced to no less than twenty-five (25) miles per hour shall fall within the sound discretion of the Town Council, only, and shall be performed on an individual case by case analysis.

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 and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

Resolution 35-06 and the Town's Policy for Implementing Reduced Speed Limits in Certain Residential Neighborhoods is hereby amended by repealing the existing Policy for Implementing Reduced Residential Speed Limits and a new Policy

Town of Flower Mound
TOWN SECRETARY'S OFFICE
OFFICIAL FILE COPY

RESOLUTION NO. 12-10

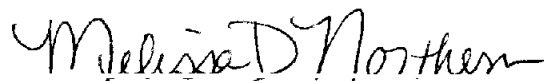
PAGE 2

for Implementing Reduced Residential Speed Limits (the "Policy"), which Policy is attached hereto as Exhibit A and incorporated herein by reference for all purposes allowed by law, is hereby adopted as the Town's official statement regarding the eligibility criteria for consideration and the process through which neighborhoods may present certain roads to the Town Council for determination whether the thirty (30) mile per hour prima facie speed limit on a certain road is unreasonable or unsafe and declare a lower speed limit of not less than twenty-five (25) miles per hour.

SECTION 3

This Resolution shall take effect immediately from and after its adoption and is accordingly so resolved.

PASSED, APPROVED AND ADOPTED THIS THE 7TH DAY OF JUNE, 2010.

APPROVED:
Melissa D. Northern, MAYOR**ATTEST:**
Paula Paschal, TOWN SECRETARY**APPROVED AS TO FORM AND LEGALITY:**
Terrence S. Welch, TOWN ATTORNEY

TOWN OF NEW BRITAIN
TOWN SECRETARY'S OFFICE
JUN 10 2010

EXHIBIT A**Policy for Implementing Reduced Residential Speed Limits****Purpose and Need**

This policy sets forth the process and eligibility criteria for the implementation of reduced speed limits on certain residential streets. This process focuses these implementations on areas near schools and major roadway construction zones. The policy also establishes an exception process should a particular street not conform to the eligibility criteria.

Introduction and Background

During the 79th Texas Legislature, House Bill 87 was signed into legislation providing authority to municipalities to alter speed limits on residential streets. This law allows municipalities to reduce the speed limit on streets with a width of 35' or less and where parking is not prohibited on one or both sides of the roadway. Further, a municipality would need to declare that the prima facie speed limit on that road is either unsafe or unreasonable. This law does not lower the basic prima facie speed limit which is currently 30 mph.

Responsibility

This policy will be implemented by the Town Manager or designee. Exception requests will be considered by the Transportation Commission for recommendation to the Town Council. Exception requests recommended by the Transportation Commission will be accompanied by an engineering study completed by the Town at the Town's cost. All reductions of neighborhood speed limits will require the approval of the Town Council.

Eligibility

For a street to be eligible for a reduction in speed limit to 25 mph, the street must be less than 35 feet in width, cannot have vehicle parking restrictions on either side of the street, and must meet one of the following location criteria:

- Located within one-quarter mile of a school site as depicted in the attached graphic
- Located within one-quarter mile of a construction zone associated with a major or minor arterial as defined on the Town of Flower Mound Thoroughfare Plan

Exceptions

Streets that do not meet the eligibility criteria can be considered on a case by case basis through the exception process. The request for an exception will include an engineering study to be completed by the Town, will be considered for recommendation by the Transportation Commission, and will be considered for adoption by the Town Council.

Implementation

Requests for reduced speed limits will be reviewed by Town staff for eligibility, or considered for an exception as described above. If the application is determined to meet the requirements, or an exception is recommended by the Transportation Commission, funding availability will be evaluated to determine if the speed limit signs can be installed during the current fiscal year. If funding is available, the request will be presented to the Town Council for consideration. If funding is not available, the neighborhood can choose to fund the cost of the sign materials and hardware or street(s) will be placed on a list of eligible streets to be included in a budget decision package during the next budget process.

Sign Design and Placement

All speed limit signs will meet the requirements contained in the Texas Manual on Uniform Traffic Control Devices. The placement of the speed limit signs will be reviewed determined by staff and coordinated with neighborhood representatives. Typical installations will only include one sign at each end of the neighborhood street, but mid-block signs will be considered on a case-by-case basis.

Town of Flower Mound
TOWN SECRETARY'S OFFICE
OFFICIAL FILE COPY

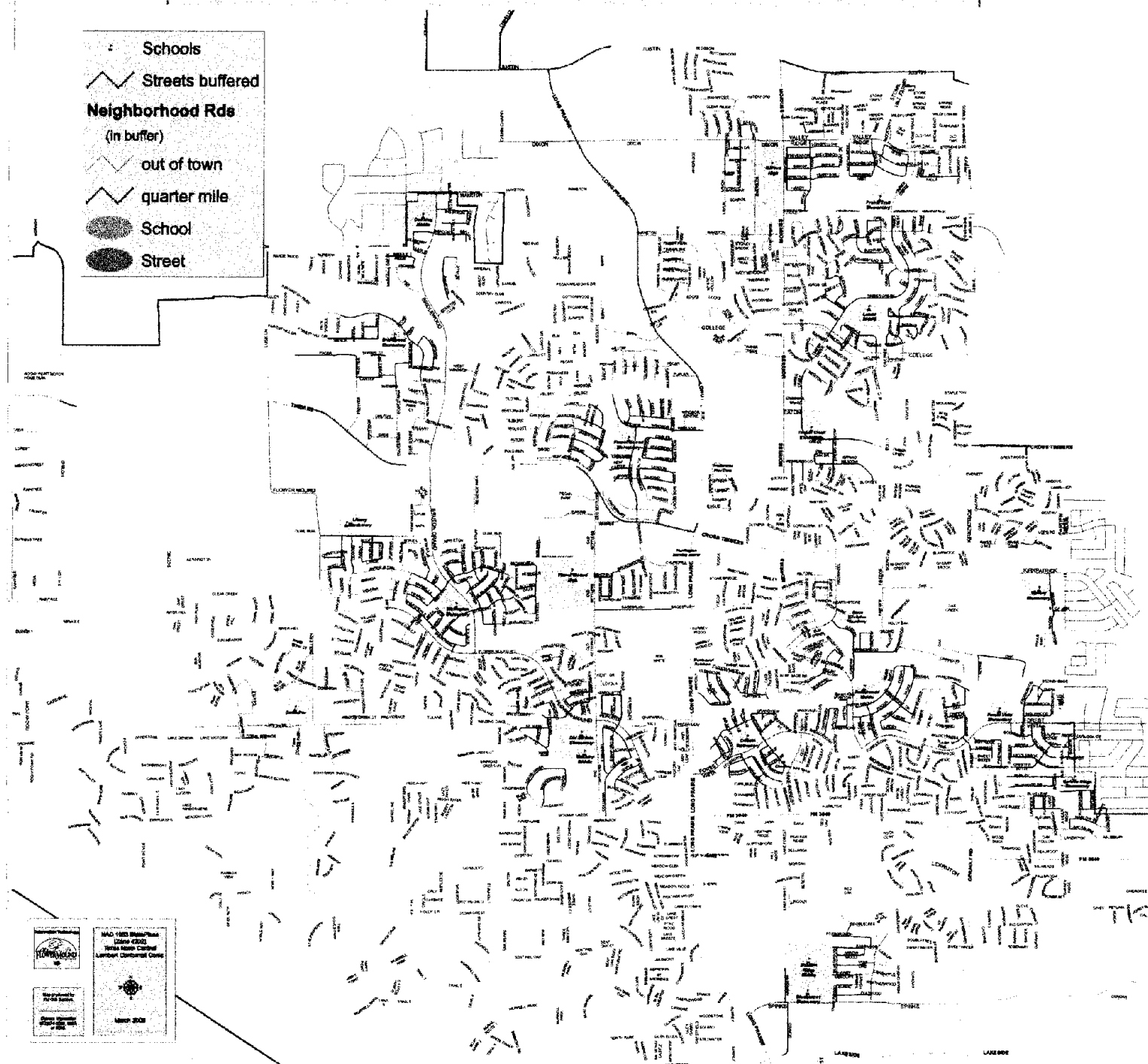
Process

The following provides a summary of the Process for Implementing Reduced Residential Speed Limits. The process is intended to be collaborative in nature, with the neighborhood representatives being stakeholders in the project.

1. Neighborhood contacts staff to request 25 mph speed limits
2. Staff establishes a point of contact for the request and project
3. Staff reviews the request and determines eligibility or directs request through exception process upon request
4. Staff reviews funding eligibility
 - a. If funding available, request is presented to Town Council
 - b. If funding not available:
 - i. Neighborhood funds cost of signs and hardware and request is presented to Town Council
 - ii. Staff submits request as a decision package during next budget process
5. Staff collects speed data prior to installation
6. Staff presents the request to the Town Council for required determination and action
7. If the Town Council declares a lower speed limit of not less than 25 mph for the roadway in question, Staff installs signs posting the speed limit at 25 mph
8. Staff collects speed data on a regular basis to determine effectiveness

Town of Flower Hill
TOWN SECRETARY'S OFFICE
OFFICIAL CITY SEAL

25 mph residential speed limit eligibility coverage



TOWN OF HOWARD RECORD
TOWN SECRETARY'S OFFICE
OFFICIAL FILE COPY

In an attempt to address speeding and safety issues on Surrey Ln, the neighborhood has requested a **25 MPH speed limit** along Surrey Lane from Solano Drive to Lakeside Parkway.

[illegible]

[illegible]

The Town of Flower Mound would like to know your stance on this. Your signature on this form will indicate that you have been informed of the proposal. Please indicate whether or not you support, oppose or have no preference of the proposed speed limit. The Town of Flower Mound will not reduce the speed limit unless **67%** are in support of the proposal.

[illegible]

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 declare a reduction of speed limits on certain local streets to twenty-five miles per hour (25 mph), if the Council finds that the established speeds are unreasonable or unsafe and authorizes a municipality to establish prima facie maximum reasonable and prudent speeds for vehicles on streets and highways based upon an engineering and traffic study; and,

WHEREAS, the Town Council has determined that the prima facie speed limits on roadways within one-fourth ($\frac{1}{4}$) mile of a school property or within one-fourth ($\frac{1}{4}$) mile of a construction zone located on an arterial street are unreasonable and unsafe and has approved a policy for the reduction of the speed limit to 25 mph on certain residential streets within one-fourth ($\frac{1}{4}$) mile of a school property or within one-fourth ($\frac{1}{4}$) mile of a construction zone located on an arterial street; and,

WHEREAS, the Town Council established an exception process whereby residents on streets outside of one-fourth ($\frac{1}{4}$) mile of a school property or arterial construction zone may request an exception to the existing reduced speed limit policy to extend a reduced speed limit for the requested street; and,

WHEREAS, the Town of Flower Mound has also conducted an engineering and traffic investigation and study to determine a prima facie maximum speed limit which is reasonable and safe on portions of certain other roadways that are the subject of this ordinance; and,

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)
Surrey Lane between Lakeside Parkway and Solano Drive	25

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.

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.

ORDINANCE NO.

PAGE 3

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 21ST DAY OF AUGUST, 2017.

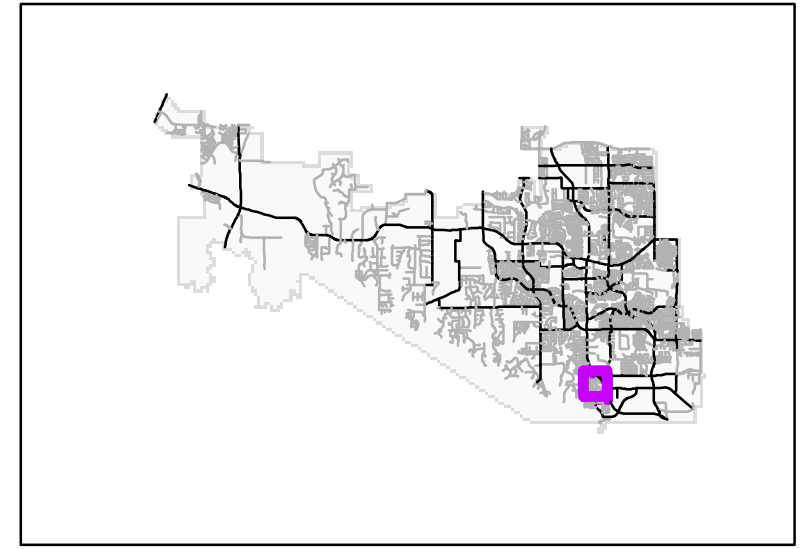
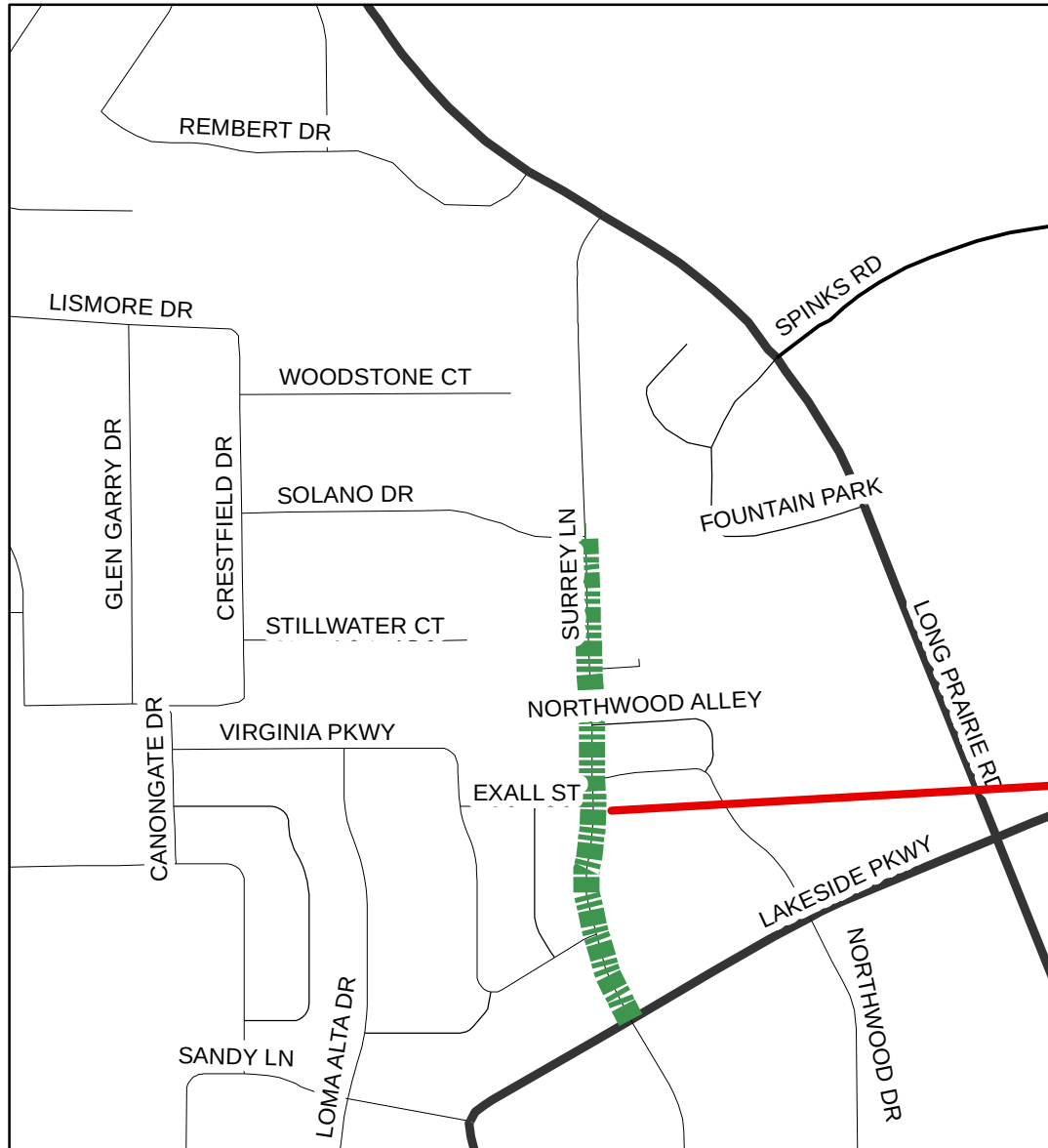
APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Vicinity Map - Surrey Lane Speed Limit Request



Vicinity Map

Project
Location(s)

Legend

 Surrey Speed Limit Location



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: August 21, 2017

FROM: Clay Riggs, Senior Project Engineer

ITEM: Consider approval of a Purchase and Sale Agreement with Big Woods on the Trinity Mitigation Bank for the Rheudasil, Wilkerson & Cortadera Parks - Pond Dredging and Bank Stabilization project, for \$18,500.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On July 17, 2017, the construction contract for the Rheudasil, Wilkerson, and Cortadera Park Pond Improvements project, in the amount of \$2,606,566.00, was awarded to Shirley and Sons Construction Co. The Rheudasil and Wilkerson ponds were determined to be Waters of the US requiring permitting through the United States Corp of Engineers. Part of the permit requirements is for the Town to purchase 1.0 Wetland Functional Capacity Mitigation credits from Big Woods on the Trinity Mitigation Bank as the work to improve the ponds does affect the wetlands at the site.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$18,500.00

Proposed Expenditure:	Account Number(s):
\$18,500.00	532-110-90814

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

LEGAL REVIEW: The Purchase and Sale Agreement has been reviewed as to form and legality by Rob Allibon of Taylor, Olson, Adkins, Sralla, Elam, LLP.

ATTACHMENTS:

1. Purchase and Sale Agreement

DRAFT MOTION: Move to approve the Purchase and Sale Agreement with Big Woods on the Trinity Mitigation Bank for the Rheudasil, Wilkerson, and Cortadera Park Pond Improvements project, for \$18,500.00; and authorize the Mayor to execute same on behalf of the Town.

**PURCHASE AND SALE AGREEMENT FOR MITIGATION CREDITS
BIG WOODS ON THE TRINITY MITIGATION BANK**

This Purchase and Sale Agreement for Mitigation Credits (this “**Agreement**”) is entered into as of _____, _____, (the “**Effective Date**”) between Mitigation Management, Ltd, a Texas Limited Partnership, (“**Seller**”) and The Town of Flower Mound (“**Buyer**”), collectively referred to herein as the “**Parties**,” regarding the following:

RECITALS

A. Seller is the “Bank Sponsor” under that certain mitigation banking instrument entitled “Mitigation Banking Instrument, Big Woods on the Trinity Mitigation Bank, Anderson County, Texas SWF-2002-00530,” for Big Woods on the Trinity Mitigation Bank (the “**MBI**”) issued by the Department of the Army, Fort Worth District, Corps of Engineers (“**USACE**”), and setting forth the requirements for the development of that certain mitigation bank known as the “Big Woods on the Trinity Mitigation Bank” (the “**Subject MB**”).

B. Seller has received approval from the USACE to offer certain compensatory mitigation credits (the “**Credits**”) for sale as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems, located within that certain geographical service area more particularly depicted on attached **Exhibit A** (the “**Service Area**”) or other areas as may be approved by the USACE in accordance with the MBI. The Credits being sold pursuant to this Agreement are more particularly described on attached **Exhibit B**.

C. Buyer desires to purchase from Seller, through Seller’s exclusive marketing agent, Mitigation Solutions USA, LLC, a Texas limited liability company (“**Agent**”), and Seller, through Agent, desires to sell to Buyer, a total of 1.0 Wetland Credits from Big Woods on the Trinity Mitigation Bank (the “Subject Credits”), according to the terms and conditions set forth herein.

D. Buyer has obtained or will obtain all required authorization from the USACE under Permit Number(s) SWF-2016-00127 for Buyer’s purchase and use of the Subject Credits.

E. Buyer desires to purchase from Mitigation Management, Ltd (MML), through its exclusive marketing agent Mitigation Solutions, USA, LLC, and MML, through Agent, desires to sell to Buyer the aforementioned Subject Credits according to the terms and conditions set forth herein:

NOW, THEREFORE, IN CONSIDERATION OF THE RECITALS SET FORTH ABOVE AND THE REMAINING TERMS, COVENANTS AND CONDITIONS SET FORTH HEREIN THE PARTIES AGREE AS FOLLOWS:

1. Purchase and Payment.

a. From the Subject MB, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, 1.0 Credits for the total purchase price of \$18,500.00 (the “**Purchase Price**”), all as more particularly described on attached **Exhibit B**. The Purchase Price shall be due and payable to Agent on behalf of the Seller upon the execution of this Agreement in immediately available U.S. funds.

b. BUYER ACKNOWLEDGES AND AGREES THAT (I) THIS AGREEMENT IS AN ARM’S-LENGTH CONTRACT BETWEEN THE PARTIES; (II) SELLER HAS NO CONTROL OVER THE ACTIONS OR INACTIONS OF THE USACE OR ANY OTHER GOVERNMENTAL AGENCY; AND (III) **EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ALL REPRESENTATIONS, DISCLOSURES AND WARRANTIES, EXPRESS OR IMPLIED, ARE FULLY DISCLAIMED.**

2. Sale of Subject Credits. The Subject Credits shall be deemed sold by Seller to Buyer immediately upon execution of this Agreement, subject only to Agent’s receipt of payment of the Purchase Price therefor in full, as evidenced by Seller’s issuance of a final invoice therefor marked “PAID IN FULL”. Once full payment has been received by Agent for the Subject Credits, the sale contemplated in this Agreement shall be deemed to have occurred, at which time Agent will so notify the USACE (with a copy to the Buyer). Buyer’s failure to remit such payments in full for such released Credits, as provided above, shall constitute a material default under this Agreement.

3. No Property Interest or Special Relationship. The sale of Credits as described herein is not intended as a sale to Buyer of a security, license, lease, easement or possessory or non-possessory interest in real property, nor the granting of any interest in the foregoing. The relationships between the Parties are ordinary commercial relationships; the Parties do not intend to create any other kind of relationship, such as principal and agent, a partnership, a joint venture or any other special relationship.

4. Mitigation Bank Maintenance. Notwithstanding the sale of the Credits to Buyer pursuant to this Agreement, Seller shall remain responsible for performing all of the obligations of “Bank Sponsor” under the MBI with respect to the Subject MB, including any maintenance, monitoring and reporting obligations, and Buyer shall have no responsibility therefor; however, Buyer covenants and agrees that it shall not violate, or otherwise commit any acts or omissions in contravention of, the MBI. In addition, Buyer will be solely responsible for making all required applications and seeking all required permits and authorizations from the IRT, the USACE or any other governmental entity, as applicable, regarding its use and application of the Credits.

5. Indemnity and Release. **TO THE EXTENT PERMITTED BY LAW, BUYER WILL INDEMNIFY, DEFEND, RELEASE AND HOLD SELLER AND AGENT, AND ALL OF THEIR RESPECTIVE AFFILIATES, CONTRACTORS AND AGENTS, TOGETHER WITH ALL THOSE PERSONS ACTING ON BEHALF OF ANY AND ALL SUCH PARTIES, HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LOSS, ATTORNEY’S FEES, COURT COSTS AND OTHER EXPENSES ARISING OUT OF BUYER’S PURCHASE OF THE SUBJECT CREDITS, EXCEPT TO THE EXTENT ATTRIBUTABLE TO**

THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SELLER OR PERSONS ACTING ON ITS BEHALF.

6. Representations and Covenants.

a. Seller's Representations and Covenants. Seller represents and covenants the following to Buyer as of the Effective Date:

i. Seller is a Texas limited partnership duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to sell the Credits to Buyer. Seller has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required action and approvals therefor have been fully taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller is and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

ii. There is no litigation pending or, to Seller's actual knowledge, without further inquiry, threatened against Seller that might affect the Subject MB, the Credits or Seller's ability to perform its obligations under this Agreement.

iii. Seller has not received notice of any material violation of any law, ordinance, regulation or requirements affecting the Subject MB.

iv. Seller has not received notice of any condemnation or land-use proceedings or any governmental inquiries or notices affecting the Subject MB.

v. The Credits shall be sold free and clear of all liens and encumbrances.

vi. Except as expressly stated above or otherwise in this Agreement, Seller makes no representation or warranties with respect to the Subject MB, the Credits or otherwise in connection with this Agreement.

b. Buyer's Representations and Covenants. Buyer represents and covenants the following to Seller as of the Effective Date:

i. Buyer is validly existing, and in good standing under the laws of the State of Texas. Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required action and approvals therefor have been fully taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto.

ii. Buyer has made all reviews, inspections and investigations deemed necessary or prudent by Buyer regarding the Credits, and sought the counsel and advice

of all consultants, attorneys and other experts regarding the Credits or its purchase thereof under this Agreement; consequently, Buyer has fully satisfied itself that such Credits will serve as the anticipated compensation for the impacts to, and losses in, the Service Area intended by Buyer, subject to the approval of the USACE and any other appropriate governmental agencies.

iii. Buyer is not in the business of marketing, selling or re-selling Credits and agrees to use all of its Credits purchased pursuant to this Agreement solely and exclusively as compensation for unavoidable adverse impacts to, or losses within, the Service Area to which the Credits may be applied, as determined by the USACE, and then only to the extent such impacts and losses are caused by Buyer's own business activities in such Service Area. Buyer further covenants not to re-sell any of the Subject Credits.

iv. Except as expressly stated above or otherwise provided in this Agreement, Buyer makes no representation or warranties with respect to the Credits or otherwise in connection with this Agreement.

c. No Other Brokers. Seller and Buyer each represent and warrant to the other that they have not had any dealings with any brokers, finders or agents, and no commissions or fees are payable, in connection with this Agreement, other than to Agent, whose commission shall be payable by Seller pursuant to a separate agreement. **TO THE EXTENT PERMITTED BY LAW, EACH PARTY AGREES TO INDEMNIFY, DEFEND, RELEASE AND HOLD THE OTHER PARTY, AND THOSE PERSONS ACTING ON BEHALF OF SUCH OTHER PARTY, HARMLESS FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, LOSS, ATTORNEYS' FEES, COURT COSTS AND OTHER EXPENSES ARISING OUT OF ANY CLAIM BY ANY PERSON OR ENTITY CLAIMING BY, THROUGH OR UNDER THE INDEMNIFYING PARTY FOR ANY OTHER BROKER'S OR FINDER'S FEE OR COMMISSION ARISING UNDER THIS AGREEMENT.** The obligations of the Parties under this provision will survive termination of this Agreement and the closing of each sale.

7. Default and Remedies.

a. Seller's Default; Buyer's Remedies. If Seller shall be in default hereunder, Buyer may deliver written notice to Seller stating the alleged default of Seller and the action required by Seller to cure such default, whereupon Seller shall have thirty (30) days to cure the alleged default to Buyer's reasonable satisfaction (and performance of Seller's obligations under this Agreement shall thereupon be delayed, if necessary, until the end of such 30-day period). If such default is not cured within such 30-day period, then Buyer may, as its sole and exclusive remedies for such default, elect to terminate this Agreement by written notice to Seller and Agent, and receive a full refund of the Deposit.

b. Buyer's Default; Seller's Remedies. If Buyer shall be in default hereunder, Seller may deliver written notice to Buyer stating the alleged default of Buyer and the action required by Buyer to cure such default, whereupon Buyer shall have thirty (30) days to cure the alleged default to Seller's reasonable satisfaction. If such default is not cured within such 30-day period, then Seller shall have the right to pursue any and all remedies as may be available at law or in equity.

c. Limited Liability. No individual member, partner, manager, officer, director, shareholder, employee, contractor or agent of Seller shall be personally liable for any judgment or deficiency brought under this Agreement. Buyer waives all claims against Seller and Agent, and all of their respective affiliates, contractors and agents, together with all those persons acting through or on behalf of any and all such parties, for consequential, special or punitive damages of any kind allegedly suffered by any Buyer or any related parties. Likewise, Seller waives all claims against Buyer, and all of its respective affiliates, contractors and agents, together with all those persons acting through or on behalf of any and all such parties, for consequential, special or punitive damages of any kind allegedly suffered by Seller or any related parties.

8. Notice. Any notice or demand permitted or required by this Agreement shall be made in writing and shall be delivered by hand delivery, which shall include delivery by reputable national overnight courier service, such as Federal Express, or by electronic transmission (including electronic mail or facsimile) with confirmation of transmission followed by hand delivery of a copy of such notice or demand. Any such notice or demand shall be effective and deemed received on the date delivered to the address of the addressee, as indicated on the receipt confirmation if delivered by hand, or if delivered by electronic transmission, on the date of such transmission, as indicated on the receipt confirmation. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed receipt of the notice, demand or request sent. For the purposes of this Section, notices shall be directed as follows:

If to Seller: Mitigation Management, Ltd.
2557 State Highway 7 East
Center, TX 75935
Attn: J. Mike Bird
Email: jmbird@adv-eco.com

With a copy to: Mettauer Law Firm, PLLC
403 Nacogdoches, Suite 1
Center, TX 75935
Attn: Matthew D. Mettauer
Phone: (936) 598-9400
Email: matthew@mettauerlaw.com

If to Agent: Mitigation Solutions USA, LLC
3200 Wilcrest, Suite 460
Houston, TX 77042
Attn: Terry McKenzie
Email: terry@msusa.com
Phone: (713) 812-9000

If to Buyer:

 Email: _____
 Phone: _____

9. Restrictions on Assignment. No party will be entitled to assign this Agreement to any person without the prior written consent of all of the Parties hereto, and any attempted assignment without such consent shall be deemed null and void. Notwithstanding the foregoing, Seller may assign this Agreement in connection with the underlying sale or conveyance of the Subject MB (or the underlying land and any Credits attributable thereto, including all or a portion of the Credits); provided Seller gives Buyer written notice of such assignment, together with all pertinent documentation and related non-confidential information regarding such assignment as Buyer may reasonably request.

10. Miscellaneous.

a. The section headings in this Agreement are for convenience of reference only and are not intended, to any extent and for any purposes, to limit or define text of any section of subsection thereof. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will nonetheless remain in full force and effect.

b. This Agreement and all rights, duties and responsibilities hereunder shall be interpreted and construed in accordance with the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue shall be in Denton County, Texas, except as otherwise provided by applicable law.

c. This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but such counterparts together shall constitute one and the same instrument. The signature pages may be detached from one counterpart and reattached to another counterpart in order to form a fully-executed original instrument. Signatures to this Agreement transmitted by facsimile or electronic mail will be valid and effective to bind the party so signing. Each party agrees to promptly deliver any execution original to this Agreement with its actual signature to the other Parties, but a failure to do so will not affect the enforceability of this Agreement.

d. This Agreement shall be binding upon and inure to the benefit of the Parties' respective successors, successors-in-title and assigns. There are no third-party beneficiaries of this Agreement.

e. Each party shall be responsible for its own attorneys' fees in connection with the subject matter of this Agreement. The rule of construction that ambiguities in a document will

be construed against the drafting party will not be applied in interpreting this Agreement. If either party retains an attorney to enforce this Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

f. Each party agrees that it will, at any time and from time to time after the execution of this Agreement, upon request of the other party, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, assignments, conveyances and assurances as may reasonably be required to carry out the intended purposes of this Agreement.

g. This Agreement, together with its exhibits, constitutes the entire agreement of the Parties concerning the sale of the Credits to Buyer. There are no oral representations, warranties, agreements or promises pertaining to such sale not incorporated in writing in this Agreement.

h. This Agreement may be amended only by an instrument in writing signed by the Parties. No term or condition of this Agreement will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

i. The obligations of this Agreement that cannot be performed before termination of this Agreement or before closing of the sale of any subset of the Credits will survive termination of this Agreement or such closing, and the legal doctrine of merger will not apply to these matters.

j. Time is of the essence of this Agreement and each provision hereof. If the last day upon which performance would otherwise be required or permitted is a Saturday, Sunday or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday. The term "holiday" shall mean all and only mandatory federal holidays including which deliveries by the United States Postal Services are suspended.

[Signatures commence following page]

*Seller Signature Page to
Purchase and Sale Agreement for Reserved Mitigation Credits*

IN WITNESS WHEREOF, the Parties execute this Agreement as of the Effective Date.

SELLER:

MITIGATION MANAGEMENT, LTD.

J. Mike Bird, Member and Manager
of Texas Mitigation Management, LLC,
General Partner of Mitigation Management, Ltd.

Date: _____

[Signatures continue following page]

***Buyer Signature Page to
Purchase and Sale Agreement for Mitigation Credits***

BUYER

Signature: _____

Printed Name: _____

Title: _____

Date: _____

[Signatures continue following page]

*Agent's Acknowledgement of
Purchase and Sale Agreement for Mitigation Credits*

AGENT:

MITIGATION SOLUTIONS USA, LLC

Signature: _____

Printed Name: _____

Title: _____

Date: _____

[End of Signatures]

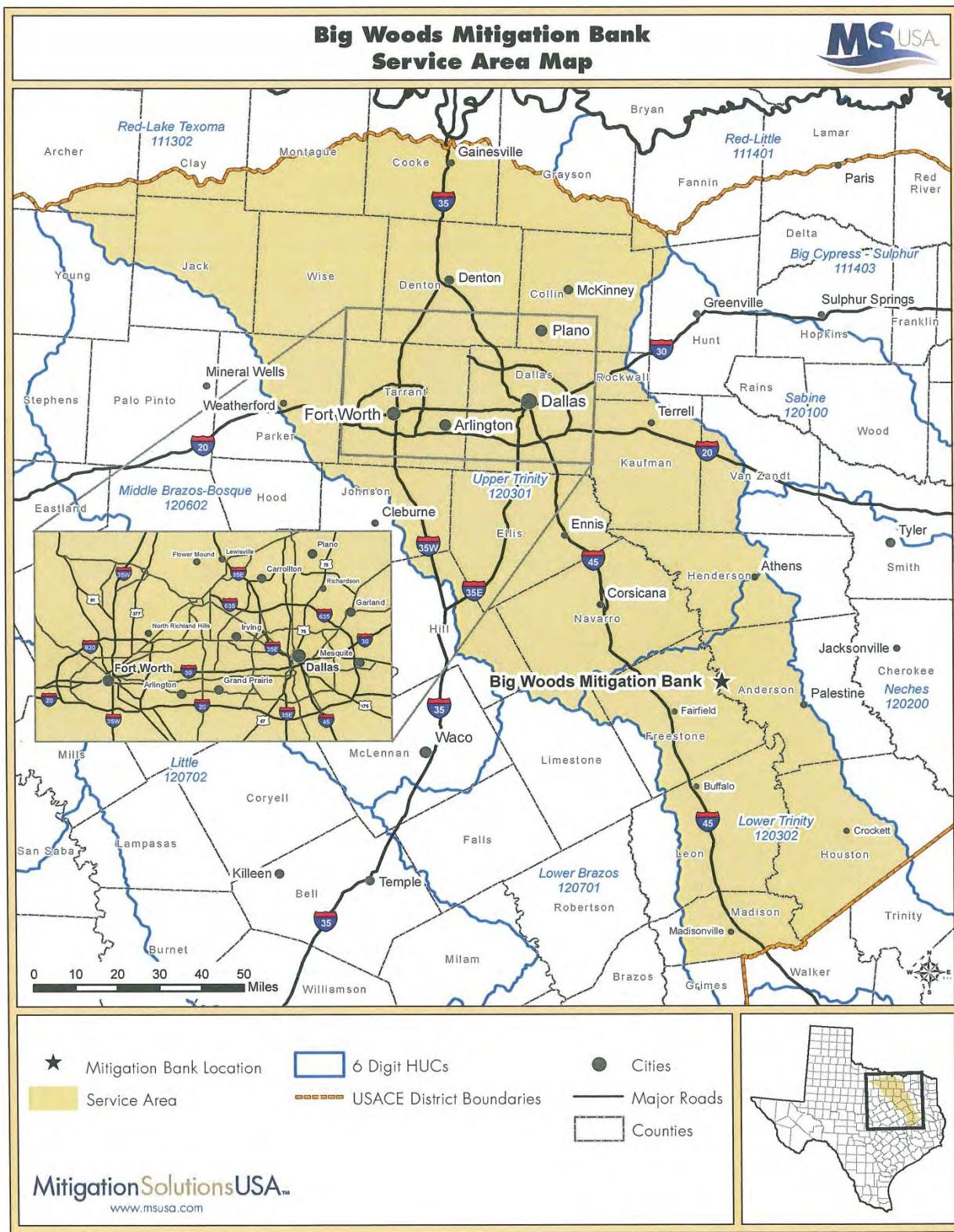
EXHIBIT A

EXHIBIT B

Purchase of Wetland Credits

Buyer will purchase 1.0 wetland Functional Capacity Units from Big Woods on the Trinity Mitigation Bank.

Total Purchase Price: \$18,500.00

The Purchase Price shall be due and payable to Agent on behalf of the Seller upon the execution of this Agreement in immediately available U.S. funds.



TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: August 21, 2017

FROM: David Bauer, Construction Manager

ITEM: Consider approval of Change Order No. 2 and final acceptance for the Twin Coves Park Improvements project, through the Construction Manager at Risk (CMR) Agreement with Dean Electric, Inc., dba, Dean Construction, in the amount of not to exceed \$37,464.00 and final payment of \$224,302.49, for a total CMR contract value of \$ 3,357,193.95; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Construction Manager at Risk (CMR) contract with Dean Construction was awarded by Town Council on November 2, 2015, in the amount of \$2,880,871.97.

Change Order No.1 was approved by Council on April 3, 2017, in the amount of \$438,857.98. Change Order No. 2 provides for 2000 LF of wind screens on the fence at the equipment yard, add painted handrails at all of the cabins, add sod for the playground area and the scenic overlook, type 3 barricades for safety, remove and replace the sidewalk at the existing rest room that was not ADA compliant and 3 tons of river rock for the landscaping areas, in the amount of \$37,464.00.

All work on this project is in place and complete. All documentation has been received and staff is requesting final acceptance of the project to be granted by the Town Council. Final Payment consists of \$59,413.45 of work completed, and \$164,889.04 of retainage, for a final payment of \$224,302.49.

FISCAL IMPACT: \$224,302.49

Proposed Expenditure:	Account Number(s):
\$ 2,750.00	350-584-90802
34,205.12	505-110-90802
172,386.31	532-110-90802
14,961.06	630-960-90802

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No.2
2. Consent of Surety
3. Affidavit of bills paid
4. Final Pay Application

DRAFT MOTION: Move to approve Change Order No. 2 and final acceptance for the Twin Coves Park Improvements project, through the Construction Manager at Risk (CMR) Agreement with Dean Electric, Inc., dba, Dean Construction, in the amount of not to exceed \$37,464.00 and final payment of \$224,302.49, for a total CMR contract value of \$3,357,193.95; and authorization for the Mayor to execute same on behalf of the Town.



Document G701/CMa™ – 1992

Change Order - Construction Manager-Adviser Edition

PROJECT: <i>(Name and address)</i> Twin Coves Park 1350 Twin Coves Park Road	CHANGE ORDER NUMBER: 002 INITIATION DATE: 7/5/2017 PROJECT NUMBERS: / /	OWNER ☐ CONSTRUCTION MANAGER ☒ ARCHITECT ☐ CONTRACTOR ☐ FIELD ☐ OTHER ☐
TO CONTRACTOR: <i>(Name and address)</i> Dean Electric, Inc. dba Dean Co 701 Hall Street Cedar Hill, TX 75104	CONTRACT DATE: 11/5/2015 CONTRACT FOR: Park Improvements	

THE CONTRACT IS CHANGED AS FOLLOWS:

- | | |
|---|------------------------------------|
| 1. Add windscreens to approx 200' of 6' chain link at maintenance area \$2,600.00 | 5. 3 tons of river rock \$1,200.00 |
| 2. Add painted handrails at the steps \$17,800.00 | 6. Type 3 barricade \$2,911.00 |
| 3. Sod the area around the playground \$5,553.00 | 7. Sod the picnic area \$6,600.00 |
| 4. Remove and replace 80sf of trail at the restroom building \$800.00 | |

The original Guaranteed Maximum Price was \$ 2,880,871.97

Net change by previously authorized Change Orders \$ 438,857.98

The Guaranteed Maximum Price prior to this Change Order was \$ 3,319,729.95

The Guaranteed Maximum Price will be increased by this Change Order \$ 37,464.00

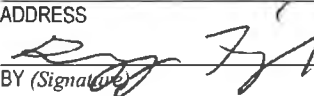
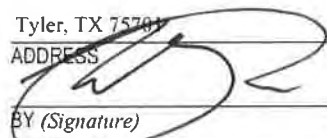
The new Guaranteed Maximum Price including this Change Order will be \$ 3,357,193.95

The Contract Time will be unchanged by (N/A) days.

The date of Substantial Completion as of the date of this Change Order therefore is

(NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price that have been authorized by Construction Change Directive.)

NOT VALID UNTIL SIGNED BY THE OWNER, CONSTRUCTION MANAGER, ARCHITECT AND CONTRACTOR.

Dean Electric, Inc. dba Dean Construction CONSTRUCTION MANAGER <i>(Firm name)</i> 701 Hall Street Cedar Hill, TX 75104 ADDRESS  BY <i>(Signature)</i> Gregory Firebaugh - President 7/5/2017 <i>(Typed name)</i> DATE	MHS Planning & Design ARCHITECT <i>(Firm name)</i> 212 W 9th Street Tyler, TX 75701 ADDRESS  BY <i>(Signature)</i> William Spencer 7/10/17 <i>(Typed name)</i> DATE
CONTRACTOR <i>(Firm name)</i> ADDRESS BY <i>(Signature)</i> <i>(Typed name)</i> DATE	Town of Flower Mound OWNER <i>(Firm name)</i> 2121 Cross Timbers Road Flower Mound, TX 75028 ADDRESS BY <i>(Signature)</i> <i>(Typed name)</i> DATE

**CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT**

AIA DOCUMENT G707

OWNER	☐
ARCHITECT	☐
CONTRACTOR	☐
SURETY	☐
OTHER	☐

Bond No. **PB02253100462**

PROJECT: Twin Coves Park Improvements
 (name, address) **1350 Twin Coves Park Road, Flower Mound, TX 75028**
 TO (Owner)

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Architect's Project No.:

Contract For: **Twin Coves Park Improvements**
1350 Twin Coves Park Road, Flower Mound, TX 75028

Contract Date: **November 4, 2015**Contractor: **Dean Electric, Inc. dba Dean Construction, 701 Hall Street, Cedar Hill, Texas 75104**

In accordance with the provision of the Contract between the Owner and the Contractor as indicated above, the **Philadelphia Indemnity Insurance Company, SURETY COMPANY**, on bond of **Dean Electric, Inc. dba Dean Construction, CONTRACTOR**, hereby approves the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to **Town of Flower Mound, OWNER**, as set forth in the said Surety Company' bond.

IN WITNESS WHEREOF,
 the Surety Company has hereunto set its hand this 6th Day of July, 2017.

Philadelphia Indemnity Insurance Company
 Surety Company


 Signature of Authorized Representative
Peggy Gradel Hogan Attorney-In-Fact

Attest:
 (Seal):

Note: This form is to be used as a companion document to AIA DOCUMENT G706, CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS, Current Edition

PHILADELPHIA INDEMNITY INSURANCE COMPANY

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS That PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint Sheri Renee Allen, Peggy Gradel Hogan, Steven Lott, David C Oxford, Steve Rickenbacher, Barton Russ, Sherrel Breazeale and/or Tommy Bret Tomlinson of Consolidated IP of Texas, LLC, its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$25,000,000

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached

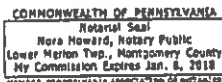
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 14TH DAY OF NOVEMBER, 2016

(Seal)



Robert D. O'Leary Jr., President & CEO
Philadelphia Indemnity Insurance Company

On this 14th day of November, 2016, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY, that the seal affixed to said instrument is the Corporate seal of said Company, that the said Corporate Seal and his signature were duly affixed.



Notary Public

residing at

Bala Cynwyd, PA

(Notary Seal)

My commission expires

January 8, 2018

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto on this 14th day of November, 2016 are true and correct and are still in full force and effect. I do further certify that Robert D. O'Leary Jr., who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 6th day of July, 20 17.



Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

IMPORTANT NOTICE

To obtain information or make a complaint:
You may call the Surety's toll free telephone
number for information or to make a
complaint at:

1-877-438-7459

You may also write Philadelphia Indemnity
Insurance Company at:

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
Attention: Senior Vice President and
Director of Surety

You may contact the Texas Department of
Insurance to obtain information on
companies, coverage, rights or complaints
at:

1-800-252-3439.

You may write the Texas Department of
Insurance at:

P.O. Box 149104
Austin, TX. 78714-9104
Fax# 512-475-1771
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES: Should
you have a dispute concerning your
premium or about a claim, you should
contact the Surety first. If the dispute is not
resolved, you may contact the Texas
Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:
This notice is for information only and does
not become a part or condition of the
attached document.

ADVISO IMPORTANTE

Para obtener informacion o para someter
una queja: Usted puede llamar al numero
de telefono gratis de para informacion o
para someter una queja al:

1-877-438-7459

Usted tambien puede escribir a Philadelphia
Indemnity Insurance Company at:

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
Attention: Senior Vice President and
Director of Surety

Puede comunicarse con el Departamento
de Seguros de Texas para obtener
information acerca de companias,
coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros
de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax# 512-475-1771
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.state.tx.us

**DISPUTAS SOBRE PRIMAS O
RECLAMOS:** Si tiene una disputa
concerniente a su prima o a un reclamo,
debe comunicarse con el Surety primero. Si
no se resuelve la disputa, puede entonces
comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este
aviso es solo para proposito de informacion
y no se convierte en parte o condicion del
documento adjunto.

AIA® Document G706™ – 1994
Contractor's Affidavit of Payment of Debts and Claims

PROJECT: <i>(Name and address)</i>	ARCHITECT'S PROJECT NUMBER:	OWNER ☐
Twin Coves Park		
1350 Twin Coves Park Road	CONTRACT FOR: Park Improvements	ARCHITECT ☐
		CONTRACTOR ☒
TO OWNER: <i>(Name and address)</i>	CONTRACT DATED: 11/05/2015	SURETY ☐
Town of Flower Mound		
2121 Cross Timbers Road		OTHER ☐
Flower Mound, TX 75028		

STATE OF: Texas

COUNTY OF: Dallas

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

5% Retainage to the following:
 Hot Wire Electric, Inc.
 Postema, Inc.
 Reynolds Asphalt & Construction Co.

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707™, Consent of Surety, may be used for this purpose.

Indicate Attachment ☐ Yes ☒ No

The following supporting documents should be attached hereto if required by the Owner:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A™).

CONTRACTOR: *(Name and address)*

Dean Electric, Inc. dba Dean Construction
 701 Hall Street
 Cedar Hill, TX 75104

BY:


(Signature of authorized representative)

Gregory Firebaugh - President
(Printed name and title)

Subscribed and sworn to before me
 on this date:

Notary Public:
 My Commission Expires:

PAYMENT APPLICATION

TO: Town of Flower Mound 2121 Cross Timbers Road Flower Mound Texas 75028 David Bauer FROM: Dean Electric DBA Dean Construction 701 Hall St Cedar Hill, TX 75104 FOR:	PROJECT NAME AND LOCATION: Twin Coves Park Improvements campground 1350 Twin Coves Park Road Flower Mound Texas 75028 ARCHITECT: MHS Planning & Design, LLC 212 W 9th St Tyler, Tx 75701	APPLICATION # 18 Final PERIOD THRU: 07/17/2017 PROJECT #s: 5389 DATE OF CONTRACT: 11/05/2015	Distribution to: ☐ OWNER ☐ ARCHITECT ☐ CONTRACTOR ☐
---	--	---	--

CONTRACTOR'S SUMMARY OF WORK

Application is made for payment as shown below.
 Continuation Page is attached.

1. CONTRACT AMOUNT	\$2,880,871.97
2. SUM OF ALL CHANGE ORDERS	\$476,321.98
3. CURRENT CONTRACT AMOUNT (Line 1 +/- 2)	\$3,357,193.95
4. TOTAL COMPLETED AND STORED (Column G on Continuation Page)	\$3,357,193.95
5. RETAINAGE:	
a. of Completed Work (Columns D + E on Continuation Page)	_____
b. of Material Stored (Column F on Continuation Page)	_____
Total Retainage (Line 5a + 5b or Column I on Continuation Page)	\$0.00
6. TOTAL COMPLETED AND STORED LESS RETAINAGE (Line 4 minus Line 5 Total)	\$3,357,193.95
7. LESS PREVIOUS PAYMENT APPLICATIONS	\$3,132,891.44
8. PAYMENT DUE	\$224,302.51
9. BALANCE TO COMPLETION (Line 3 minus Line 6)	\$0.00

SUMMARY OF CHANGE ORDERS	ADDITIONS	DEDUCTIONS
Total changes approved in previous months	\$514,911.58	(\$76,053.60)
Total approved this month	\$37,464.00	\$0.00
TOTALS	\$552,375.58	(\$76,053.60)
NET CHANGES	\$476,321.98	

Contractor's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) the Work has been performed as required in the Contract Documents, (2) all sums previously paid to Contractor under the Contract have been used to pay Contractor's costs for labor, materials and other obligations under the Contract for Work previously paid for, and (3) Contractor is legally entitled to this payment.

CONTRACTOR: Dean Electric DBA Dean Construction

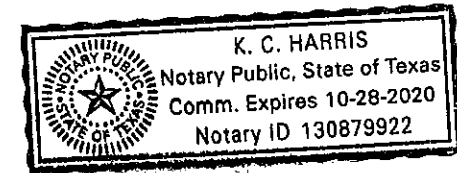
By: Gregory Firebaugh Date: 07/17/2017

State of: Texas

County of: Dallas

Subscribed and sworn to before
 me this 17th day of July 2017

Notary Public: K.C. Harris
 My Commission Expires: 10/28/20

**ARCHITECT'S CERTIFICATION**

Architect's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) Architect has inspected the Work represented by this Application, (2) such Work has been completed to the extent indicated in this Application, and the quality of workmanship and materials conforms with the Contract Documents, (3) this Application for Payment accurately states the amount of Work completed and payment due therefor, and (4) Architect knows of no reason why payment should not be made.

CERTIFIED AMOUNT

(If the certified amount is different from the payment due, you should attach an explanation. Initial all the figures that are changed to match the certified amount.)

ARCHITECT: William Spencer

By: _____ Date: _____

Neither this Application nor payment applied for herein is assignable or negotiable. Payment shall be made only to Contractor, and is without prejudice to any rights of Owner or Contractor under the Contract Documents or otherwise.

CONTINUATION PAGE

Page 2 of 6

PROJECT: Twin Coves Park Improvements
campground

APPLICATION #: 18 Final
DATE OF APPLICATION: 07/17/2017
PERIOD THRU: 07/17/2017
PROJECT #s: 5389

Payment Application containing Contractor's signature is attached.

A	B	C	D	E	F	G		H	I
ITEM #	WORK DESCRIPTION	SCHEDULED AMOUNT	COMPLETED WORK		STORED MATERIALS (NOT IN D OR E)	TOTAL COMPLETED AND STORED (D + E + F)	% COMP. (G / C)	BALANCE TO COMPLETION (C-G)	RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
1	Erosion Control	\$23,332.00	\$23,332.00	\$0.00	\$0.00	\$23,332.00	100%	\$0.00	\$0.00
2	Tree protection	\$10,000.00	\$10,000.00	\$0.00	\$0.00	\$10,000.00	100%	\$0.00	\$0.00
3	Shelter removal	\$45,000.00	\$45,000.00	\$0.00	\$0.00	\$45,000.00	100%	\$0.00	\$0.00
4	Shelter concrete removal	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$5,000.00	100%	\$0.00	\$0.00
5	Demo/ Earthwork	\$134,495.00	\$134,495.00	\$0.00	\$0.00	\$134,495.00	100%	\$0.00	\$0.00
6	RV concrete	\$24,000.00	\$24,000.00	\$0.00	\$0.00	\$24,000.00	100%	\$0.00	\$0.00
7	Concrete trail	\$20,000.00	\$20,000.00	\$0.00	\$0.00	\$20,000.00	100%	\$0.00	\$0.00
8	Site concrete	\$546,515.00	\$546,515.00	\$0.00	\$0.00	\$546,515.00	100%	\$0.00	\$0.00
9	Asphalt removal	\$98,950.00	\$98,950.00	\$0.00	\$0.00	\$98,950.00	100%	\$0.00	\$0.00
10	RV utilities	\$160,390.00	\$160,390.00	\$0.00	\$0.00	\$160,390.00	100%	\$0.00	\$0.00
11	RV electric	\$60,000.00	\$60,000.00	\$0.00	\$0.00	\$60,000.00	100%	\$0.00	\$0.00
12	RV amenities	\$27,320.00	\$27,320.00	\$0.00	\$0.00	\$27,320.00	100%	\$0.00	\$0.00
13	Site utilities	\$783,964.00	\$783,964.00	\$0.00	\$0.00	\$783,964.00	100%	\$0.00	\$0.00
14	Parking lot striping	\$4,850.00	\$4,850.00	\$0.00	\$0.00	\$4,850.00	100%	\$0.00	\$0.00
15	Masonry walls	\$32,790.00	\$32,790.00	\$0.00	\$0.00	\$32,790.00	100%	\$0.00	\$0.00
16	Fine grading	\$35,000.00	\$35,000.00	\$0.00	\$0.00	\$35,000.00	100%	\$0.00	\$0.00
	SUB-TOTALS	\$2,011,606.00	\$2,011,606.00	\$0.00	\$0.00	\$2,011,606.00	100%	\$0.00	\$0.00

CONTINUATION PAGE

Quantum Software Solutions, Inc. Document

CONTINUATION PAGE

Page 3 of 6

PROJECT: Twin Coves Park Improvements
campground

APPLICATION #: 18 Final
DATE OF APPLICATION: 07/17/2017
PERIOD THRU: 07/17/2017
PROJECT #s: 5389

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A	B	C	D	E	F	G		H	I
ITEM #	WORK DESCRIPTION	SCHEDULED AMOUNT	COMPLETED WORK		STORED MATERIALS (NOT IN D OR E)	TOTAL COMPLETED AND STORED (D + E + F)	% COMP. (G / C)	BALANCE TO COMPLETION (C-G)	RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
17	Irrigation	\$74,497.00	\$74,497.00	\$0.00	\$0.00	\$74,497.00	100%	\$0.00	\$0.00
18	Landscape	\$61,700.00	\$61,700.00	\$0.00	\$0.00	\$61,700.00	100%	\$0.00	\$0.00
19	Tree Planting	\$76,300.00	\$76,300.00	\$0.00	\$0.00	\$76,300.00	100%	\$0.00	\$0.00
20	Great lawn/ turf establishment	\$65,500.00	\$60,000.00	\$5,500.00	\$0.00	\$65,500.00	100%	\$0.00	\$0.00
21	Cabin pads/maintenance area	\$19,625.00	\$19,625.00	\$0.00	\$0.00	\$19,625.00	100%	\$0.00	\$0.00
22	Maintenance fence	\$12,625.00	\$12,300.00	\$325.00	\$0.00	\$12,625.00	100%	\$0.00	\$0.00
23	Stairs/ramps/skirting	\$68,100.00	\$68,100.00	\$0.00	\$0.00	\$68,100.00	100%	\$0.00	\$0.00
24	Site electrical	\$77,500.00	\$77,500.00	\$0.00	\$0.00	\$77,500.00	100%	\$0.00	\$0.00
25	Signage	\$9,648.00	\$9,648.00	\$0.00	\$0.00	\$9,648.00	100%	\$0.00	\$0.00
26	Water valves at RV sites	\$3,600.00	\$3,600.00	\$0.00	\$0.00	\$3,600.00	100%	\$0.00	\$0.00
27	Contingency	\$100,000.00	\$100,000.00	\$0.00	\$0.00	\$100,000.00	100%	\$0.00	\$0.00
28	Power company allowance	\$2,100.00	\$1,484.58	\$615.42	\$0.00	\$2,100.00	100%	\$0.00	\$0.00
29	GC/Fee \$33,339x8	\$266,714.97	\$263,417.00	\$3,297.97	\$0.00	\$266,714.97	100%	\$0.00	\$0.00
30	Bond	\$31,356.00	\$31,356.00	\$0.00	\$0.00	\$31,356.00	100%	\$0.00	\$0.00
31	1A erosion control	\$2,112.57	\$2,112.57	\$0.00	\$0.00	\$2,112.57	100%	\$0.00	\$0.00
32	earthwork	\$32,960.07	\$32,960.07	\$0.00	\$0.00	\$32,960.07	100%	\$0.00	\$0.00
	SUB-TOTALS	\$2,915,944.61	\$2,906,206.22	\$9,738.39	\$0.00	\$2,915,944.61	100%	\$0.00	\$0.00

CONTINUATION PAGE

Page 4 of 6

PROJECT: Twin Coves Park Improvements
campground

APPLICATION #: 18 Final
DATE OF APPLICATION: 07/17/2017
PERIOD THRU: 07/17/2017
PROJECT #s: 5389

Payment Application containing Contractor's signature is attached.

A	B	C	D	E	F	G		H	I
ITEM #	WORK DESCRIPTION	SCHEDULED AMOUNT	COMPLETED WORK		STORED MATERIALS (NOT IN D OR E)	TOTAL COMPLETED AND STORED (D + E + F)	% COMP. (G / C)	BALANCE TO COMPLETION (C-G)	RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
33	trail at kayak launch	\$7,194.33	\$7,194.33	\$0.00	\$0.00	\$7,194.33	100%	\$0.00	\$0.00
34	Pavilion #1	\$58,633.23	\$58,633.23	\$0.00	\$0.00	\$58,633.23	100%	\$0.00	\$0.00
35	grill concrete	\$200.77	\$200.77	\$0.00	\$0.00	\$200.77	100%	\$0.00	\$0.00
36	skid ramp	\$4,048.90	\$4,048.90	\$0.00	\$0.00	\$4,048.90	100%	\$0.00	\$0.00
37	rip rap	\$10,038.60	\$10,038.60	\$0.00	\$0.00	\$10,038.60	100%	\$0.00	\$0.00
38	kayak launch	\$47,822.78	\$47,822.78	\$0.00	\$0.00	\$47,822.78	100%	\$0.00	\$0.00
39	disc golf	\$6,673.44	\$6,673.44	\$0.00	\$0.00	\$6,673.44	100%	\$0.00	\$0.00
40	playground border / ramp	\$6,692.40	\$6,692.40	\$0.00	\$0.00	\$6,692.40	100%	\$0.00	\$0.00
41	irrigation	\$16,135.38	\$16,135.38	\$0.00	\$0.00	\$16,135.38	100%	\$0.00	\$0.00
42	playground equipment	\$33,462.00	\$33,462.00	\$0.00	\$0.00	\$33,462.00	100%	\$0.00	\$0.00
43	gravel / fabric at playground	\$4,461.60	\$4,461.60	\$0.00	\$0.00	\$4,461.60	100%	\$0.00	\$0.00
44	pavilion #2	\$58,633.23	\$58,633.23	\$0.00	\$0.00	\$58,633.23	100%	\$0.00	\$0.00
45	flatwork	\$15,158.29	\$15,158.29	\$0.00	\$0.00	\$15,158.29	100%	\$0.00	\$0.00
46	low water crossing	\$3,903.90	\$3,903.90	\$0.00	\$0.00	\$3,903.90	100%	\$0.00	\$0.00
47	stairs	\$7,807.80	\$7,807.80	\$0.00	\$0.00	\$7,807.80	100%	\$0.00	\$0.00
48	electrical	\$12,548.25	\$12,548.25	\$0.00	\$0.00	\$12,548.25	100%	\$0.00	\$0.00
	SUB-TOTALS	\$3,209,359.51	\$3,199,621.12	\$9,738.39	\$0.00	\$3,209,359.51	100%	\$0.00	\$0.00

CONTINUATION PAGE

Quantum Software Solutions, Inc. Document

CONTINUATION PAGE

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PROJECT: Twin Coves Park Improvements
campground

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Payment Application containing Contractor's signature is attached.

A	B	C	D	E	F	G		H	I
ITEM #	WORK DESCRIPTION	SCHEDULED AMOUNT	COMPLETED WORK		STORED MATERIALS (NOT IN D OR E)	TOTAL COMPLETED AND STORED (D + E + F)	% COMP. (G / C)	BALANCE TO COMPLETION (C-G)	RETAINAGE (if Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
49	cast iron grill	\$6,134.70	\$6,134.70	\$0.00	\$0.00	\$6,134.70	100%	\$0.00	\$0.00
50	grills/ plaque/ signage	\$7,211.06	\$4,000.00	\$3,211.06	\$0.00	\$7,211.06	100%	\$0.00	\$0.00
51	horse shoe / washers	\$2,398.11	\$2,398.11	\$0.00	\$0.00	\$2,398.11	100%	\$0.00	\$0.00
52	turf	\$19,092.30	\$10,092.30	\$9,000.00	\$0.00	\$19,092.30	100%	\$0.00	\$0.00
53	flex base	\$3,903.90	\$3,903.90	\$0.00	\$0.00	\$3,903.90	100%	\$0.00	\$0.00
54	raise 2 manholes in overlay area	\$1,338.48	\$1,338.48	\$0.00	\$0.00	\$1,338.48	100%	\$0.00	\$0.00
55	overlay	\$96,375.58	\$96,375.58	\$0.00	\$0.00	\$96,375.58	100%	\$0.00	\$0.00
56	overlay small parking lot	\$20,919.33	\$20,919.33	\$0.00	\$0.00	\$20,919.33	100%	\$0.00	\$0.00
57	fire rings at cabins	\$7,138.56	\$7,138.56	\$0.00	\$0.00	\$7,138.56	100%	\$0.00	\$0.00
58	water to spot 20	\$2,007.72	\$2,007.72	\$0.00	\$0.00	\$2,007.72	100%	\$0.00	\$0.00
59	2 additional sewer services	\$5,019.30	\$5,019.30	\$0.00	\$0.00	\$5,019.30	100%	\$0.00	\$0.00
60	sensors to replace float	\$11,706.12	\$11,706.12	\$0.00	\$0.00	\$11,706.12	100%	\$0.00	\$0.00
61	stainless steel enclosures	\$3,178.88	\$3,178.88	\$0.00	\$0.00	\$3,178.88	100%	\$0.00	\$0.00
62	deduct unused contingency	(\$76,053.60)	(\$76,053.60)	\$0.00	\$0.00	(\$76,053.60)	100%	\$0.00	\$0.00
63	add windscreens to 200' of maintenance fence	\$2,600.00	\$0.00	\$2,600.00	\$0.00	\$2,600.00	100%	\$0.00	\$0.00
64	add painted handrails at steps	\$17,800.00	\$0.00	\$17,800.00	\$0.00	\$17,800.00	100%	\$0.00	\$0.00
	SUB-TOTALS	\$3,340,129.95	\$3,297,780.50	\$42,349.45	\$0.00	\$3,340,129.95	100%	\$0.00	\$0.00

CONTINUATION PAGE

Quantum Software Solutions, Inc. Document

CONTINUATION PAGE

Page 6 of 6

PROJECT: Twin Coves Park Improvements
campground

APPLICATION #: 18 Final
DATE OF APPLICATION: 07/17/2017
PERIOD THRU: 07/17/2017
PROJECT #s: 5389

Payment Application containing Contractor's signature is attached.

A	B	C	D	E	F	G		H	I
ITEM #	WORK DESCRIPTION	SCHEDULED AMOUNT	COMPLETED WORK		STORED MATERIALS (NOT IN D OR E)	TOTAL COMPLETED AND STORED (D + E + F)	% COMP. (G / C)	BALANCE TO COMPLETION (C-G)	RETAINAGE (If Variable)
			AMOUNT PREVIOUS PERIODS	AMOUNT THIS PERIOD					
65	sod playground area	\$5,553.00	\$0.00	\$5,553.00	\$0.00	\$5,553.00	100%	\$0.00	\$0.00
66	R&R 80 SF of trail at restroom building	\$800.00	\$0.00	\$800.00	\$0.00	\$800.00	100%	\$0.00	\$0.00
67	3 tons of river rock	\$1,200.00	\$0.00	\$1,200.00	\$0.00	\$1,200.00	100%	\$0.00	\$0.00
68	Type 3 barricade	\$2,911.00	\$0.00	\$2,911.00	\$0.00	\$2,911.00	100%	\$0.00	\$0.00
69	sod at picnic area	\$6,600.00	\$0.00	\$6,600.00	\$0.00	\$6,600.00	100%	\$0.00	\$0.00
TOTALS		\$3,357,193.95	\$3,297,780.50	\$59,413.45	\$0.00	\$3,357,193.95	100%	\$0.00	\$0.00

CONTINUATION PAGE

Quantum Software Solutions, Inc. Document

AIA® Document G701/CMa™ – 1992

Change Order - Construction Manager-Adviser Edition

PROJECT: <i>(Name and address)</i> Twin Coves Park 1350 Twin Coves Park Road	CHANGE ORDER NUMBER: 002 INITIATION DATE: 7/5/2017 PROJECT NUMBERS: / /	OWNER ☐ CONSTRUCTION MANAGER ☒ ARCHITECT ☐ CONTRACTOR ☐ FIELD ☐ OTHER ☐
TO CONTRACTOR: <i>(Name and address)</i> Dean Electric, Inc. dba Dean Co 701 Hall Street Cedar Hill, TX 75104	CONTRACT DATE: 11/5/2015 CONTRACT FOR: Park Improvements	

THE CONTRACT IS CHANGED AS FOLLOWS:

- | | |
|---|------------------------------------|
| 1. Add windscreens to approx 200' of 6' chain link at maintenance area \$2,600.00 | 5. 3 tons of river rock \$1,200.00 |
| 2. Add painted handrails at the steps \$17,800.00 | 6. Type 3 barricade \$2,911.00 |
| 3. Sod the area around the playground \$5,553.00 | 7. Sod the picnic area \$6,600.00 |
| 4. Remove and replace 80sf of trail at the restroom building \$800.00 | |

The original Guaranteed Maximum Price was	\$ 2,880,871.97
Net change by previously authorized Change Orders	\$ 438,857.98
The Guaranteed Maximum Price prior to this Change Order was	\$ 3,319,729.95
The Guaranteed Maximum Price will be increased by this Change Order	\$ 37,464.00
The new Guaranteed Maximum Price including this Change Order will be	\$ 3,357,193.95
The Contract Time will be unchanged by (N/A) days.	

The date of Substantial Completion as of the date of this Change Order therefore is

(NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price that have been authorized by Construction Change Directive.)

NOT VALID UNTIL SIGNED BY THE OWNER, CONSTRUCTION MANAGER, ARCHITECT AND CONTRACTOR.

Dean Electric, Inc. dba Dean Construction
CONSTRUCTION MANAGER *(Firm name)*
701 Hall Street
Cedar Hill, TX 75104

ADDRESS

BY *(Signature)*
Gregory Firebaugh - President
(Typed name) 7/5/2017
DATE

MHS Planning & Design
ARCHITECT *(Firm name)*
212 W 9th Street
Tyler, TX 75702

ADDRESS

BY *(Signature)*
William Spencer
(Typed name) 7/10/17
DATE

CONTRACTOR *(Firm name)*

ADDRESS

BY *(Signature)*

(Typed name) DATE

Town of Flower Mound
OWNER *(Firm name)*
2121 Cross Timbers Road
Flower Mound, TX 75028

ADDRESS

BY *(Signature)*

(Typed name) 7.11.17
DATE

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TOWN COUNCIL AGENDA ITEM NO. 12

REGULAR ITEM

DATE: August 21, 2017

FROM: Poornima Srinarasi, Senior Planner

ITEM: **Public Hearing to consider a request for rezoning (ZPD17-0008 – Southgate-Northeast Tract) to amend Planned Development District No. 134 (PD-134) by modifying the development standard related to minimum side setbacks applicable only to detached residential structures within the SG-R1 subzone on the Northeast Tract, and to consider adopting an ordinance providing for said amendment. The property is generally located east of Gerault Road and north of Long Prairie Road. *(The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its August 14, 2017, meeting.)***

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item. No changes or new information has been received since that meeting.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

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

DRAFT MOTION: Move to approve a request for rezoning (ZPD17-0008 – Southgate-Northeast Tract) to amend Planned Development District No. 134 (PD-134) by modifying the development standard related to minimum side setbacks applicable only to detached residential structures within the SG-R1 subzone on the Northeast Tract, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 2

DATE: August 14, 2017

FROM: Poornima Srinarasi, Senior Planner

ITEM: **Public Hearing to consider a request for rezoning (ZPD17-0008 – Southgate-Northeast Tract) to amend Planned Development District No. 134 (PD-134) by modifying the development standard related to minimum side setbacks applicable only to detached residential structures within the SG-R1 subzone on the Northeast Tract. The property is generally located east of Gerault Road and north of Long Prairie Road.**

I. ITEM SUMMARY

This application has been reviewed by DRC and has been found to be in conformance with all applicable Town regulations.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The Southgate development encompasses approximately 108.3 acres and is zoned Planned Development District-134 (PD-134) for both non-residential and residential uses. This development is bisected by two major arterials that essentially divide the development into three subareas – the Northeast Tract, the Northwest Tract and the South Tract.

The Northeast Tract, located east of Gerault Road, is approximately 28.69 acres and is zoned for single family residential uses (SG-R1 subzone), commercial uses (SG-C2 subzone) and mixed uses (SG-M2 subzone). The current development standards for SG-R1 require detached single family residential units to have a four-foot side setback on the left side of the lots and a one-foot side setback on the right side of the lots (see Attachment B(3)). The purpose of this application is to amend Table 3.3.2, Lot Standards, to specifically change the side setback to five feet on one side and zero feet on the other side for detached residential uses within the SG-R1 subzone (see Attachment B(4)). The separation between residential structures will remain five feet with existing and proposed setback standards.

The development standards for the SG-R2 residential subzone on the Northwest Tract also reference Table 3.3.2 for both attached and detached lot standards. However, the applicant is not requesting to change the minimum side setback standard for SG-R2. For that reason, the proposed amendment further clarifies the different side setback standards for each subzone.

On April 18, 2016, the Town Council approved a development plan (DP15-0011) for the Northeast and Northwest tracts, consisting of 422 buildable, single family lots out of which 347 were single-family attached residential lots and 75 were single-family detached residential lots. Approved development plan for the Northeast Tract is attached as Attachment B(2)).

On April 20, 2015, the Town Council approved a Master Plan Amendment (MPA14-0004) to change the land use from Campus Industrial uses to Campus Commercial uses on approximately 28 acres of land to allow the entire 108.3-acre Southgate development to fall under the same land use designation of Campus Commercial. On the same agenda, the Town Council also approved a zoning amendment (ZPD14-0006) to change the zoning from Planned Development District No. 47 (PD-47) with Commercial District-2 (C-2) and Industrial District-2 (I-2) uses to Planned Development District No. 134 (PD-134) with both non-residential and residential uses in compliance with the Campus Commercial land use designation within the Lakeside Business District Area Plan. The Development Standards and Development Agreement for the Southgate development can be viewed on a dedicated web page: <http://www.flower-mound.com/1386/Southgate-at-Flower-Mound>.

III. ATTACHMENTS

A. Background Information

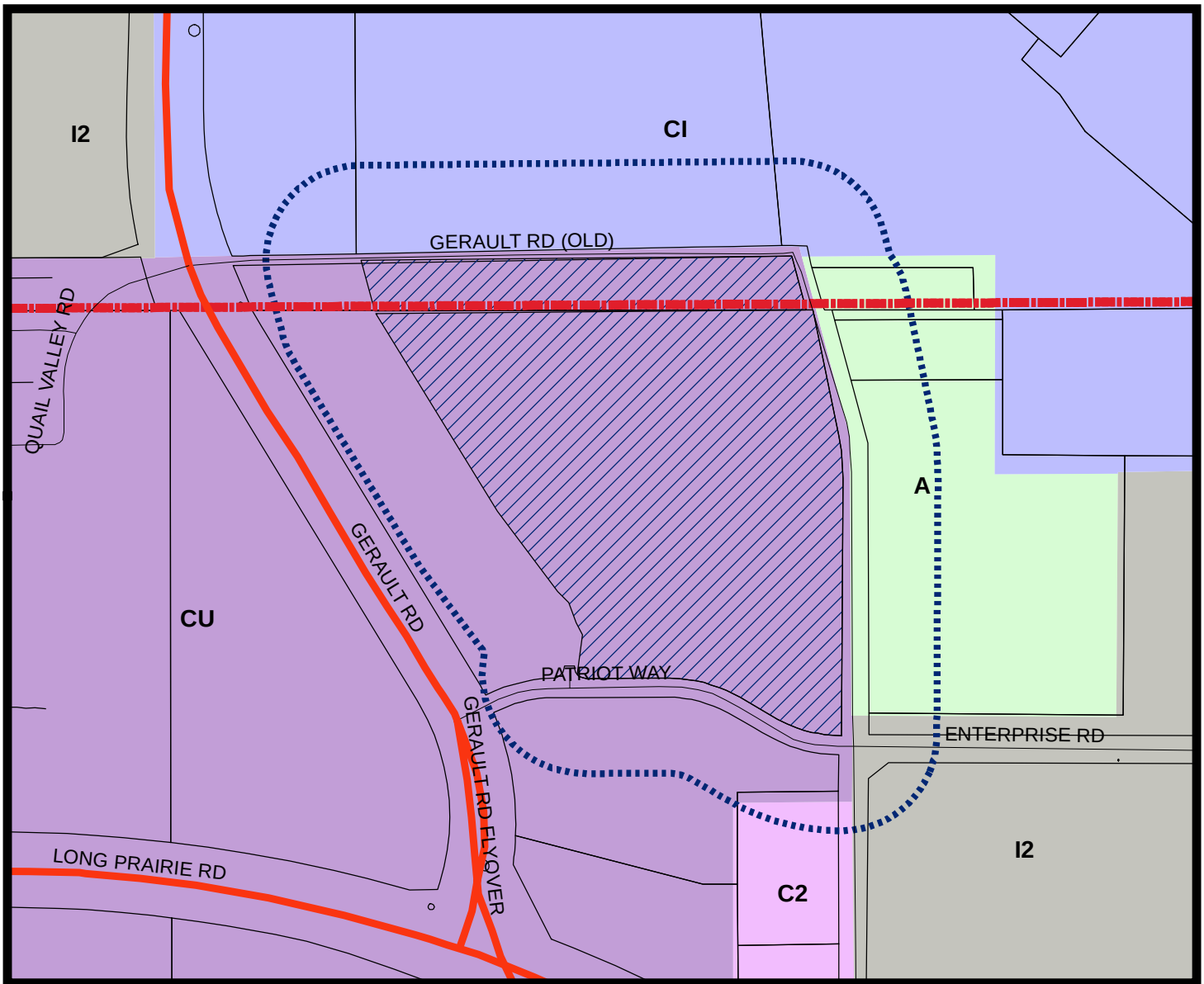
1. Vicinity Map
2. Letter of Intent

B. Application Details

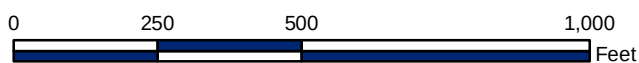
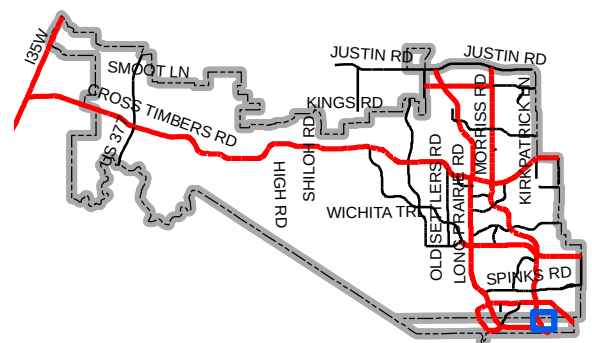
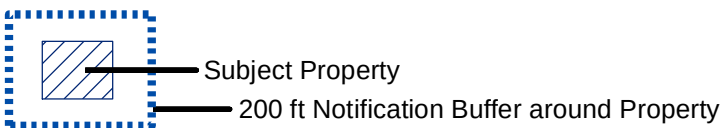
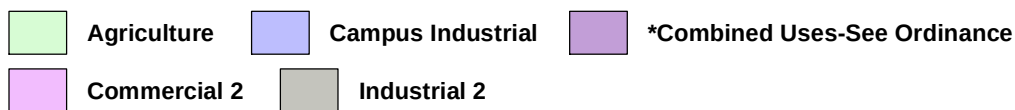
1. Zoning Exhibit
2. Approved Development Plan – Northeast Tract
3. Existing Table 3.3.2 - Lot Standards for single family attached and detached lots
4. Proposed Table 3.3.2 - Lot Standards for single family attached and detached lots

Vicinity Map

Reference Project: ZPD17-0008



LEGEND



Map Location



**DOWDEY, ANDERSON
& ASSOCIATES, INC.**
CIVIL ENGINEERS

5225 Village Creek Drive
Suite 200
Plano, Texas 75093
972-931-0694
972-931-9538 Fax

July 14, 2017

Doug Powell
Executive Director of Development Services
Planning Division
1001 Cross Timbers Road #2330
Flower Mound, TX 75028

RE: Southgate, Phase Three (DAA No.14032-03)
Flower Mound, Texas

Dear Mr. Powell

On behalf of our client, JBGL Chateau, LLC, please accept this letter as our Letter of Intent to describe and explain the requested Zoning Planned Development amendment.

Our request is to amend the existing PD language for a minimum side setback for the East side only from "4' left 1' right" to "0'/5'" for a detached lot per Table 3.3.2 Lot Standards on page 19 of PD 134, Section 3, Sub-Section D. SG-R1 Lot Standards: Single Family Detached and Attached.

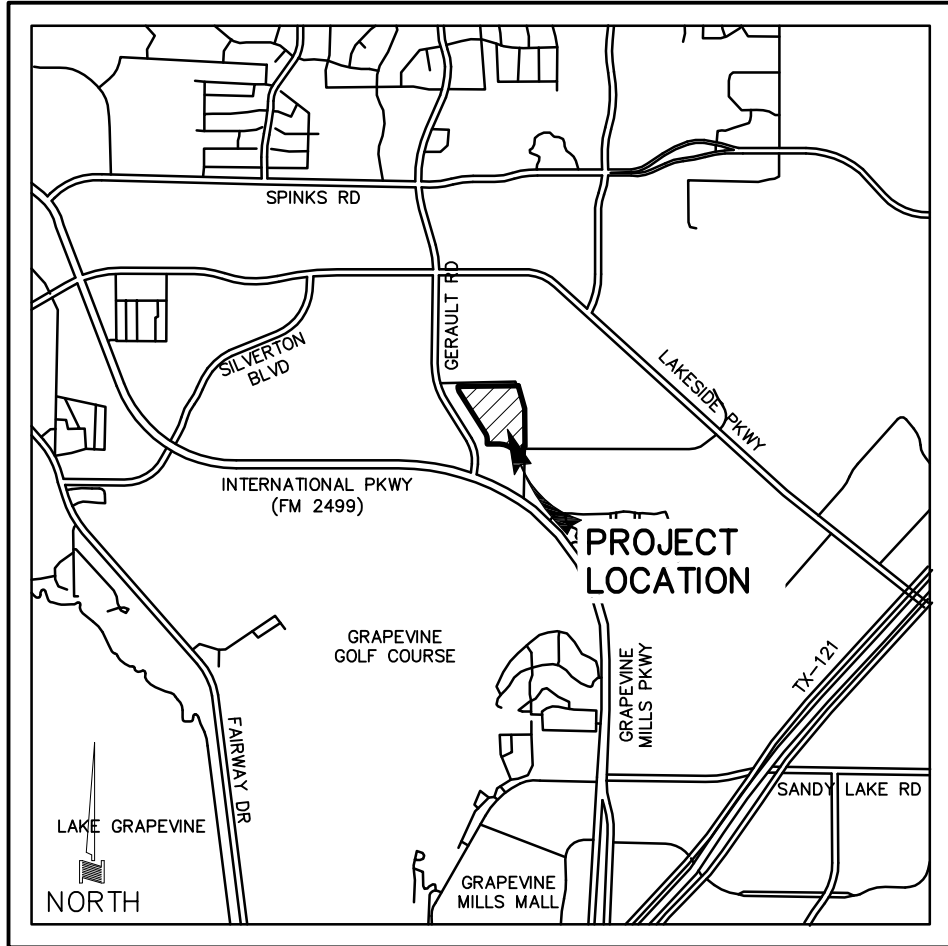
Please feel free to contact me should you have any questions regarding our request. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Traci Shannon Yost Kilmer", is written over a horizontal line.

Traci Shannon Yost Kilmer
Senior Planner

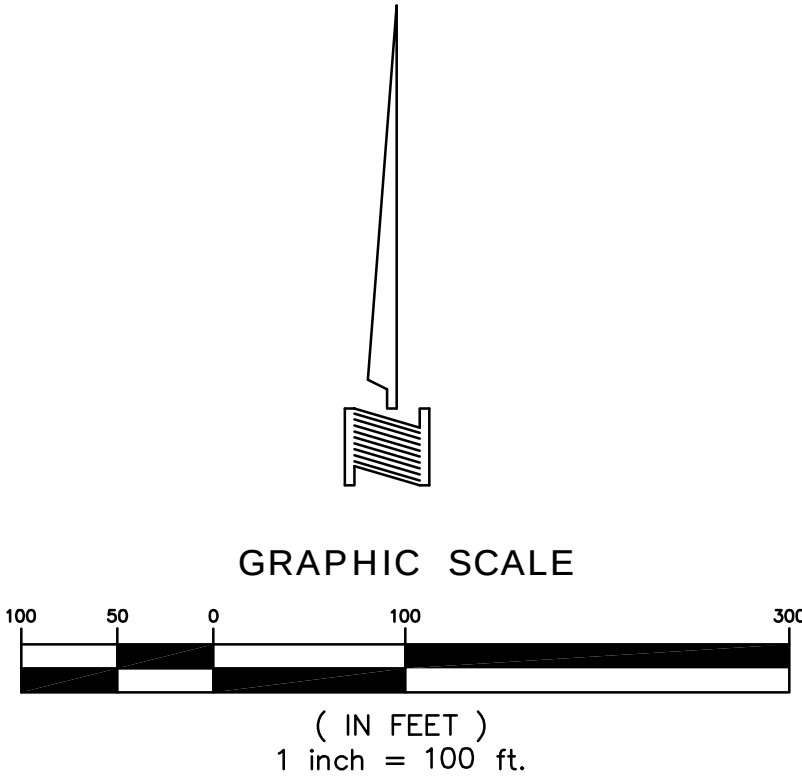
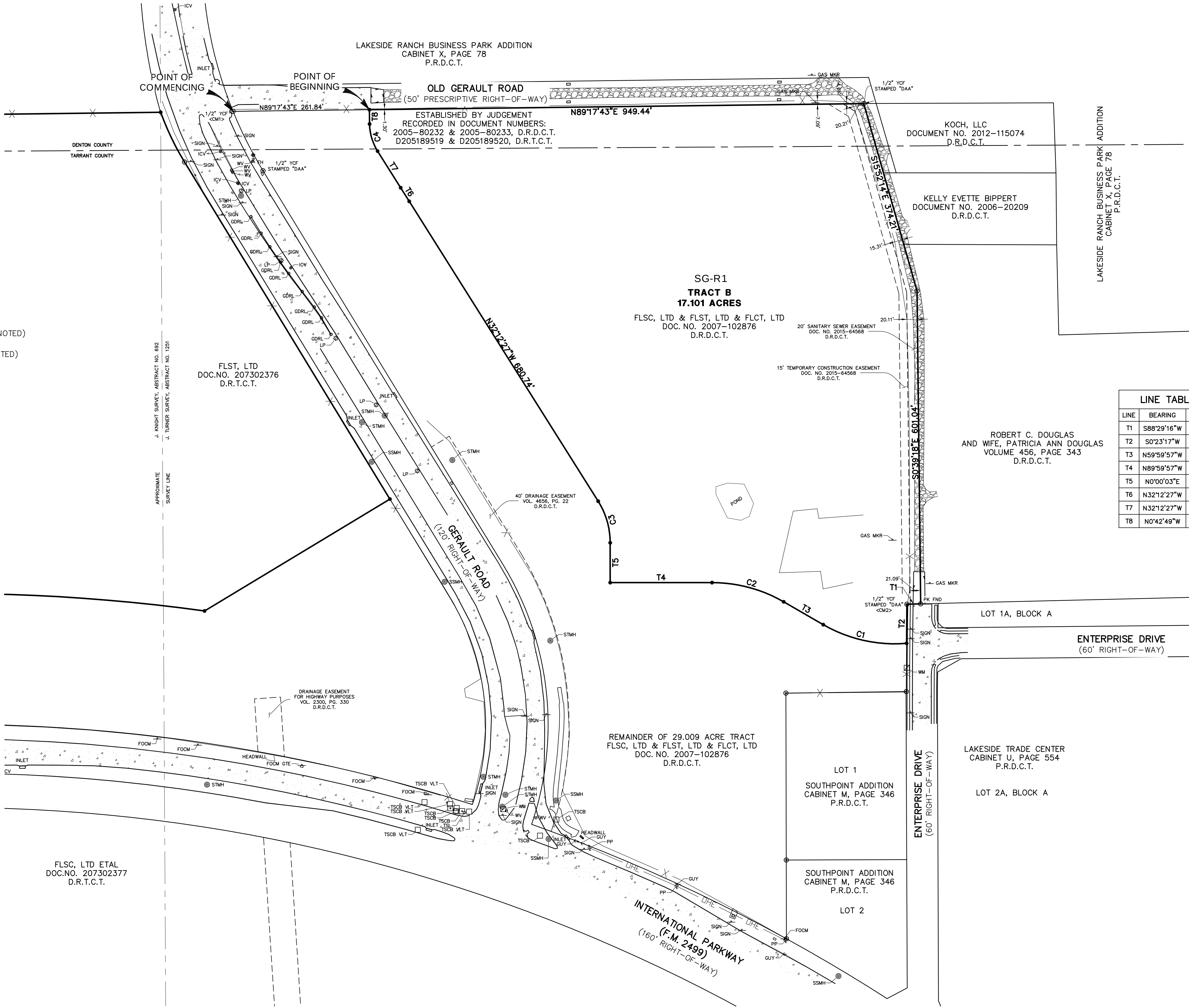
Cc: Jed Dolson – Green Brick Partners; File;



LOCATION MAP
NOT TO SCALE

LEGEND

- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- 1/2" IRON ROD SET WITH YELLOW PLASTIC CAP STAMPED "DAA" (UNLESS OTHERWISE NOTED)
- <CM> CONTROL MONUMENT
- D.R.D.C.T. DEED RECORDS, DENTON COUNTY, TEXAS
- P.R.D.C.T. PLAT RECORDS, DENTON COUNTY, TEXAS
- D.R.T.C.T. DEED RECORDS, TARRANT COUNTY, TEXAS
- P.R.T.C.T. PLAT RECORDS, TARRANT COUNTY, TEXAS
- FOCM FIBER OPTIC CABLE MARKER
- GDRL GUARD RAIL
- GAS GAS LINE MARKER
- SIGN TRAFFIC SIGN
- UGCM UNDERGROUND CABLE MARKER
- EB ELECTRIC BOX
- LP LIGHT POLE
- GUY GUY WIRE ANCHOR
- PP POWER POLE
- FH FIRE HYDRANT
- ICV IRRIGATION CONTROL VALVE
- WM WATER METER
- WV WATER VALVE
- SSMH SANITARY SEWER MANHOLE
- STMH STORM MANHOLE
- TSCB TRAFFIC SIGNAL CONTROL BOX
- TSCB VLT TRAFFIC SIGNAL CONTROL BOX VAULT
- TSL TRAFFIC SIGNAL LIGHT
- 00— CHAIN LINK FENCE
- X—X— WIRE FENCE
- IRON FENCE
- WOOD FENCE
- OHE— OVERHEAD ELECTRIC LINE
- CONCRETE
- GRAVEL



LINE TABLE		
LINE	BEARING	LENGTH
T1	S88°29'16"W	26.42'
T2	S0°23'17"W	75.15'
T3	N59°59'57"W	87.80'
T4	N89°59'57"W	195.59'
T5	N0°00'03"E	76.46'
T6	N32°12'27"W	30.84'
T7	N32°12'27"W	83.17'
T8	N0°42'49"W	27.53'

CURVE TABLE					
CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD
C1	34°43'07"	275.00'	85.97'	166.64'	N77°21'31"W 164.10'
C2	30°00'00"	275.00'	73.69'	143.99'	N74°59'57"W 142.35'
C3	32°12'29"	150.00'	43.31'	84.32'	N16°06'12"W 83.21'
C4	31°29'39"	100.00'	28.20'	54.97'	N16°27'38"W 54.28'

NO.	DATE	BY	REVISION

LAND TITLE SURVEY

TRACT B - 17.101 ACRES

J. KNIGHT SURVEY, ABSTRACT NO. 692
J. TURNER SURVEY, ABSTRACT NO. 1251

TOWN OF FLOWER MOUND, DENTON & TARRANT COUNTIES, TEXAS

DOWDEY, ANDERSON & ASSOCIATES, INC.

5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694

STATE REGISTRATION NUMBER: F-399
SURVEY FIRM REGISTRATION NUMBER: 10077800

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
	CLL	SEP	2015-08-31	1"=100'	14032	2 / 3



SOUTHGATE DEVELOPMENT CODE
Flower Mound, TX

SECTION 3

D. SG-R1 LOT STANDARDS: SINGLE FAMILY DETACHED AND ATTACHED

Table 3.3.2 Lot Standards

LOT STANDARDS	DETACHED	ATTACHED
MIN WIDTH	30'	22'
MIN DEPTH	80'	80'
MIN AREA	2400 SF	1760 SF
MAX COVERAGE	90%	100%
FRONT BUILD-TO LINE	8' Min 20' Max	8' Min; 15' Max
MINIMUM SIDE SETBACK	4' left 1' right	0'
SIDE CORNER SETBACK	Match front setback	Match front setback
REAR SETBACK—BLDG	8'	8'
REAR SETBACK FENCE	3' to alley paving; 0' if no alley	3'
REAR UTILITY EASEMENT	7.5'	7.5'
DRIVEWAY ACCESS	FRONT DRIVEWAY OR ALLEY	ALLEY ONLY
MAX DRIVEWAY WIDTH	18'	18'
DRIVEWAY LENGTH	18' MIN FRONT; 8 MIN REAR	8' MIN
REAR FENCE , MAX HEIGHT	6'	6'
REAR FENCE , MATERIAL	Wood / Iron	Wood, Iron
PERMITTED ENCROACHMENTS INTO SETBACKS		
PORCH OR PORTICO DEPTH	Max 100% of Setback; Steps may not encroach on the Sidewalk	Max 100% of Setback; Steps may not encroach on the Sidewalk
MIN PORCH AREA	0 SF	25 SF
ROOF OVERHANG ENCROACHMENT	3' Max Front; 1' Max on sides	3' Max Front; 1' Max on sides
ENCLOSED OR SCREEDED PORCH	No Encroachment Permitted	No Encroachment Permitted
FOUNDATIONS	Encroachment permitted	Encroachment permitted
BAY WINDOWS	3' Max	3' Max

SOUTHGATE DEVELOPMENT CODE
Flower Mound, TX

SECTION 3

D. SG-R1 LOT STANDARDS: SINGLE FAMILY DETACHED AND ATTACHED

Table 3.3.2 Lot Standards

LOT STANDARDS	DETACHED	ATTACHED
MIN WIDTH	30'	22'
MIN DEPTH	80'	80'
MIN AREA	2400SF	1760 SF
MAX COVERAGE	90%	100%
FRONT BUILD-TO LINE	8' Min 20' Max	8' Min;15' Max
MINIMUM SIDE SETBACK (SG-R2)	4' left 1' right	0'
MINIMUM SIDE SETBACK (SG-R1)	5' / 0'	0'
SIDE CORNER SETBACK	Match front setback	Match front setback
REAR SETBACK-BLDG	8'	8'
REAR SETBACK FENCE	3' to alley paving; 0' if no alley	3'
REAR UTILITY EASEMENT	7.5'	7.5'
DRIVEWAY ACCESS	FRONT DRIVEWAY OR ALLEY	ALLEY ONLY
MAX DRIVEWAY WIDTH	18'	18'
DRIVEWAY LENGTH	18' MIN FRONT; 8 MIN REAR	8' MIN
REAR FENCE, MAX HEIGHT	6'	6'
REAR FENCE, MATERIAL	Wood / Iron	Wood, Iron
PERMITTED ENCROACHMENTS INTO SETBACKS		
PORCH OR PORTICO DEPTH	Max 100% of Setback; Steps may not encroach on the Sidewalk	Max 100% of Setback; Steps may not encroach on the Sidewalk
MIN PORCH AREA	0 SF	25 SF
ROOF OVERHANG ENCROACHMENT	3' Max Front;1' Max on sides	3' Max Front;1' Max on sides
ENCLOSED OR SCREEDED PORCH	No Encroachment Permitted	No Encroachment Permitted
FOUNDATIONS	Encroachment permitted	Encroachment Permitted
BAY WINDOWS	3' Max	3' Max

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

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 25-15, WHICH ESTABLISHED PLANNED DEVELOPMENT DISTRICT NO. 134 (PD-134), THROUGH THE AMENDMENT OF EXHIBIT "B," ENTITLED "DEVELOPMENT STANDARDS," BY AMENDING THE STANDARD FOR MINIMUM SIDE SETBACKS APPLICABLE ONLY TO SINGLE FAMILY DETACHED RESIDENTIAL WITHIN THE SG-R1 SUBZONE LOCATED ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 17.101 ACRES OF LAND SITUATED IN THE J. KNIGHT SURVEY, ABSTRACT NUMBER 692, AND THE J. TURNER SURVEY, ABSTRACT NUMBER 1251, IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the Town Council of the Town of Flower Mound heretofore adopted the Land Development Regulations of the Town of Flower Mound, as amended, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as 17.101 acres of land situated in the J. Knight Survey, Abstract Number 692, and the J. Turner Survey, Abstract Number 1251, have filed an application for a Zoning Planned Development amendment to amend Ordinance No. 25-15 for Planned Development District No. 134 (PD-134); and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on August 14, 2017, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on August 21, 2017, with respect to the proposed planned development district as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of an amendment to the planned development district on the property;

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

ORDINANCE NO. _____**Page 2**

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area to amend PD-134, the planned development district governing the property, as shown below:

17.101 acres of land situated in the J. Knight Survey, Abstract Number 692, and the J. Turner Survey, Abstract Number 1251, Denton and Tarrant Counties, Texas, and more fully described in Exhibit "A" hereto.

Exhibit "B" to Ordinance No. 25-15, entitled "Development Standards," is hereby amended in part to change the minimum side setback for single family detached residential dwellings within the SG-R1 subzone, contained in Section 3.3 (D), Table 3.3.2, entitled "Lot Standards," to "5'/0'*". The amendment is hereby incorporated through the adoption of Table 3.3.2, attached as Exhibit "B" hereto, which hereby replaces Table 3.3.2 adopted by Ordinance No. 25-15 in its entirety.

SECTION 2

The use of the property described above shall be subject to all restrictions, terms and conditions contained herein, as well as the applicable regulations contained in Ordinance No. 25-15, the Land Development Regulations, and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

All rights and remedies of the Town of Flower Mound are expressly saved as to any and

ORDINANCE NO. _____

Page 3

all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

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 the date of its passage and publication as required by law, and it is so ordained.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE _____ DAY OF
_____, 2017.**

APPROVED:

Thomas E. Hayden, **MAYOR****ATTEST:**

Theresa Scott, **TOWN SECRETARY**

Ordinance No. _____

EXHIBIT "A"

LEGAL DESCRIPTION
17.101 ACRES

BEING a tract of land located in the J. KNIGHT SURVEY, ABSTRACT NO. 692, and the J. TURNER SURVEY, ABSTRACT NO. 1251, Town of Flower Mound, Denton and Tarrant Counties, Texas and being part of a tract of land conveyed to FLSC, LTD, FLST, LTD, & FLCT, LTD, according to the document filed of record in Document Number 2007-102876, Deed Records, Denton County, Texas and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with a yellow plastic cap found at the intersection of the west line of Gerault Road, a 120.00 foot right-of-way and south line of Old Gerault Road, a 50.00 foot right-of-way;

THENCE North 89° 17' 43" East, a distance of 261.84 feet to 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the **POINT OF BEGINNING** of the tract of land herein described:

THENCE North 89° 17' 43" East, with said south line, a distance of 949.44 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

THENCE South 15° 52' 14" East, with the approximate center line of said Old Gerault Road, a distance of 374.21 feet to a 1/2 inch iron rod found for corner;

THENCE South 00° 39' 18" East, continuing with said approximate center line, a distance of 601.04 feet to a PK nail found for corner;

THENCE South 88° 29' 16" West, leaving said approximate center line, a distance of 26.42 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner in the west line of said Old Gerault Road;

THENCE South 00° 23' 17" West, with said west line, a distance of 75.15 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the right having a central angle of 34° 43' 07", a radius of 275.00 feet and chord bearing and distance of North 77° 21' 31" West, 164.10 feet;

THENCE Leaving said west line, over and across the above mentioned FLSC, LTD, FLST, LTD, & FLCT, LTD tract, the following nine (9) courses and distances:

With said curve to the left, an arc distance of 166.64 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 59° 59' 57" West, a distance of 87.80 feet to the beginning of a curve to the left having a central angle of 30° 00' 00", a radius of 275.00 feet and a chord bearing and distance of North 74° 59' 57" West, 142.35 feet;

With said curve to the left, an arc distance of 143.99 feet to a 1/2 inch iron rod with a

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yellow plastic cap stamped "DAA" set for corner;

North $89^{\circ} 59' 57''$ West, a distance of 195.59 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $00^{\circ} 00' 03''$ East, a distance of 76.46 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the left having a central angle of $32^{\circ} 12' 29''$, a radius of 150.00 feet and a chord bearing and distance of North $16^{\circ} 06' 12''$ West, 83.21 feet;

With said curve to the left, an arc distance of 84.32 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $32^{\circ} 12' 27''$ West, a distance of 794.76 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the right having a central angle of $31^{\circ} 29' 39''$, a radius of 100.00 feet and a chord bearing and distance of North $16^{\circ} 27' 38''$ West, 54.28 feet

With said curve to the right, an arc distance of 54.97 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $00^{\circ} 42' 49''$ West, a distance of 27.53 feet to the **POINT OF BEGINNING** and containing 17.101 acres of land, more or less.

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EXHIBIT "B"

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SOUTHGATE DEVELOPMENT CODE
Flower Mound, TX

SECTION 3

D. SG-R1 LOT STANDARDS: SINGLE FAMILY DETACHED AND ATTACHED

Table 3.3.2 Lot Standards

LOT STANDARDS	DETACHED	ATTACHED
MIN WIDTH	30'	22'
MIN DEPTH	80'	80'
MIN AREA	2400SF	1760 SF
MAX COVERAGE	90%	100%
FRONT BUILD-TO LINE	8' Min 20' Max	8' Min;15' Max
MINIMUM SIDE SETBACK (SG-R2)	4' left 1' right	0'
MINIMUM SIDE SETBACK (SG-R1)	5' / 0' *	0'
SIDE CORNER SETBACK	Match front setback	Match front setback
REAR SETBACK-BLDG	8'	8'
REAR SETBACK FENCE	3' to alley paving; 0' if no alley	3'
REAR UTILITY EASEMENT	7.5'	7.5'
DRIVEWAY ACCESS	FRONT DRIVEWAY OR ALLEY	ALLEY ONLY
MAX DRIVEWAY WIDTH	18'	18'
DRIVEWAY LENGTH	18' MIN FRONT; 8 MIN REAR	8' MIN
REAR FENCE, MAX HEIGHT	6'	6'
REAR FENCE, MATERIAL	Wood / Iron	Wood, Iron
PERMITTED ENCROACHMENTS INTO SETBACKS		
PORCH OR PORTICO DEPTH	Max 100% of Setback; Steps may not encroach on the Sidewalk	Max 100% of Setback; Steps may not encroach on the Sidewalk
MIN PORCH AREA	0 SF	25 SF
ROOF OVERHANG ENCROACHMENT	3' Max Front;1' Max on sides	3' Max Front;1' Max on sides
ENCLOSED OR SCREEDED PORCH	No Encroachment Permitted	No Encroachment Permitted
FOUNDATIONS	Encroachment permitted	Encroachment Permitted
BAY WINDOWS	3' Max	3' Max

* The minimum separation between buildings shall be five feet (5').



TOWN COUNCIL AGENDA ITEM NO. 13

REGULAR ITEM

DATE: August 21, 2017

FROM: Kay Wilkinson, Budget Officer

ITEM: **Public Hearing to consider the proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.**

BACKGROUND INFORMATION: The Town is required by Section 102.006 of the Texas Local Government Code and Section 9.07 of the Town Charter to hold a public hearing on the proposed budget. During the public hearing on the proposed budget, all interested persons shall be given an opportunity to be heard for or against any item, or the amount of any item, therein contained.

The Fiscal Year 2017-2018 Proposed Budget was filed with the Town Secretary and distributed to the Town Council on July 31, 2017. The proposed budget is on file for review at Town Hall, the Library, and the Town's internet website. Town Council received a presentation of the proposed budget during the Town Council Work Session on August 17, 2017.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS: N/A

DRAFT MOTION: No action is required by the Town Council on this item.



TOWN COUNCIL AGENDA ITEM NO. 14

REGULAR ITEM

DATE: August 21, 2017

FROM: Kay Wilkinson, Budget and Grants Manager

ITEM: **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.**

BACKGROUND INFORMATION: Section 363.204 of the local government code requires a public hearing to consider the proposed annual budget of the Crime Control and Prevention District (Crime District). In addition, at the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Crime District, adopted alternative budget procedures for the Crime District to follow the procedures and public hearing requirements for the Town's annual budget process.

The Fiscal Year 2017-2018 Crime District Proposed Budget was filed with the Town Secretary and distributed to the Town Council on July 31, 2017. The proposed budget is on file for review at Town Hall, the Library, and the Town's internet website. Town Council received a presentation of the proposed budget during the Town Council Work Session on August 17, 2017.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS: N/A

DRAFT MOTION: No action is required by the Town Council on this item.



TOWN COUNCIL AGENDA ITEM NO. 15

REGULAR ITEM

DATE: August 21, 2017

FROM: Kay Wilkinson, Budget and Grants Manager

ITEM: **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.**

BACKGROUND INFORMATION: Section 344.204 of the local government code requires a public hearing to consider the proposed annual budget of the Fire Control, Prevention, and Emergency Medical Services District (Fire District). In addition, at the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Fire District, adopted alternative budget procedures for the Fire District to follow the procedures and public hearing requirements for the Town's annual budget process.

The Fiscal Year 2017-2018 Fire District Proposed Budget was filed with the Town Secretary and distributed to the Town Council on July 31, 2017. The proposed budget is on file for review at Town Hall, the Library, and the Town's internet website. Town Council received a presentation of the proposed budget during the Town Council Work Session on August 17, 2017.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS: N/A

DRAFT MOTION: No action is required by the Town Council on this item.



TOWN COUNCIL AGENDA ITEM NO. 16

REGULAR ITEM

DATE: August 21, 2017

FROM: Tammy Wilson, Executive Director of Financial Services

ITEM: Public Hearing to consider a tax rate of \$0.4390 per \$100 assessed valuation.

BACKGROUND INFORMATION: Chapter 26 of the Property Tax Code requires municipalities to comply with truth-in-taxation laws in adopting their tax rates. The laws are designed to make taxpayers aware of tax rate proposals and to allow taxpayers, in certain cases, to roll back or limit a tax increase. The Town is required by the Property Tax Code to hold two public hearings and publish a notice in the newspaper and on TV and web site before adopting a tax rate that exceeds \$0.426847 (the lower of the rollback rate or the effective tax rate). During the public hearing, taxpayers will be given the opportunity to express their views about the rate as it is proposed.

The effective tax rate enables the public to evaluate the relationship between taxes for the current year and taxes that a proposed tax rate would produce if applied to the same properties taxed in both years.

The rollback rate calculation is split into two separate components: an operating and maintenance rate and a debt rate. The rollback rate calculation allows municipalities to raise 108 percent of the operating and maintenance money raised in the prior year, plus the necessary debt rate. The Town's rollback rate for FY 2017-2018 is \$0.448423.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$44,627,964

Proposed Revenue:	Account Number(s):
\$32,349,704	100-4105 Property Taxes
9,453,696	110-4105 Property Taxes
2,824,564	308-4105 Property Taxes

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

LEGAL REVIEW: N/A

ATTACHMENTS: N/A

DRAFT MOTION: The Town Council does not have to take action on this item.

Note: The Mayor is required to make the following announcement:

"The Town of Flower Mound's tax rate is scheduled for adoption on Monday, September 18, 2017, at 6:00 p.m., at a regular Town Council meeting, to be held in the Town of Flower Mound Council Chambers, located at 2121 Cross Timbers Road, Flower Mound, Texas 75028."



TOWN COUNCIL AGENDA ITEM NO.17

REGULAR ITEM

DATE: August 21, 2017

FROM: Clay Riggs, Senior Project Engineer

ITEM: Consider approval to award Bid No. 2017-88 to Tiseo Paving Company for the Woodbine Street Reconstruction project, in the amount of \$1,937,088.50; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On July 25, 2017, bids were received and opened (Bid No. 2017-88) for the Woodbine Street Reconstruction project. Tiseo Paving Company submitted the lowest qualified bid, and was the only responding bidder; for a total base bid plus optional bid item, of \$1,937,088.50, which was below the engineer's estimate for this project.

The project will include reconstruction of roadway pavement and replace sanitary sewer from Timber Creek Road to Blue Stem Street. The street was rated and prioritized based upon distress to receive reconstruction.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$1,937,088.50

Proposed Expenditure:	Account Number(s):
\$1,162,307.04	316-560-78054
774,781.46	630-970-78054

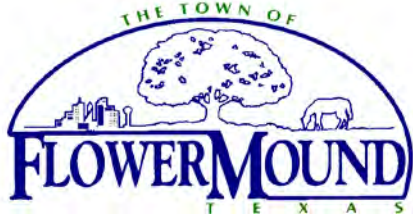
Finance Review by: Debra Wallace, Deputy Town Manager/CFO *DW*

LEGAL REVIEW: The Town's standard contract 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 Contract Agreement.

ATTACHMENTS:

1. Bid Tab
2. Construction Agreement

DRAFT MOTION: Move to award Bid No. 2017-88 to Tiseo Paving Company for the Woodbine Street Reconstruction project, in the amount of \$1,937,088.50; and authorize the Mayor to execute same on behalf of the Town.



Attachment 1
Town of Flower
Mound
Bid Tabulation

Bid No: 2017-88 - Woodbine Street Reconstruction

Bid Opening: July 25, 2017 at 11:00am

Company	Total Base Bid
Tiseo Paving Company	\$ 1,937,088.50

******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: Sabrina R. Zadow Purchasing Manager Town of Flower Mound, Texas	07/27/2017
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TOWN OF FLOWER MOUND**WOODBINE STREET****Bid # 2017-88****CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this ____ day of _____, 20____, 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:

WOODBINE STREET,
Bid # 2017-88

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, Nine Hundred Thirty Seven Thousand, Eighty Eight Dollars and Fifty cents (\$1,937,088.50)** 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 and Eighty (180) calendar days, and final completion of Two Hundred and 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 and Fifty Dollars (\$250.00) 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 Five Hundred Dollars (\$500.00) 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 maintenance 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 maintenance 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 maintenance 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 two copies, all of which to all intents and purposes shall be considered as the original.

This Agreement will be effective on the ____ day of _____, 20____.

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)

Town Council Future Agenda Items



SCHEDULED	9/5/2017	Presentation	Placeholder - Fruitvale drawing presentation by Carol Kyer
		Consent	Consider approval of the minutes from a work session of the Town Council held on August 17, 2017.
		Consent	Consider approval of the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on August 21, 2017.
		Consent	Consider approval of the purchase and installation of a Building Management Control System for the new Town Hall, from Schneider Electric Buildings America, INC., a sole source provider of this equipment for the Town, in the amount of \$335,014.00.
		Consent	Consider approval of the Professional Services Agreement with Professional Service industries, Inc., for the materials testing associated with the Woodbine Street Reconstruction project, in the amount of \$26,391.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of an amendment with Tyler Technologies correcting payment terms and quoted hardware for their e-Citation/Accident Reporting Data Capture System with the Town of Flower Mound Police Department, and authorization for the Mayor to execute same on behalf of the town.
		Regular	Public Hearing to consider a request for a Master Plan Amendment (MPA17-0007 – CTCDD Amendment) to amend Section 1.0, Land Use Plan, Section 2.0, Area Plans, and Section 9.0, Wastewater Plan, of the Master Plan to change the current land use designation from Cross Timbers Conservation Development District to Estate Residential and Institutional uses, and to expand the boundary of the Long Prairie Wastewater Service District Map to include the subject property, and to consider adopting an ordinance providing for said amendment. The property is generally located south of Cross Timbers Road, east of Flower Mound Road, and north of Quail Run Road. (The Planning and Zoning Commission recommended by a vote of to at its August 28, 2017, meeting.)
		Regular	Consider a request for a Site Plan (SP17-0002 – Hefner-Garden Ridge) to develop a warehouse, with an exception to Section 98-147, "Topographical Slope Protection," of the Code of Ordinances. The property is generally located south of Spinks Road and east of Garden Ridge Road. (Planning and Zoning Commission recommended by a vote of to at its August 28, 2017, meeting.)
		Regular	Public Hearing to consider a tax rate of \$0.4390 per \$100 assessed valuation.

SCHEDULED	9/18/2017	Presentation	Proclamation for Blood Cancer Awareness Month
		Regular	Consider approval of an ordinance adopting the budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018, and making appropriations for each fund and department.
		Regular	Consider approval of an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2017 and ending on September 30, 2018, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.____ per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2017.
		Regular	Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.
		Regular	Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018.
	9/21/2017	Regular	Meeting date reserved for Town Council interviews with current board and commission members with upcoming term expiration dates, and new applicants.
	9/26/2017	Regular	Meeting date reserved for Town Council interviews with current board and commission members with upcoming term expiration dates, and new applicants.
	9/28/2017	Regular	Tentative date reserved for Town Council interviews with current board and commission members with upcoming term expiration dates, and new applicants.
	10/2/2017	Consent	2013 Street Reconstruction - Sheffield Court and Colonial Drive Change Order No. 1 and Final Acceptance.
		Consent	Long Prairie 12-Inch Water Line CO1 and Final Acceptance.
		Consent	FM 2499 12-Inch Water Line Ph III CO1 and Final Acceptance.
		Consent	Skillern Road Design
	10/16/2017	Consent	Oak Street Lift Station and Force Main Change Order No. 3 and Final Acceptance.

SCHEDULED	10/16/2017	Consent	Lakeside Lift Station and Force Main Change Order 3 and Final Acceptance.
		Consent	Forest Vista Change Order 4 and Final Acceptance.
		Consent	Rheudasil Amenities Design.
		Consent	McKamy Creek Road Change Order 2 and Final Acceptance.
	11/6/2017	Consent	Heritage Park Phase IV Construction Award.
	11/20/2017	Consent	Fire Station #7 Design Award.
		Consent	Heritage Park Phase IV Testing Award.