

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

3/19/2018

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. 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.

E. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

F. TOWN MANAGER'S REPORT

Update and discussion on:

1. Capital improvement projects
2. Economic Development projects
3. Update on parking garage (River Walk)
4. Use of synthetic grass in commercial landscaping

G. 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).

H. COORDINATION OF CALENDARS

1. A special joint work session with Council and the Transportation Commission is scheduled for Tuesday, March 27, to discuss the Morriss Road Thoroughfare Plan designation and safety improvements.
2. A regular meeting is a scheduled for Monday, April 2.

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I. 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 3/5-** Consider approval of the minutes from a regular meeting of the Town Council held on March 5, 2018.
2. **CAFR 9/30/17-** Consider approval of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2017.
3. **Purchase-Bunker Gear-** Consider approval of the purchase of forty-four sets of bunker gear from NAFECO, Inc. through BuyBoard Purchasing Contract No. 542-17 in the total amount of \$111,524.16; and authorization for the Mayor to approve same on behalf of the Town.
4. **Wastewater Treatment Plant-** Consider approval of a Professional Services Agreement for the design phase services for the Wastewater Treatment Plant Rehabilitation Phase V project, with Alan Plummer Associates, Inc., for \$55,694.00; and authorization for the Mayor to execute same on behalf of the Town.
5. **FM 2499 Improvements-** Consider approval of Change Order No. 1 for the construction of the FM 2499 Roadway, Drainage, and Traffic Signal Improvements project, amending the contract with Mario Sinacola & Sons Excavating, Inc., to provide for an increase to the contract in the amount of \$112,820.20; and authorization for the Mayor to execute same on behalf of the Town.
6. **Jerry's Car Wash-** Consider approval of a Development Agreement with Jerry's Carwash II, Ltd. for the construction of Town infrastructure associated with the Jerry's Carwash commercial development; and authorization for the Mayor to execute same on behalf of the Town.
7. **Justin Rd - Lift Station-** Consider approval of a Professional Services Agreement for the design phase services of the Justin Road Lift Station Outfall project, with Alan Plummer Associates, Inc., for \$88,900.00; and authorization for the Mayor to execute same on behalf of the Town.
8. **River Hill Ct - Creek Stabilization-** Consider approval of Change Order No. 1 for creek bank stabilization and erosion control, associated with 3100 River Hill Court, to Knight Erosion Control, Inc., a sole source provider, in the amount of \$77,972.00; and authorization for the Mayor to execute the same on behalf of the Town.
9. **Heritage Park-** Consider approval of a Professional Services Agreement with Alliance Geotechnical Group, for construction testing of materials and methods, for the Heritage Park Phase IV project, in the not to exceed amount of \$38,069.00; and authorization for the Mayor to execute same on behalf of the Town.

J. REGULAR ITEMS

10. **Public Hearing- Hawks Hill QT-** Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Hawks Hill QT. The property is generally located west of Long Prairie Road and south of Waketon Road. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its March 6, 2018, meeting).

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11. **Public Hearing- Rocky Hill Farms-** Public Hearing to consider an application for a tree removal permit for two (2) specimen trees on property proposed for development as Rocky Hill Farms. The property is generally located north of Cross Timbers Road and east of Lighthouse Drive. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its March 6, 2018, meeting).
12. **Public Hearing- Silveron Thoroughfare-** Public Hearing to consider a request for a Master Plan Amendment (MPA18-0001 – Silveron Boulevard Thoroughfare Plan Amendment) to amend Section 7.0, Thoroughfare Plan, for the section of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Tarrant/Denton County Line, and to consider adopting an ordinance providing for said amendment. (The Transportation Commission recommended denial by a vote of 6 to 0 at their February 13, 2018, meeting) (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its March 12, 2018, meeting.)
13. **Airbag Recall Coalition Partnership-** Consider an adoption of a resolution to become a partner with the North Texas Airbag Recall Coalition to disseminate information to the community. (Transportation Commission recommended 6 to 0 to become a partner at the January 9, 2018, meeting.)
14. **Lift Station Improvements-** Consider approval of the award of Bid No. 2018-33-B to Fort Worth Civil Constructors, LLC, for phase one of the Lift Station Improvements and Decommissioning project, in the amount of \$1,492,656.00; and authorization for the Mayor to execute same on behalf of the Town.

K. BOARDS/COMMISSIONS *(Bold text represents boards with vacancies)***Executive Conference Room**

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.

L. CLOSED MEETING

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

- a. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, 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.

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- 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.

M. 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.

N. 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: March 15, 2018, at 11:00 a.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.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018

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THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 5TH DAY OF MARCH 2018, 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.

[Click here](#) for meeting video link (subject to change)

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

Tom Hayden	Mayor (arrived at 6:10 p.m.)
Don McDaniel	Mayor Pro Tem
Kevin Bryant	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Bryan Webb	Councilmember Place 2
Claudio Forest	Councilmember Place 5

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

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Tiffany Bruce	Engineering Manager
John Habern	Parks, Trails, and Landscape Specialist
Matt Hotelling	Traffic Engineer
Chuck Jennings	Director of Parks and Recreation
Mark Long	Twin Coves Park Manager

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem McDaniel called the regular meeting to order at 6:00 p.m.

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

Chaplain Mike Liles gave the invocation and Mayor Pro Tem McDaniel led the pledges.

D. PRESENTATIONS

1. Girl Scout Jillian Rash gave a presentation about her project and presented the Town with an AED unit to be used at Twin Coves Park.

Administrative Note: The last name of Milton was incorrect in the agenda posting. It should have been Rash.

Ms. Rash gave a presentation about her Girl Scout Gold Award project. Mr. Long provided additional information about her project, and he accepted the AED on behalf of the Town.

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2. Certificate of Appreciation for reporter Chris Roark of the Flower Mound Leader

Mayor Hayden presented a Certificate of Appreciation to Chris Roark for his 10 years of Flower Mound news coverage, which included numerous hours spent at Council meetings alone.

E. PUBLIC PARTICIPATION

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

	Speaker names and address	Subject (as written on the form)
1.	Joe Lisanti, 2010 Lakeside Pkwy	Artificial grass
2.	Victor Sanchez, 2010 Lakeside Pkwy, Ste 100	Use of synthetic grass for commercial use
3.	Kathy O'Keefe, 3004 Oxford Ct With donated time from: 1. Nicole Webb, 4112 High Rd	Winning the Fight (Graffiti, Washington Recap, Mini Golf)
4.	Harry J Fletcher, 4517 Sandera Ln	Public Participation
5.	Patsy Mizeur 1821 Castle Ct	Not identified
6.	Jan Rugg, 3697 Maple Shade Ln, Plano, Tx	Billing Concerns
7.	Steve Dixon, 4604 Wisdom Creek Ct	Elections
8.	Diane Wetherbee, 8813 Honeysuckle Dr, Lantana	Gibson-Grant log house master plan
9.	Barbara Etter, 4401 Trotter Ln With donated time from: 1. William Seele, 4601 Trotter Ln 2. Jason Fetters, 4405 Trotter Ln	Flooding/Drainage issues from Saddlewood
10.	Wes Stuckie, 3000 – 4000 Block of Cross Timbers (developer of Saddle Oaks development)	Saddle Oaks Flood Issue
11.	Mary Kay Walker, 3229 Oak Meadow	Senior Center

In response to comments made during public participation:

1. Mr. Stathatos and/or Mr. Dalton provided statements of fact relative to concerns about flooding in the Saddle Oaks development.

Mayor Hayden, as well as members of Council, asked staff to look into the matter with all parties involved to try and come up with a solution to resolve the drainage concerns.

2. Mr. Meredith provided statements of fact relative to laws pertaining to records retention and the Public Information Act, and the associated obligations by the Town.

F. ANNOUNCEMENTS

Councilmember Forest gave a report on the Summit Club's annual fund raiser event (Western Saloon and Casino Night).

Councilmember Jason Webb encouraged everyone to exercise discretion when writing things on social media and to stay civil, just as they would do if they were talking to someone face to face.

Councilmember Bryan Webb announced that the sunrise service on The Flower Mound will be April 1st.

Mayor Hayden apologized for some past social media posts made on Facebook.

G. TOWN MANAGER'S REPORT

Mr. Stathatos provided an update on the following topics:

1. Capital improvement projects
 - Turn land Northbound at 2499 and Lakeside Parkway
 - Phase IV of Heritage Park
 - Rheudasil Park
2. Economic Development projects
 - BurgerIM Gourmet Burgers coming to Lakeside DFW
 - Prairie Medical Plaza (4001 Long Prairie Rd) ownership change to Caddis, who specializes in Healthcare Real Estate
3. Use of synthetic grass in commercial landscaping

Mr. Stathatos provided background information on the topic of synthetic grass.

Mr. Habern gave a presentation identifying or noting:

- Background information (Chapter 82 – Landscaping)
- Benchmark city survey – 2018
- Pros and cons of artificial turf use
- AIM Standards

and he, Mr. Meredith, and Mr. Stathatos responded to questions from Council as follows:

- What was the type of business where an exception was applied for synthetic grass in one of the benchmark cities
- How is recreation defined
- What is the situation specifically as it relates to Lisanti
- Does artificial turf help keep rodents and pest away
- Use of the SUP process to allow for a meritorious exception to be made
- What has the Town done in the past when a contractor didn't comply with the Town's ordinance, such as the situation with Jake's

There was Council discussion as follows:

- How artificial turf needs to be allowed in some areas and on a limited basis, and to be open to new materials, as technology is changing with more advanced products in this area
- The possibility of allowing a request from an applicant, such as in an SUP
- How the use of artificial turf doesn't fit with the Town's mission statement
- The process that would be used to make a change

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There was consensus to bring forward a process where Council would have the discretion to approve materials such as synthetic grass on a limited basis, and potentially as a meritorious exception.

H. FUTURE AGENDA ITEMS

1. Mayor Pro Tem McDaniel requested that for the Lakeside Village Development, he would like to have ad valorem breakdowns for the components of commercial versus residential (including multifamily). In addition, with respect to the Tax Increment Reinvestment Zone (TIRZ), he would like to have any application or correspondence the applicant submitted.

I. COORDINATION OF CALENDARS

1. Consider canceling the March 15 work session due to LISD spring break holiday.

There was Council consensus to cancel the March 15 work session.

2. A regular meeting is scheduled for Monday, March 19.

Mayor Hayden announced that the next regular meeting is scheduled for March 19th.

3. A special joint work session with Council and the Transportation Commission is scheduled for Tuesday, March 27, to discuss Morriss Road designation and safety improvements.

Mayor Hayden announced that the special meeting with the Transportation Commission is scheduled for Tuesday, March 27, and on the topic of Morriss Road.

J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on February 19, 2018.

DRAFT MOTION: Move to approve the minutes from a regular meeting of the Town Council held on February 19, 2018.

2. Consider approval of the minutes from a special meeting of the Town Council held on February 24, 2018.

DRAFT MOTION: Move to approve the minutes from a special meeting of the Town Council held on February 24, 2018.

3. Consider approval of the purchase of three (3) 2018 Ford F150 Pickup Trucks per Town of Flower Mound Specifications from Sam Pack's Five Star Ford in the amount of \$81,960.00.

DRAFT MOTION: Move to approve the purchase of three (3) 2018 Ford F150 Pickup Trucks per Town of Flower Mound Specifications from Sam Pack's Five Star Ford in the amount of \$81,960.00.

4. *This item was moved from consent to regular.*
5. Consider approval of an ordinance approving a tariff authorizing an annual rate review mechanism ("RRM") as a substitution for the annual interim rate adjustment process defined by section 104.301 of the Texas utilities code, and as negotiated between Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") and the Steering Committee of Cities Served by Atmos; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the open meetings act; declaring an effective date; and requiring delivery of this ordinance to the company and legal counsel for the Steering Committee.

DRAFT MOTION: Move to approve an ordinance approving a tariff authorizing an annual rate review mechanism ("RRM") as a substitution for the annual interim rate adjustment process defined by section 104.301 of the Texas utilities code, and as negotiated between Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") and the Steering Committee of Cities Served by Atmos; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the open meetings act; declaring an effective date; and requiring delivery of this ordinance to the company and legal counsel for the Steering Committee.

ORDINANCE NO. 05-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING A TARIFF AUTHORIZING AN ANNUAL RATE REVIEW MECHANISM ("RRM") AS A SUBSTITUTION FOR THE ANNUAL INTERIM RATE ADJUSTMENT PROCESS DEFINED BY SECTION 104.301 OF THE TEXAS UTILITIES CODE, AND AS NEGOTIATED BETWEEN ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") AND THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE.

6. Consider approval of a Professional Services Agreement with Stantec Consulting Services, Inc., to provide professional engineering services, for the FM 2499 at Lakeside Northbound Right Turn Lane project, in the amount of \$69,800.00; and authorization for the Mayor to execute same on behalf of the Town.

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DRAFT MOTION: Move to approve a Professional Services Agreement with Stantec Consulting Services, Inc., to provide professional engineering services, for the FM 2499 at Lakeside Northbound Right Turn Lane project, in the amount of \$69,800.00; and authorization for the Mayor to execute same on behalf of the Town.

7. Consider approval for the Flower Mound Public Works Department to become a Member City in the North Central Texas Public Works Emergency Response Team (PWERT) and enter in to the North Central Texas Public Works Mutual Aid Agreement; and authorize the Mayor to execute same on behalf of the Town.

DRAFT MOTION: Move to approve the Flower Mound Public Works Department to become a Member City in the North Central Texas Public Works Emergency Response Team (PWERT) and enter into the North Central Texas Public Works Mutual Aid Agreement; and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of a proposal from DCC Inc., for the resurface of the outdoor pool, and color tile band, at the Community Activity Center in the amount of \$133,929.28.

DRAFT MOTION: Move to approve a proposal from DCC Inc., for the resurface of the outdoor pool, and color tile band, at the Community Activity Center in the amount of \$133,929.28.

9. Consider approval of an ordinance amending the Town's Code of Ordinances by adding a Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 42-09.

DRAFT MOTION: Move to approve an ordinance amending the Town's Code of Ordinances by adding a Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 42-09.

ORDINANCE NO. 06-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY ADDING A NEW CHAPTER 33 TO BE ENTITLED FLOOD DAMAGE PREVENTION REGARDING THE ADOPTION OF CERTAIN REQUIREMENTS INTENDED TO REDUCE FLOOD LOSSES CONSISTENT WITH THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

10. Consider approval of a Professional Services Agreement with Kleinfelder Inc., to provide geotechnical engineering and testing services associated with the Fire Station No. 7 project, in the amount of \$19,400.00; and authorization for the Mayor to execute same on behalf of the Town.

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DRAFT MOTION: Move to approve a Professional Services Agreement with Kleinfelder Inc., to provide geotechnical engineering and testing services associated with the Fire Station No. 7 project, in the amount of \$19,400.00; and authorization for the Mayor to execute same on behalf of the Town.

Mayor Pro Tem McDaniel moved to approve by consent Items 1-3, and 5-10. Councilmember Bryan Webb seconded the motion. Each item, as approved by consent, is restated above along with the approved draft motion, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION:

Motion passed

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

NAYS: NONE

K. REGULAR ITEMS

4. Consider approval of an ordinance amending section 54-2 "Fees," of Chapter 54 "Parks and Recreation," of the Code of Ordinances to add an after hour rental policy for the Town Senior Center and amending Appendix A "Fee Schedule," of the Code of Ordinances to establish the rental fees for usage of the Town Senior Center.

Ms. Wallace provided background information about renting space at the senior center, and she responded to questions from Council as follows:

- How will the Town manage damage, and what is the deposit
- Will there be supervision by Town employees
- How far in advance can someone rent out the space
- Is \$200 enough for a deposit in the event there was excessive damage to the kitchen
- Is there a limit to how late someone can have an event
- Is alcohol allowed
- Do the senior programs get priority on room use
- Concerns regarding theft and making sure things don't walk off

Mayor Hayden provided an opportunity for the public to speak about this item and the following individual(s) spoke:

1. Mary Kay Walker, 3229 Oak Meadow Dr

There was Council discussion as follows:

- How part of the rental rate is to pay for staff to be there
- Given programming might be extended into the evening hours in the future, rental use might not be an option 3-5 years out
- How 6 months out is too long, and 60 days would be more reasonable
- Whether or not the reservation window should be 30 or 60 days

Councilmember Bryan Webb moved to approve an ordinance amending section 54-2 "Fees," of Chapter 54 "Parks and Recreation," of the Code of Ordinances to add an after hour rental policy for the Town Senior Center and amending Appendix A "Fee Schedule," of the Code of Ordinances to establish the rental fees for usage of the Town Senior Center; with a 60 day reservation notice (and not six months as presented). Councilmember Claudio Forest seconded the motion.

ORDINANCE NO. 04-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 54-2 "FEES," OF CHAPTER 54 "PARKS AND RECREATION," OF THE CODE OF ORDINANCES TO ADD A RENTAL POLICY FOR THE TOWN SENIOR CENTER; AMENDING APPENDIX A "FEE SCHEDULE," OF THE CODE OF ORDINANCES TO ESTABLISH THE RENTAL FEES FOR USAGE OF THE TOWN SENIOR CENTER; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

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

NAYS: NONE

11. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Morriss Road between Lake Bluff Drive and approximately 650 feet south of Cross Timbers Road to 35 mph. (Transportation Commission recommended approval between Lake Bluff and approximately 650 feet south of Cross Timbers Road (FM 1171) by a vote of 6 to 0 at their February 13, 2018, meeting.)

Staff Presentation

Mr. Hotelling gave a presentation identifying or noting:

- Engineering study
- 85th percentile speed
- Pace speed, roadside development, parking, pedestrian, and accident experience
- Other statistics requested by the Transportation Commission
- Natural break point for the speed limit

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

- Exceedance allowance as it relates to speed limits
- Next steps should the speed limit be changed
- How do the accidents that happen on Morriss compare to other streets in Town

Council Discussion

There was Council discussion related to:

- How it appears that most of the drivers are going the speed limit, and perhaps there could be more of a police presence to get the outliers to slow down
- If the proposed changes are permanent
- How the character of the road may change with any future improvements
- With the curves that Morriss Road has the 35 mile per hour change is prudent

Deputy Mayor Pro Tem Bryant moved to approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Morriss Road between Lake Bluff Drive and approximately 650 feet south of Cross Timbers Road to 35 mph. Councilmember Bryan Webb seconded the motion.

ORDINANCE NO. 07-18

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 PORTIONS OF MORRISS ROAD; 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.

VOTE ON MOTION:

Motion passed

AYES: FOREST, BRYANT, B WEBB

NAYS: J WEBB, MCDANIEL

12. Consider approval of the Gibson-Grant Log House at the Longprairie Homestead master plan.

Staff Presentation

Ms. Wallace introduced Justin Curtsinger and Nancy McCoy from Quimby McCoy Preservation Architects, as well as Peggy Riddle, representing the Denton County Office of History and Culture, and Al Picardi and Diane, from The Mound Foundation.

Mr. Curtsinger and Ms. McCoy provided a presentation identifying or noting:

- History summary
- Form and exterior interpretation
- Interior interpretation
- Options review
- Existing site
- Site analysis
- Design principles
- Proposed site plan
- Proposed floor plan
- Project phasing
- Next steps

and they, or Ms. Riddle, responded to questions from Council as follows:

- Is there a known time line as to the construction changes
- Were there other historical structures on the property considered
- What is the breakdown of the cost
- Clarification regarding access from the parking area
- How much is available in the 3rd pin space
- Clarification regarding the framing and construction material, and what is the timing on that construction period

- If the 3 pin plan is done, would each of those be kept in the state they were built or when the 3 pin construction was completed
- Was the budget constructed based on similar past projects or specific to this project and location
- Were furnishings included in the budget
- Are there grants available to offset some of the cost
- Opportunities for cost savings
- Can council approve the master plan, without approving the budget, leaving room for details to be worked out
- How the vision is for the house to look like it was built in 1925, and concerns that it might not have the same impact to visitors if the outside appearance doesn't represent that era

Council Discussion

There was Council discussion related to:

- There is a desire to have it go forward in the interest of preserving this historical find
- There are some unknowns as to what the outside appearance might look like, and importance of preserving the period of the house
- When it comes to costs, the office or kitchen space is not needed
- Keep in mind the purpose of the log house is to preserve the historical aspects
- How the motion is to approve the Master Plan in scope and not in detail with any monetary attachment
- Interest in putting the historical information about the family as a component of the project

Mayor Pro Tem McDaniel moved to approve the Gibson-Grant Log House at the Longprairie Homestead master plan. Councilmember Jason Webb seconded the motion.

VOTE ON MOTION:

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

NAYS: NONE

Motion passed

13. Consider the approval of award of Bid No. 2018-60-B, to North Rock Construction, LLC., for the Heritage Park Phase IV project, for the base bid amount of \$1,309,937.41, and selected bid options totaling \$187,835.54, for a not to exceed amount of \$1,497,772.95; and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Mr. Jennings gave a presentation identifying or noting:

- Background information
- History of the park
- Construction award considerations
- Phasing plan
- Entry monument sign
- Wildlife encounter
- Nature encounter
- Disc golf course

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And he responded to questions from Council as follows:

- Clarification regarding trail connections
- Will the entry monument sign be backlit
- What is the cost of the animal statues
- Will the parks and recreation department help with leagues and tournaments for the disc golf course
- Will there be sponsorships around the signage of the wildlife area, disc golf course (i.e. hole sponsors at tee box, etc.) to offset some of the cost

Mayor Pro Tem McDaniel moved to approve award of Bid No. 2018-60-B, to North Rock Construction, LLC., for the Heritage Park Phase IV project, for the base bid amount of \$1,309,937.41, and selected bid options totaling \$187,835.54, for a not to exceed amount of \$1,497,772.95; and authorize the Mayor to execute same on behalf of the Town. Councilmember Forest seconded the motion.

VOTE ON MOTION:

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

NAYS: NONE

Motion passed

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

(Executive Conference Room)

Discuss and consider resignations, appointments, or evaluations 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./N. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:36 p.m. on March 5, 2018, 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 10:20 p.m. on March 5, 2018, to take action on the items 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.

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.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018

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- 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.

No action taken.

- d. Consultation with Attorney as follows:

- 1. Town Officer development activity.

No action taken.

O. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 10:20 p.m. on March 5, 2018, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

THOMAS E. HAYDEN, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018**PAGE 1**

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 5TH DAY OF MARCH 2018, 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.

[Click here](#) for meeting video link (subject to change)

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

Tom Hayden	Mayor (arrived at 6:10 p.m.)
Don McDaniel	Mayor Pro Tem
Kevin Bryant	Deputy Mayor Pro Tem
Jason Webb	Councilmember Place 1
Bryan Webb	Councilmember Place 2
Claudio Forest	Councilmember Place 5

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

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Jimmy Stathatos	Town Manager
Debra Wallace	Deputy Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Tiffany Bruce	Engineering Manager
John Habern	Parks, Trails, and Landscape Specialist
Matt Hotelling	Traffic Engineer
Chuck Jennings	Director of Parks and Recreation
Mark Long	Twin Coves Park Manager

A. CALL REGULAR MEETING TO ORDER

Mayor Pro Tem McDaniel called the regular meeting to order at 6:00 p.m.

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

Chaplain Mike Liles gave the invocation and Mayor Pro Tem McDaniel led the pledges.

D. PRESENTATIONS

1. Girl Scout Jillian Rash gave a presentation about her project and presented the Town with an AED unit to be used at Twin Coves Park.

Administrative Note: The last name of Milton was incorrect in the agenda posting. It should have been Rash.

Ms. Rash gave a presentation about her Girl Scout Gold Award project. Mr. Long provided additional information about her project, and he accepted the AED on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018**PAGE 2**

2. Certificate of Appreciation for reporter Chris Roark of the Flower Mound Leader

Mayor Hayden presented a Certificate of Appreciation to Chris Roark for his 10 years of Flower Mound news coverage, which included numerous hours spent at Council meetings alone.

E. PUBLIC PARTICIPATION

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

	Speaker names and address	Subject (as written on the form)
1.	Joe Lisanti, 2010 Lakeside Pkwy	Artificial grass
2.	Victor Sanchez, 2010 Lakeside Pkwy, Ste 100	Use of synthetic grass for commercial use
3.	Kathy O'Keefe, 3004 Oxford Ct With donated time from: 1. Nicole Webb, 4112 High Rd	Winning the Fight (Graffiti, Washington Recap, Mini Golf)
4.	Harry J Fletcher, 4517 Sandera Ln	Public Participation
5.	Patsy Mizeur 1821 Castle Ct	Not identified
6.	Jan Rugg, 3697 Maple Shade Ln, Plano, Tx	Billing Concerns
7.	Steve Dixon, 4604 Wisdom Creek Ct	Elections
8.	Diane Wetherbee, 8813 Honeysuckle Dr, Lantana	Gibson-Grant log house master plan
9.	Barbara Etter, 4401 Trotter Ln With donated time from: 1. William Seele, 4601 Trotter Ln 2. Jason Fetters, 4405 Trotter Ln	Flooding/Drainage issues from Saddlewood
10.	Wes Stuckie, 3000 – 4000 Block of Cross Timbers (developer of Saddle Oaks development)	Saddle Oaks Flood Issue
11.	Mary Kay Walker, 3229 Oak Meadow	Senior Center

In response to comments made during public participation:

1. Mr. Stathatos and/or Mr. Dalton provided statements of fact relative to concerns about flooding in the Saddle Oaks development.

Mayor Hayden, as well as members of Council, asked staff to look into the matter with all parties involved to try and come up with a solution to resolve the drainage concerns.

2. Mr. Meredith provided statements of fact relative to laws pertaining to records retention and the Public Information Act, and the associated obligations by the Town.

F. ANNOUNCEMENTS

Councilmember Forest gave a report on the Summit Club's annual fund raiser event (Western Saloon and Casino Night).

Councilmember Jason Webb encouraged everyone to exercise discretion when writing things on social media and to stay civil, just as they would do if they were talking to someone face to face.

Councilmember Bryan Webb announced that the sunrise service on The Flower Mound will be April 1st.

Mayor Hayden apologized for some past social media posts made on Facebook.

G. TOWN MANAGER'S REPORT

Mr. Stathatos provided an update on the following topics:

1. Capital improvement projects
 - Turn land Northbound at 2499 and Lakeside Parkway
 - Phase IV of Heritage Park
 - Rheudasil Park
2. Economic Development projects
 - BurgerIM Gourmet Burgers coming to Lakeside DFW
 - Prairie Medical Plaza (4001 Long Prairie Rd) ownership change to Caddis, who specializes in Healthcare Real Estate
3. Use of synthetic grass in commercial landscaping

Mr. Stathatos provided background information on the topic of synthetic grass.

Mr. Habern gave a presentation identifying or noting:

- Background information (Chapter 82 – Landscaping)
- Benchmark city survey – 2018
- Pros and cons of artificial turf use
- AIM Standards

and he, Mr. Meredith, and Mr. Stathatos responded to questions from Council as follows:

- What was the type of business where an exception was applied for synthetic grass in one of the benchmark cities
- How is recreation defined
- What is the situation specifically as it relates to Lisanti
- Does artificial turf help keep rodents and pest away
- Use of the SUP process to allow for a meritorious exception to be made
- What has the Town done in the past when a contractor didn't comply with the Town's ordinance, such as the situation with Jake's

There was Council discussion as follows:

- How artificial turf needs to be allowed in some areas and on a limited basis, and to be open to new materials, as technology is changing with more advanced products in this area
- The possibility of allowing a request from an applicant, such as in an SUP
- How the use of artificial turf doesn't fit with the Town's mission statement
- The process that would be used to make a change

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018**PAGE 4**

There was consensus to bring forward a process where Council would have the discretion to approve materials such as synthetic grass on a limited basis, and potentially as a meritorious exception.

H. FUTURE AGENDA ITEMS

1. Mayor Pro Tem McDaniel requested that for the Lakeside Village Development, he would like to have ad valorem breakdowns for the components of commercial versus residential (including multifamily). In addition, with respect to the Tax Increment Reinvestment Zone (TIRZ), he would like to have any application or correspondence the applicant submitted.

I. COORDINATION OF CALENDARS

1. Consider canceling the March 15 work session due to LISD spring break holiday.

There was Council consensus to cancel the March 15 work session.

2. A regular meeting is scheduled for Monday, March 19.

Mayor Hayden announced that the next regular meeting is scheduled for March 19th.

3. A special joint work session with Council and the Transportation Commission is scheduled for Tuesday, March 27, to discuss Morriss Road designation and safety improvements.

Mayor Hayden announced that the special meeting with the Transportation Commission is scheduled for Tuesday, March 27, and on the topic of Morriss Road.

J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on February 19, 2018.

DRAFT MOTION: Move to approve the minutes from a regular meeting of the Town Council held on February 19, 2018.

2. Consider approval of the minutes from a special meeting of the Town Council held on February 24, 2018.

DRAFT MOTION: Move to approve the minutes from a special meeting of the Town Council held on February 24, 2018.

3. Consider approval of the purchase of three (3) 2018 Ford F150 Pickup Trucks per Town of Flower Mound Specifications from Sam Pack's Five Star Ford in the amount of \$81,960.00.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018

PAGE 5

DRAFT MOTION: Move to approve the purchase of three (3) 2018 Ford F150 Pickup Trucks per Town of Flower Mound Specifications from Sam Pack's Five Star Ford in the amount of \$81,960.00.

4. *This item was moved from consent to regular.*
5. Consider approval of an ordinance approving a tariff authorizing an annual rate review mechanism ("RRM") as a substitution for the annual interim rate adjustment process defined be section 104.301 of the Texas utilities code, and as negotiated between Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") and the Steering Committee of Cities Served by Atmos; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the open meetings act; declaring an effective date; and requiring delivery of this ordinance to the company and legal counsel for the Steering Committee.

DRAFT MOTION: Move to approve an ordinance approving a tariff authorizing an annual rate review mechanism ("RRM") as a substitution for the annual interim rate adjustment process defined be section 104.301 of the Texas utilities code, and as negotiated between Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company") and the Steering Committee of Cities Served by Atmos; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the open meetings act; declaring an effective date; and requiring delivery of this ordinance to the company and legal counsel for the Steering Committee.

ORDINANCE NO. 05-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING A TARIFF AUTHORIZING AN ANNUAL RATE REVIEW MECHANISM ("RRM") AS A SUBSTITUTION FOR THE ANNUAL INTERIM RATE ADJUSTMENT PROCESS DEFINED BY SECTION 104.301 OF THE TEXAS UTILITIES CODE, AND AS NEGOTIATED BETWEEN ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") AND THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE.

6. Consider approval of a Professional Services Agreement with Stantec Consulting Services, Inc., to provide professional engineering services, for the FM 2499 at Lakeside Northbound Right Turn Lane project, in the amount of \$69,800.00; and authorization for the Mayor to execute same on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018

PAGE 6

DRAFT MOTION: Move to approve a Professional Services Agreement with Stantec Consulting Services, Inc., to provide professional engineering services, for the FM 2499 at Lakeside Northbound Right Turn Lane project, in the amount of \$69,800.00; and authorization for the Mayor to execute same on behalf of the Town.

7. Consider approval for the Flower Mound Public Works Department to become a Member City in the North Central Texas Public Works Emergency Response Team (PWERT) and enter in to the North Central Texas Public Works Mutual Aid Agreement; and authorize the Mayor to execute same on behalf of the Town.

DRAFT MOTION: Move to approve the Flower Mound Public Works Department to become a Member City in the North Central Texas Public Works Emergency Response Team (PWERT) and enter into the North Central Texas Public Works Mutual Aid Agreement; and authorize the Mayor to execute same on behalf of the Town.

8. Consider approval of a proposal from DCC Inc., for the resurface of the outdoor pool, and color tile band, at the Community Activity Center in the amount of \$133,929.28.

DRAFT MOTION: Move to approve a proposal from DCC Inc., for the resurface of the outdoor pool, and color tile band, at the Community Activity Center in the amount of \$133,929.28.

9. Consider approval of an ordinance amending the Town's Code of Ordinances by adding a Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 42-09.

DRAFT MOTION: Move to approve an ordinance amending the Town's Code of Ordinances by adding a Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 42-09.

ORDINANCE NO. 06-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY ADDING A NEW CHAPTER 33 TO BE ENTITLED FLOOD DAMAGE PREVENTION REGARDING THE ADOPTION OF CERTAIN REQUIREMENTS INTENDED TO REDUCE FLOOD LOSSES CONSISTENT WITH THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; REPEALING ALL CONFLICTING ORDINANCES, ORDERS, AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

10. Consider approval of a Professional Services Agreement with Kleinfelder Inc., to provide geotechnical engineering and testing services associated with the Fire Station No. 7 project, in the amount of \$19,400.00; and authorization for the Mayor to execute same on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018**PAGE 7**

DRAFT MOTION: Move to approve a Professional Services Agreement with Kleinfelder Inc., to provide geotechnical engineering and testing services associated with the Fire Station No. 7 project, in the amount of \$19,400.00; and authorization for the Mayor to execute same on behalf of the Town.

Mayor Pro Tem McDaniel moved to approve by consent Items 1-3, and 5-10. Councilmember Bryan Webb seconded the motion. Each item, as approved by consent, is restated above along with the approved draft motion, and if applicable, the Ordinance or Resolution caption for each, for the record.

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

4. Consider approval of an ordinance amending section 54-2 "Fees," of Chapter 54 "Parks and Recreation," of the Code of Ordinances to add an after hour rental policy for the Town Senior Center and amending Appendix A "Fee Schedule," of the Code of Ordinances to establish the rental fees for usage of the Town Senior Center.

Ms. Wallace provided background information about renting space at the senior center, and she responded to questions from Council as follows:

- How will the Town manage damage, and what is the deposit
- Will there be supervision by Town employees
- How far in advance can someone rent out the space
- Is \$200 enough for a deposit in the event there was excessive damage to the kitchen
- Is there a limit to how late someone can have an event
- Is alcohol allowed
- Do the senior programs get priority on room use
- Concerns regarding theft and making sure things don't walk off

Mayor Hayden provided an opportunity for the public to speak about this item and the following individual(s) spoke:

1. Mary Kay Walker, 3229 Oak Meadow Dr

There was Council discussion as follows:

- How part of the rental rate is to pay for staff to be there
- Given programming might be extended into the evening hours in the future, rental use might not be an option 3-5 years out
- How 6 months out is too long, and 60 days would be more reasonable
- Whether or not the reservation window should be 30 or 60 days

Councilmember Bryan Webb moved to approve an ordinance amending section 54-2 "Fees," of Chapter 54 "Parks and Recreation," of the Code of Ordinances to add an after hour rental policy for the Town Senior Center and amending Appendix A "Fee Schedule," of the Code of Ordinances to establish the rental fees for usage of the Town Senior Center; with a 60 day reservation notice (and not six months as presented). Councilmember Claudio Forest seconded the motion.

ORDINANCE NO. 04-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 54-2 "FEES," OF CHAPTER 54 "PARKS AND RECREATION," OF THE CODE OF ORDINANCES TO ADD A RENTAL POLICY FOR THE TOWN SENIOR CENTER; AMENDING APPENDIX A "FEE SCHEDULE," OF THE CODE OF ORDINANCES TO ESTABLISH THE RENTAL FEES FOR USAGE OF THE TOWN SENIOR CENTER; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

11. Consider approval of an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Morriss Road between Lake Bluff Drive and approximately 650 feet south of Cross Timbers Road to 35 mph. (Transportation Commission recommended approval between Lake Bluff and approximately 650 feet south of Cross Timbers Road (FM 1171) by a vote of 6 to 0 at their February 13, 2018, meeting.)

Staff Presentation

Mr. Hotelling gave a presentation identifying or noting:

- Engineering study
- 85th percentile speed
- Pace speed, roadside development, parking, pedestrian, and accident experience
- Other statistics requested by the Transportation Commission
- Natural break point for the speed limit

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

- Exceedance allowance as it relates to speed limits
- Next steps should the speed limit be changed
- How do the accidents that happen on Morriss compare to other streets in Town

Council Discussion

There was Council discussion related to:

- How it appears that most of the drivers are going the speed limit, and perhaps there could be more of a police presence to get the outliers to slow down
- If the proposed changes are permanent
- How the character of the road may change with any future improvements
- With the curves that Morriss Road has the 35 mile per hour change is prudent

Deputy Mayor Pro Tem Bryant moved to approve an ordinance amending Chapter 66, Article V, Section 66-214 of the Code of Ordinances of the Town of Flower Mound relating to prima facie speed limits for specific streets by lowering the prima facie speed limits for Morriss Road between Lake Bluff Drive and approximately 650 feet south of Cross Timbers Road to 35 mph. Councilmember Bryan Webb seconded the motion.

ORDINANCE NO. 07-18

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 PORTIONS OF MORRISS ROAD; 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.

VOTE ON MOTION:

Motion passed

AYES: FOREST, BRYANT, B WEBB

NAYS: J WEBB, MCDANIEL

12. Consider approval of the Gibson-Grant Log House at the Longprairie Homestead master plan.

Staff Presentation

Ms. Wallace introduced Justin Curtsinger and Nancy McCoy from Quimby McCoy Preservation Architects, as well as Peggy Riddle, representing the Denton County Office of History and Culture, and Al Picardi and Diane, from The Mound Foundation.

Mr. Curtsinger and Ms. McCoy provided a presentation identifying or noting:

- History summary
- Form and exterior interpretation
- Interior interpretation
- Options review
- Existing site
- Site analysis
- Design principles
- Proposed site plan
- Proposed floor plan
- Project phasing
- Next steps

and they, or Ms. Riddle, responded to questions from Council as follows:

- Is there a known time line as to the construction changes
- Were there other historical structures on the property considered
- What is the breakdown of the cost
- Clarification regarding access from the parking area
- How much is available in the 3rd pin space
- Clarification regarding the framing and construction material, and what is the timing on that construction period

- If the 3 pin plan is done, would each of those be kept in the state they were built or when the 3 pin construction was completed
- Was the budget constructed based on similar past projects or specific to this project and location
- Were furnishings included in the budget
- Are there grants available to offset some of the cost
- Opportunities for cost savings
- Can council approve the master plan, without approving the budget, leaving room for details to be worked out
- How the vision is for the house to look like it was built in 1925, and concerns that it might not have the same impact to visitors if the outside appearance doesn't represent that era

Council Discussion

There was Council discussion related to:

- There is a desire to have it go forward in the interest of preserving this historical find
- There are some unknowns as to what the outside appearance might look like, and importance of preserving the period of the house
- When it comes to costs, the office or kitchen space is not needed
- Keep in mind the purpose of the log house is to preserve the historical aspects
- How the motion is to approve the Master Plan in scope and not in detail with any monetary attachment
- Interest in putting the historical information about the family as a component of the project

Mayor Pro Tem McDaniel moved to approve the Gibson-Grant Log House at the Longprairie Homestead master plan. Councilmember Jason Webb seconded the motion.

VOTE ON MOTION:

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

NAYS: NONE

Motion passed

13. Consider the approval of award of Bid No. 2018-60-B, to North Rock Construction, LLC., for the Heritage Park Phase IV project, for the base bid amount of \$1,309,937.41, and selected bid options totaling \$187,835.54, for a not to exceed amount of \$1,497,772.95; and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Mr. Jennings gave a presentation identifying or noting:

- Background information
- History of the park
- Construction award considerations
- Phasing plan
- Entry monument sign
- Wildlife encounter
- Nature encounter
- Disc golf course

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018

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And he responded to questions from Council as follows:

- Clarification regarding trail connections
- Will the entry monument sign be backlit
- What is the cost of the animal statutes
- Will the parks and recreation department help with leagues and tournaments for the disc golf course
- Will there be sponsorships around the signage of the wildlife area, disc golf course (i.e. hole sponsors at tee box, etc.) to offset some of the cost

Mayor Pro Tem McDaniel moved to approve award of Bid No. 2018-60-B, to North Rock Construction, LLC., for the Heritage Park Phase IV project, for the base bid amount of \$1,309,937.41, and selected bid options totaling \$187,835.54, for a not to exceed amount of \$1,497,772.95; and authorize the Mayor to execute same on behalf of the Town. Councilmember Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: FOREST, J WEBB, BRYANT, MCDANIEL, B WEBB****NAYS: NONE****L. BOARDS/COMMISSIONS (Bold text represents boards with vacancies)****(Executive Conference Room)**

Discuss and consider resignations, appointments, or evaluations 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./N. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:36 p.m. on March 5, 2018, 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 10:20 p.m. on March 5, 2018, to take action on the items 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.

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.

FLOWER MOUND TOWN COUNCIL MEETING OF MARCH 5, 2018**PAGE 12**

- 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.

No action taken.

- d. Consultation with Attorney as follows:

- 1. Town Officer development activity.

No action taken.

O. ADJOURN REGULAR MEETING

Mayor Hayden adjourned the meeting at 10:20 p.m. on March 5, 2018, 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: March 19, 2018

FROM: Tammy Wilson, Executive Director of Financial Services

ITEM: Consider approval of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2017.

BACKGROUND INFORMATION: Article III, Section 3.13 of the Town Charter requires that an annual independent audit be performed of “the books and accounts of each and every department of the Town.” The Town has complied with this requirement, and in the opinion of the auditing firm of Pattillo, Brown & Hill, L.L.P., the basic financial statements contained within the CAFR present fairly, in all material respects, the financial position of the Town as of September 30, 2017.

Copies of the Town of Flower Mound’s Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2017, were distributed prior to this meeting, and copies of the reports were placed in the Library for review by the public. There were no significant deficiencies or material weaknesses found during the audit.

The Town Council has adopted financial policies to guide and set goals for the financial administration of the Town. The following table displays the Town’s financial policy results for fiscal year 2012-2013 through fiscal year 2016-2017.

<u>Financial Goals</u>	<u>Goal</u>		<u>09/30/2013</u>	<u>09/30/2014</u>	<u>09/30/2015</u>	<u>09/30/2016</u>	<u>09/30/2017</u>
General Fund unassigned fund balance	At/Above	15.00%	32.67%	34.95%	32.69%	28.11%	28.15%
Water & Wastewater capital reserve at 60 days maintained	At/Above	16.70%	29.54%	22.98%	24.45%	24.20%	21.68%
Debt Service fund balance	At/Above	4.00%	5.82%	8.04%	6.21%	9.46%	11.04%
Ratio of net debt to AV	At/Below	1.75%	1.04%	0.92%	0.86%	0.76%	0.88%
Ratio of debt service fund expenditures to total general & debt service funds	At/Below	20.00%	16.92%	16.74%	18.38%	14.18%	13.80%
VERF funding maintained at 85% funding level or higher	At/Above	85.00%	93.99%	91.40%	92.87%	91.50%	91.47%

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS: N/A

DRAFT MOTION: Move to approve the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2017.



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: March 19, 2018

FROM: Eric Greaser, Fire Chief *EG*

ITEM: **Consider approval of the purchase of forty-four sets of bunker gear from NAFECO, Inc. through BuyBoard Purchasing Contract No. 542-17 in the total amount of \$111,524.16; and authorization for the Mayor to approve same on behalf of the Town.**

BACKGROUND INFORMATION: This purchase is year one of a potential two year project towards providing each firefighter with two sets of turnout gear. Firefighters are at increased risk of certain types of cancer as a result of occupational exposure. The second set of gear will allow firefighters the ability to immediately have a clean set of turnouts available while the carcinogen contaminated turnouts are cleaned. Currently, each firefighter has one set of gear. When it has been used and exposed at a fire, firefighters must attempt to find gear that fits them from our limited supply of reserve gear. As sets of active and reserve gear are inspected and tested, those failing to meet compliance with NFPA 1851 mandates must be taken out of service and retired.

FISCAL IMPACT: \$111,524.16

Proposed Expenditure:

Account Number(s):

\$111,524.16

319-560-63000-2270

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. NAFECO, Inc. Sales Quote # PSGQ18145

DRAFT MOTION: Move to approve purchase of forty-four sets of bunker gear from NAFECO, Inc. through BuyBoard Purchasing Contract No. 542-17 in the total amount of \$111,524.16; and authorize the Mayor to approve same on behalf of the Town.

**NAFECO Inc.**

"North America Fire Equipment Co."
 1515 West Moulton Street
 Decatur, AL 35601
 Office: **800-628-6233**

Sales Quote**Damon Stewart (903) 813-6569****Bill To:**

Flower Mound Fire Department
 2121 CROSS TIMBERS ROAD
 FLOWER MOUND, TX 75028

Shipping Address:

Flower Mound Fire Department
 3911 S. Broadway Ave.
 FLOWER MOUND, TX 75028

Date: 02/20/2018

Customer ID: FLO315

BuyBoard Contract# 542-17

Contact	Sales Rep #	Sales Rep.	Expires	PSGQ	Contact	Terms	Tax ID
Kirby	82	Stewart		PSGQ18145	524-17	30	

Line	Item	Qty.	Description	Unit Price	Total
1	CVFM	44	Lion / V-Force® Raglan Sleeve Coat with Black PBI® Max, 7.0 oz., C7 Liner	\$1,397.59	\$61,493.96
2	PVFM	44	Lion / V-Force® Belted Pants with black PBI® Max, 7.0 oz., C7 Liner	\$1,110.50	\$48,862.00
3	SF257	44	Hook and Dee with Zipper Coat Closure System no Velcro	\$20.28	\$892.32
4	RP052	44	4"x7"x2" Chest pocket for Turn-Out Coat	\$6.27	\$275.88
5					
				Total	\$111,524.16



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: March 19, 2018

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

ITEM: Consider approval of a Professional Services Agreement for the design phase services for the Wastewater Treatment Plant Rehabilitation Phase V project, with Alan Plummer Associates, Inc., for \$55,694.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening) project, includes design plans for the demolition of the existing primary clarifiers, demolition of blower building number 1, demolition of mechanical and electrical equipment in the existing primary sludge pump station, reconfiguration of primary sludge pump station into a storage building, demolition of yard piping and electrical duct banks, primary clarifier closure plan for the Texas Commission on Environmental Quality, and a limited area comprehensive asbestos survey.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$55,694.00

Proposed Expenditure:	Account Number(s):
\$55,694.00	630-970-98472

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

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

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve a Professional Services Agreement for the design phase services of the Wastewater Treatment Plant Rehabilitation Phase V project, with Alan Plummer Associates, Inc., for \$55,694.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALAN PLUMMER ASSOCIATES, INC.**

This contract is entered into on this 19th day of March, 2018, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Alan Plummer Associates, Inc.** ("hereinafter referred to as "CONSULTANT") whose address is 1320 S. University Drive, Suite 300, Fort Worth, Texas 76107.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to the permitting and design services for the Wastewater Treatment Plant Rehabilitation Phase V project including demolition of Primary Clarifiers, Blower Building No. 1 and related equipment, piping and permit services at the wastewater treatment plant; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Fifty Five Thousand Six Hundred Ninety Four and No/100 Dollars (\$55,694.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.
Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

The following policies and coverage shall be required:

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

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN.

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

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

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;
2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

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

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

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

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

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance

requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;

2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

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

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

IX.**Right to Inspect Records**

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

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

X.**Successors and Assigns**

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

XI.**CONSULTANT's Liability**

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

provide the services described herein, in reliance upon CONSULTANT's specialized expertise and experience, and in reliance thereon.

XII.

Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under

this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

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

XVIII.

Confidential Information

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

XIX.

Notice Information

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

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

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

Jeffrey E. Caffey, P.E.,
Principal
Alan Plummer Associates, Inc.
1320 S. University Dr., Suite 300.
Fort Worth, Texas, 76107
817-806-1700 Telephone

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.

No Waiver of Governmental Immunity

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

XXIV.

Severability

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

XXV.

Remedies

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

XXVI.

Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

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

**THE TOWN OF FLOWER MOUND,
TEXAS**

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

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Alan Plummer Associates, Inc.

By: *Jeffrey E. Caffey*
 Name: Jeffrey E. Caffey, P.E.
 Title: Principal

Date Signed: *March 5, 2018*

State of Texas §
 §
 County of *Tarrant* §

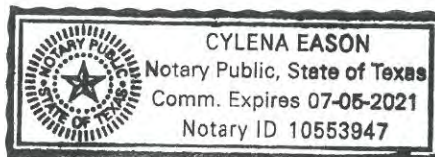
This instrument was acknowledged before me on the *5* day of *March*, 20*18*, by *Jeffrey Caffey* in his capacity as *Principal* of *Alan Plummer Associates*, a *Texas* Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of *Principal*.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE *5* DAY OF *March*, 20*18*.

Cylena Eason
 Notary Public, State of Texas

My Commission Expires:

7/5/2021



ATTACHMENT A

TOWN OF FLOWER MOUND
WASTEWATER TREATMENT PLANT REHABILITATION PHASE V
BASIC ENGINEERING SERVICES

The CONSULTANT will perform the following services in conjunction with the Wastewater Treatment Plant Rehab Phase IV project. The improvements for the Wastewater Treatment Plant Phase V project include demolition of the existing Primary Clarifiers, demolition of Blower Building Number 1, demolition of mechanical and electrical equipment in the existing Primary Sludge Pump Station, reconfiguration of Primary Sludge Pump Station into a storage building, demolition of yard piping and electrical ductbanks, Primary Clarifier closure plan for the Texas Commission on Environmental Quality, and a Limited Area Comprehensive Asbestos Survey.

BASIC SERVICES

CONSULTANT agrees to perform BASIC SERVICES in connection with the PROJECT as hereinafter stated, in accordance with the stipulations within this AGREEMENT. The CONSULTANT shall perform BASIC SERVICES necessary for the development of the PROJECT as follows:

A. DETAILED DESIGN

1. Prepare detailed plans, technical specifications, and contract documents of improvements in conjunction with design for the SOLIDS FACILITY IMPROVEMENTS PART 2 project. The design of both sets of detailed plans will be bid as a single construction project.
2. Facilities to be designed will consist of the following:
 - a. Demolition of three (3) Primary Clarifiers including equipment, concrete and electrical;
 - b. Demolition of Blower Building No. 1 structure, valves, piping and electrical with relocation and/or removal of aeration blowers;
 - c. Demolition of mechanical and electrical equipment in the Primary Sludge Pump Station building including equipment concrete supports, piping, conduits and hangers;
 - d. Demolition of yard piping and electrical ductbanks within the area of excavation of the structures being demolished. Yard piping left in place will be filled with flowable fill.
 - e. Reconfiguration of Primary Sludge Pump Station into a storage building with a center wall dividing the main room into two rooms.
3. Provide topographic surveying of the following areas:
 - a. Yard piping modifications;
4. Provide a Limited Area Comprehensive Asbestos Survey (LACAS) of the existing structures to be demolished or renovated to identify if any remediation is required during construction. The inspection shall include Blower Building No. 1, the Primary Sludge Pump Station Building, the Primary Clarifiers and the two sludge holding tanks. The basic services will include a walkthrough of the structures noting suspect asbestos containing materials, their current condition and category,

sampling of suspect material, laboratory analysis for asbestos content and preparation of a final report.

B. PERMIT RELATED SERVICES

1. Prepare a closure plan for the Texas Commission on Environmental Quality (TCEQ) in accordance with the agency's requirements, identifying the structures to be demolished, the method for demolition and closure, and any testing required by the Contractor or the Town. The closure plan will be submitted to the TCEQ for review and will be revised as necessary. It is assumed that drawings prepared under Task A.2 will be incorporated into the closure plan and additional drawings or design details will not be necessary for the closure plan.
2. Prepare a letter to the TCEQ addressing the derating of the permitted design flow discharge capacity based on the removal of the primary clarifiers. Documentation prepared for Task B.3, below, may be included in the TCEQ letter. It is not anticipated at this time that an amendment of the Texas Pollutant Discharge Elimination System (TPDES) permit will be required immediately as a result of the derating. If TCEQ requires an amendment of the permit, services to prepare the amendment application and processing support will be considered ADDITIONAL SERVICES.
3. Prepare an update attachment for the 2010 rerating study to incorporate the influent wastewater concentrations identified in the 2015 Solids Facility Master Plan. The 2010 rerating study provides a basis for increasing the loading on the secondary treatment aeration basins when the primary clarifiers were permanently removed from the treatment process. However, the design concentrations increased over the time period.

C. Meetings:

1. It is assumed that the discussion and review of the detailed design drawings shall be included in the Rehab Phase IV meetings. Any additional meetings for Detailed Design will be considered ADDITIONAL SERVICES.
2. There will be one meeting related to preparation of the Primary Clarifier Closure Plan and Amendment Letter. It will coincide with a Rehab Phase IV monthly progress meeting. Any meetings required with the TCEQ shall be considered ADDITIONAL SERVICES.

ADDITIONAL SERVICES

- A. Additional services to be performed by the CONSULTANT, if authorized by the TOWN, which are not included in the above-described BASIC SERVICES, are described as follows:
 1. Any amendment of the TPDES permit (with or without renewal of the permit expiration date) that may be required by the TCEQ or desired by the TOWN.
 2. Any material, soil or ground water testing required by the TCEQ for the Primary Clarifier Closure Plan.

3. Any additional support documentation requested by the TCEQ following submittal of the Primary Clarifier Closure Plan.
4. Additional meetings beyond what is included in the basic services.

TIME OF COMPLETION

Upon receipt of a notice to proceed, Alan Plummer Associates anticipates the following completion schedule for each of the project tasks. It is anticipated the Town will have two weeks to review submittals prior to the date review meetings are scheduled.

Task	Calendar Days/Date
1. Submit Closure Plan and Amendment Letter to TCEQ:	May 18, 2018
2. Submit 60% Design Review Set:	May 30, 2018
3. Submit 90% Review Documents:	August 25, 2018
4. Advertise Project:	October 10, 2018

Note: Dates assume Town will provide review comments two weeks following submission of review set.

ATTACHMENT B**COMPENSATION**

The CONSULTANT will provide the Scope of Services described in Attachment A for a lump sum fee as follows:

TASK A. DETAILED DESIGN	\$ 36,990
-------------------------	-----------

Task A includes:

- | | |
|-----------------------|---------|
| - Asbestos Inspection | \$4,600 |
| - Electrical | \$4,600 |
| - Mechanical | \$4,600 |
| - Structural | \$3,450 |

TASK B. PERMIT RELATED SERVICES	\$ 13,830
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TASK C. MEETINGS AND PROJECT MANAGEMENT	\$ 4,874
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TOTAL	\$ 55,694
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Additional services will be negotiated at the time they are identified.



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: March 19, 2018

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

ITEM: Consider approval of Change Order No. 1 for the construction of the FM 2499 Roadway, Drainage, and Traffic Signal Improvements project, amending the contract with Mario Sinacola & Sons Excavating, Inc., to provide for an increase to the contract in the amount of \$112,820.20; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On June 5, 2017 Mario Sinacola & Sons Excavating, Inc. was awarded the FM 2499 Roadway, Drainage, and Traffic Signal Improvements project, in the amount of \$6,975,634.45.

The project provides for roadway, drainage and traffic signal improvements along FM 2499 between Gerault Road and the Denton Creek Bridge in southeast Flower Mound and the City of Grapevine. The existing four 30-inch culverts across FM 2499 just west of the intersection with Gerault will be replaced with larger box culverts and a primary drainage system will continue to carry that flow south along FM 2499 and outfall upstream of the Denton Creek Bridge in Grapevine. This will help alleviate drainage problems that have occurred in the past causing the shutdown of lanes on FM 2499 temporarily due to water on the road. The roadway improvements will include a new entrance to the Town's existing lift station site, the addition of a fourth leg to the signal at FM 2499/Gerault, a westbound left turn lane at the signal and lengthening of the acceleration lane from the Gerault flyover to help provide for traffic relief in the area. Change Order No. 1 provides for additional quantities to extend the northbound turn lane at Gerault (to meet TXDOT's permit request), the removal and replacement of 30 inch storm culvert, and a detention pond outfall structure, previously required by the developer.

FISCAL IMPACT: \$112,820.20

Proposed Expenditure:	Account Number(s):
\$112,820.20	610-590-98902

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No. 1

DRAFT MOTION: Move to approve Change Order No. 1 for the construction of the FM 2499 Roadway, Drainage, and Traffic Signal Improvements project, amending the contract with Mario Sinacola & Sons Excavating, Inc., to provide for an increase to the contract in the amount of \$112,820.20; and authorize the Mayor to execute same on behalf of the Town.

CHANGE ORDER 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound
 Contractor: Mario Sinicola & Sons Excavating, Inc.
 Attn: Emily Culp
 10950 Research Road
 Frisco, Texas 75033
 Ph 214-387-3900

Project: FM 2499 Roadway, Drainage, and Traffic Signal Improvements Project

CHANGE ORDER NO. 1

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

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

Item No.	Description	Unit	Add/ Deduct	Quan	Unit Price	Extended Amount
3	REMOVING CONC (CURB)	LF	Add	166.00	\$10.00	\$1,660.00
5	EXCAVATION (ROADWAY)	CY	Add	297.00	\$17.00	\$5,049.00
8	BLOCK SODDING	SY	Add	94.00	\$3.25	\$305.50
11	LIME TREATMENT (12") (EXIST SUBGRADE)	SY	ADD	2664.00	\$20.00	\$53,280.00
12	LIME TREATMENT (36") (EXIST SUBGRADE)	SY	DEDUCT	2338.00	\$35.00	(\$81,830.00)
13	LIME (HYDRATED LIME SLURRY)	TON	DEDUCT	47.54	\$155.00	(\$7,368.70)
14	D--GR HMA TY-B PG64-22	TON	ADD	71.60	\$85.00	\$6,086.00
16	CONC PVMT (CONT REINF - CRCP) (10")	SY	ADD	268.80	\$90.00	\$24,192.00
17	PRIME COAT (MULTI OPTION)	GAL	ADD	98.00	\$4.20	\$411.60
34	RC PIPE (CL III) (24 IN)	LF	ADD	6.75	\$120.00	\$810.00
35	RC PIPE (CL V) (24 IN)	LF	DEDUCT	3.52	\$170.00	(\$598.40)
45	REMOVE STR (RC PIPE)	LF	ADD	70.00	\$35.00	\$2,450.00
46	REMOVE STR (SET)	EA	ADD	1.00	\$5,000.00	\$5,000.00
59	CONC CURB (TY II)	LF	ADD	171.00	\$12.50	\$2,137.50
83	WK ZN PAV MRK REMOV (W)4"(BRK)	LF	ADD	330.00	\$1.40	\$462.00
88	WK ZN PAV MRK REMOV (Y)4"(SLD)	LF	ADD	164.00	\$1.40	\$229.60
89	REFL PAV MRK TY I (W)4"(BRK)(090 MIL)	LF	ADD	329.00	\$1.05	\$345.45
93	REFL PAV MRK TY I (W)8"(SLD)(090 MIL)	LF	ADD	170.00	\$2.00	\$340.00
98	REFL PAV MRK TY I (Y)4"(SLD)(090 MIL)	LF	ADD	177.00	\$1.05	\$185.85
99	REFL PAV MRKR TY II-C-R	EA	ADD	21.00	\$4.20	\$88.20
100	PAV SURF PREP FOR MRK (8")	LF	ADD	506.00	\$0.10	\$50.60
101	PAV SURF PREP FOR MRK (12")	LF	ADD	170.00	\$0.20	\$34.00
120	1" PVC WATERLINE	LF	ADD	10.00	\$32.00	\$320.00
CO1 A	PRECAST 30" SET HEADWALL	LS	ADD	1.00	\$37,430.00	\$37,430.00
CO1 B	DETENTION POND STRUCTURE NORTH SIDE FM 2499	LS	ADD	1.00	\$62,750.00	\$62,750.00

CO1 C	GRAPEVINE CONNECTION	LS	DEDUCT	1.00	\$1,000.00	(\$1,000.00)
					Subtotal	\$112,820.20

Original Contract Price

Change Order No. 1

Revised Contract Price

\$6,975,634.45

\$112,820.20

\$7,088,454.65

JUSTIFICATION

Items 3-120 provide for additional contract quantities necessary to extend the FM 2499 northbound left turn lane at Gerault in order to meet TXDOT's permit requests. Staff assumed a revised speed limit would be approved prior to construction due to development in the area however, the speed limit was not reduced and, therefore, an extended turn lane is being requested to match the current speed limit requirements. These items provide for all additional items necessary for the extended length.

Item CO1A provides for the removal and replacement of the existing 30" RCP storm culvert outfall/headwalls on the south side of FM 2499. A required water line lowering under the storm culverts required them to be removed and reset. This item provides for all work associated with the removal and replacement.

Item CO1B provides for a detention pond outfall structure previously planned to be constructed by the development on the northwest corner of FM 2499/Gerault but due to delay of their development it has become necessary for the Town to construct the outfall structure with this project.

Item CO1C provides for a credit for the reduction in materials and labor necessary for the work associated with the City of Grapevine existing storm structure connection to the new box culvert.

Recommended

for Approval

Tiffany Bruce, P.E.
CIP Engineering Manager

Date

3/9/18

Approved

Thomas E. Hayden
Mayor

Contractor

Michael Senacola
VICE PRESIDENT



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: March 19, 2018

FROM: Brent Anderson, Senior Project Engineer

ITEM: Consider approval of a Development Agreement with Jerry's Carwash II, Ltd. for the construction of Town infrastructure associated with the Jerry's Carwash commercial development; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Jerry's Carwash II, Ltd. is currently developing the Jerry's Carwash commercial development in Flower Mound. As part of the overall development, Jerry's Carwash II, Ltd. plans to install 550 feet of 8-inch water line offsite along the north side of Spinks, from the east corner of the Jerry's Carwash tract to Aberdeen Drive. In conjunction with the onsite water line to be installed with this development, this offsite section of water line will complete a loop connection from FM 2499 to Aberdeen Drive. Installation of this offsite water line requires the removal of the existing sidewalk along the north side of Spinks and Jerry's Carwash II, Ltd. Plans are to reconstruct 550 feet of this sidewalk as an upgraded 8-foot wide concrete trail. The 8-inch offsite water line and the 8-foot wide concrete trail are both identified on the Town's Master Plans and the developer is therefore entitled to reimbursement for their costs. This agreement allows for the Town to reimburse Jerry's Carwash II, Ltd. for the Town's share of the construction costs associated with the infrastructure improvements.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$93,591.39

Proposed Expenditure:

\$36,217.00

\$57,374.39

Account Number(s):

310-320-00000-5110 Park Trail

630-960-98840-6170 Water Line

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

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

ATTACHMENTS:

1. Development Agreement

DRAFT MOTION: Move to approve Development Agreement with Jerry's Carwash II, Ltd. for the construction of Town infrastructure associated with the Jerry's Carwash commercial development; and authorize the Mayor to execute same on behalf of the Town.

**DEVELOPMENT AGREEMENT BETWEEN
THE TOWN OF FLOWER MOUND AND JERRY'S EXPRESS CAR WASH II, LTD.**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2018, by and between the Town of Flower Mound, Texas (the "Town"), and Jerry's Express Car Wash II, Ltd., _____ (the "Developer").

W I T N E S S E T H:

WHEREAS, the Jerry's Express Car Wash Project ("Project") is a development encompassing approximately 2.205 acres in Flower Mound and described by metes and bounds on Exhibit "A" attached and incorporated herein; and

WHEREAS, the Town and Developer wish to address various development issues related to the Project and to provide for the construction of utilities, among other matters and to provide for reimbursement by the Town of certain construction costs; and

WHEREAS, the Town's SMARTGrowth Program requires that certain levels of key public services and infrastructure necessary to serve a new development project be in place before construction begins; and

WHEREAS, the Town and Developer desire to address infrastructure and related concerns associated with the Project due to its location and the concern for the public health, safety and welfare due to the foregoing; and

WHEREAS, the Town and Developer acknowledge that the foregoing issues should be addressed through development agreement.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. Project Subject to Town Ordinances. The Project, or any portion thereof, at all times shall be developed and constructed in accordance with all applicable Town ordinances and agreements related to the Project, and shall be subject to said ordinances and agreements, as such now exist or may hereafter be amended and/or approved by the Town. Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve Developer from its responsibilities for the construction of public improvements under applicable development ordinances of the Town.

2. Term. The term of this Agreement shall begin on the date of execution as indicated in the opening paragraph of the Agreement and shall end one year from the date of execution or upon Developer's completion of all obligations as set out herein, whichever is sooner.

3. **Installation of Water Lines.** Developer agrees to install an eight inch (8") water line ("Offsite 8" WL") as shown on Exhibit "B" at the time Developer constructs the Project.

4. **Installation of Concrete Trail.** Developer agrees to install an eight foot (8') wide concrete trail ("Offsite 8' Trail") as shown on Exhibit "B" at the time Developer constructs the Project.

5. **Payment.** The estimated total cost of the Offsite 8" WL and Offsite 8' Trail is \$93,591.39 as detailed on Exhibit "C" and includes construction costs and all soft costs, including but not limited to all engineering and design costs, staking costs, material testing, and warranty costs. Developer will be responsible for payment of all costs for the improvements as required herein and shall be entitled to reimbursement from the Town only upon completion and acceptance of the Offsite 8" WL and Offsite 8' Trail.

Upon completion and final acceptance of the Offsite 8" WL and Offsite 8' Trail, Developer shall submit to the Town a request for reimbursement in the amount authorized by Exhibit "C" of this Agreement together with evidence of the actual cost of constructing said improvements. The Town agrees to reimburse Developer for the amount of the total cost at the end of construction but under no circumstance shall the Town be required to reimburse Developer more than \$93,591.39. The Town shall have the right to verify that the request for reimbursement and all supporting documentation submitted to the Town for reimbursement relate to the Offsite 8" WL and Offsite 8' Trail and otherwise conform to the conditions set forth in this Agreement.

6. **Applicable Laws and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in Denton County, Texas.

7. **Notices.** Any notices required or permitted to be given hereunder shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Flower Mound, Texas
 2121 Cross Timbers Road
 Flower Mound, Texas 75028
 Attn: Town Manager's Office

If to Developer: Jerry's Express Carwash II, Ltd.
 6300 Ridglea Place, Suite 1007
 Fort Worth, Texas 76116
 Attn: Jerry Miller

8. **Attorneys Fees.** In the event any person initiates or defends any legal action or

proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this Agreement.

9. 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 force as to the balance of its provisions as if such invalid provision were not a part hereof.

10. Filing in Denton County Deed Records; Covenant Running with the Land. This Agreement or a memorandum thereof shall be filed in the deed records of Denton County, Texas. Upon any sale or other transfer of any ownership rights in the Project during the term of this Agreement set forth in Paragraph 2 above, Developer shall notify the Town in writing of such sale or transfer within thirty (30) days of such sale or transfer. This Agreement shall be deemed a covenant that runs with the land and is binding on all heirs, successors, assigns, grantees, vendors, trustees, representatives of Developer and all others holding any interest now or in the future. It is the intent of this Agreement, and the parties so acknowledge, that all phases of the development of the Project shall be subject to this Section 10 of this Agreement.

11. Binding Obligation. The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Developer to same.

12. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

13. Default. No party shall be in default of provisions under this Agreement until notice of the alleged failure of such party to perform has been given as provided herein (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such party has been given fifteen (15) days after the written notice in the case of the default of a payment obligation, and in all other cases a reasonable time, to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than fifteen (15) days after written notice of the alleged failure has been given).

14. Roughly Proportionate Determination under Texas Law. Developer has been represented by legal counsel in the negotiation of this Agreement and has been advised regarding Developer's rights under Texas and federal law. Developer hereby

waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the specific exactions required by the Town and agreed to by Developer in this Agreement are roughly proportionate to the anticipated impact of the development of the Project in accordance with applicable Town ordinances. Developer hereby waives and releases the Town from any and all liability under §212.904 of the Texas Local Government Code, as amended, with respect to Developer's obligations under this Agreement.

15. Rough Proportionality Determination under Federal Law. Developer hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution in regard to its obligations under this Agreement. With respect to the obligations described in this Agreement, Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements, if any, mandated by the United States Supreme Court in *Dolan v. Town of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of such agreements.

16. Release. Upon written request of Developer to the Town Manager, the Town Manager shall execute, in recordable form, a release of any provision of this Agreement if the Town Manager and Town Attorney determine Developer has fully satisfied the provision to be released.

17. Exhibits. The following exhibits are attached hereto and incorporated into this Agreement for all purposes:

- Exhibit A Metes and Bounds description of the Project
- Exhibit B Depiction of water line and concrete trail improvements
- Exhibit C Cost of water line and concrete trail improvements

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

[the remainder of this page intentionally left blank]

THE TOWN OF FLOWER MOUND, TEXAS

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

STATE OF TEXAS §
§
COUNTY OF DENTON §

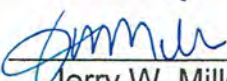
This instrument was acknowledged before me on this the ____ day of _____, 2018 by Thomas E. Hayden, Mayor of the Town of Flower Mound, Texas, on behalf of the Town of Flower Mound, Texas.

Notary Public, State of Texas

DEVELOPER:

JERRY'S EXPRESS CAR WASH II, LTD,
a Texas limited partnership

By: JECW LLC,
a Texas limited liability company

By:  _____
Jerry W. Miller, President

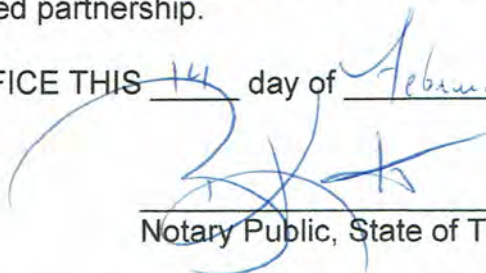
STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on February 14, 2018 by Jerry W. Miller, President of JECW LLC, a Texas limited liability company, General Partner of Jerry's Express Car Wash II, Ltd, a Texas limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 14 day of February, 2018.

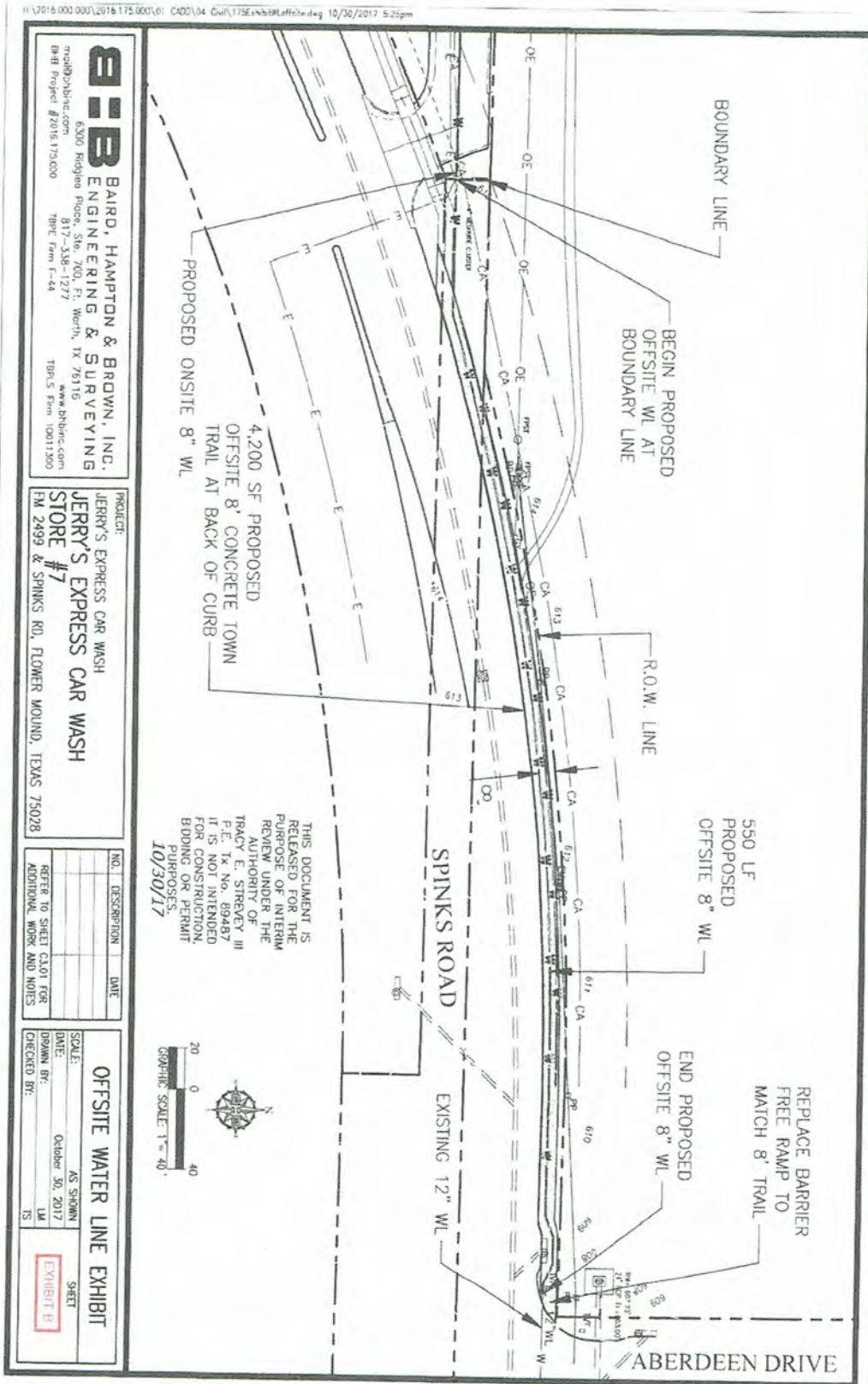
(SEAL)





Notary Public, State of Texas

Exhibit A



**Jerry's Carwash FM
Offsite Cost break out**



January 22, 2018

<u>1. Public Water:</u>	<u>Unit</u>	<u>QTY</u>	<u>Unit Cost</u>	<u>Total Cost</u>
8" Water	LF	550	\$ 49.00	\$ 26,950.00
Connect to existing water	EA	1	\$ 6,931.00	\$ 6,931.00
Fittings	LS	1	\$ 6,952.00	\$ 6,952.00
Trench safety	LF	550	\$ 2.00	\$ 1,100.00
Water testing	LF	550	\$ 3.00	\$ 1,650.00
Route surveying	LS	1	\$ 3,000.00	\$ 3,000.00
Engineering/Design fee	LS	1	\$ 3,000.00	\$ 3,000.00
Mobilization	LS	1	\$ 875.00	\$ 875.00
Asphalt demolition & grading	LF	275	\$ 6.51	\$ 1,790.25
Silt fence	LF	270	\$ 1.75	\$ 472.50
-Erosion control crew	Hr	2	\$ 165.00	\$ 330.00
Project Total				\$ 53,050.75
G. C. Fee				\$ 2,652.54
Engineering Inspection Fee (3%)				\$ 1,671.10
Public Water Total				\$ 57,374.39

<u>2. Multi-use Trail (offsite)</u>	<u>Unit</u>	<u>QTY</u>	<u>Unit Cost</u>	<u>Total Cost</u>
5.5" Concrete	SF	4,200	\$ 6.67	\$ 28,020.00
Engineering/Design fee	LS	1	\$ 2,000.00	\$ 2,000.00
Mobilization	LS	1	\$ 875.00	\$ 875.00
Asphalt demolition & grading	LF	275	\$ 6.51	\$ 1,790.25
Silt fence	LF	270	\$ 1.75	\$ 472.50
-Erosion control crew	Hr	2	\$ 165.00	\$ 330.00
Project Total				\$ 33,487.75
G. C. Fee				\$ 1,674.39
Engineering Inspection Fee (3%)				\$ 1,054.86
Multi-use Trail Total				\$ 36,217.00

Grand Total	\$ 93,591.39
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Exhibit C



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: March 19, 2018

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

ITEM: Consider approval of a Professional Services Agreement for the design phase services of the Justin Road Lift Station Outfall project, with Alan Plummer Associates, Inc., for \$83,900.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The scope of the Professional Services Agreement includes engineering services required for the preparation of plans, specifications and estimates for the Justin Road Lift Station Outfall project. The design will include the replacement of approximately 2,000 linear feet of existing 10-inch sanitary sewer with 12-inch pipe. The project is necessary to convey increases in future flow. The proposed sanitary sewer extends from a manhole on the south side of Justin Road approximately 400 feet east of Browning Drive east to approximately 600 feet south of Justin Road on Stonehill Farms Parkway.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$83,900.00

Proposed Expenditure:	Account Number(s):
\$83,900.00	600-900-98590

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

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

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve a Professional Services Agreement for the design phase services of the Justin Road Lift Station Outfall project, with Alan Plummer Associates, Inc., for \$83,900.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALAN PLUMMER ASSOCIATES, INC.**

This contract is entered into on this 19th day of March, 2018, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Alan Plummer Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 14755 Preston Road, Suite 325, Dallas, Texas 75254.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Justin Road Lift Station Outfall and Sanitary Sewer Improvements project; and

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

TERMS OF AGREEMENT

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

**I.
Employment of Consultant**

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Eighty Three Thousand Nine Hundred and No/100 Dollars (\$83,900.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

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

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

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

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

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

IX.
Right to Inspect Records

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

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

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

X.

Successors and Assigns

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

XI.

CONSULTANT's Liability

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

XII.

Indemnification

THE PROVISIONS OF THIS SECTION ARE SUBJECT TO THE LIMITATIONS OF TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 WILL STILL NAME TOWN AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY. CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

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

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.
Confidential Information

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

XIX.
Notice Information

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

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

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

Ross Standifer, PE
Senior Project Manager
Alan Plummer Associates, Inc.
14755 Preston Road, Suite 325
Dallas, Texas 75254
972.996.5720

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

XX.

Applicable Law

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

XXI.

Non-Discrimination

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

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

XXII.

Arbitration

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

XXIII.

No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution, and the parties to this Contract agree and

covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXX.

No Third Party Beneficiary

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

[The remainder of this page is left blank intentionally]

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

**THE TOWN OF FLOWER MOUND,
TEXAS**

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

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Alan Plummer Associates, Inc.

By: *R. R. Standifer*
Name: ROSSER R. STANDIFER
Title: SENIOR PROJECT MANAGER

Date Signed: FEB. 27, 2018

State of Texas §
 §
County of Dallas §

This instrument was acknowledged before me on the 27th day of February, 2018, by Rosser R. Standifer in his capacity as Senior Proj. Mgr. of Alan Plummer Assoc., Inc., a private Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of authorized representative.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27th DAY OF Feb., 2018.

Yolanda H. Thomas
Notary Public, State of Texas

My Commission Expires:

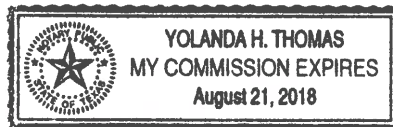


EXHIBIT A
Town of Flower Mound
Justin Lift Station Force Main Discharge Sanitary Sewer Improvements
Scope of Services

Prepare preliminary and detailed design documents for replacement of approximately 2,000 linear feet (LF) of existing 10-inch sanitary sewer with 12-inch pipe. The project is necessary to convey increases in future flow. The existing 10-inch sanitary sewer begins at a manhole on the south side of Justin Road approximately 400 feet east of Browning Drive. The 10-inch sanitary sewer extends east to approximately 600 feet south of Justin Road on Stonehill Farms Parkway as indicated in Figure 1.



Figure 1

Provide advertisement/award and construction phase services for the designed improvements. The ENGINEER agrees to furnish the TOWN the following specific services:

BASIC ENGINEERING SERVICES

ENGINEER agrees to perform BASIC ENGINEERING SERVICES for modifications to the sanitary sewer collection system to allow for improvements to Justin Lift Station and decommissioning of the Morriss Lift Station and convey increases in future flow, in accordance with the stipulations within this AGREEMENT. The ENGINEER shall

perform BASIC ENGINEERING SERVICES necessary for the development of the PROJECT as follows:

A. CONCEPTUAL AND PRELIMINARY DESIGN SERVICES

1. The conceptual design will consider open cut and trenchless alternatives. The ENGINEER shall:
 - a. The project initiation meeting shall be conducted via internet video/telephone conference with TOWN staff.
 - b. Progress meetings if requested by the TOWN or required by the ENGINEER shall be conducted via internet video/telephone conference.
 - c. Complete desktop and field studies of the alignment of approximately 2,000 LF of existing 10-inch sanitary sewer. The TOWN will assist with access to existing manholes providing an operation personnel and if necessary provided limited traffic control during the field investigation phase.
 - d. Traffic control design for the construction phase shall be the responsibility of the contractor. The design of traffic control shall be provided as an Additional Service if requested by the TOWN.
 - e. Development of a Conceptual Opinion of Construction Cost (OPCC). The ENGINEER's projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost.
2. The TOWN will provide record drawings of the 10-inch sanitary sewer and prior video inspection of the sanitary sewer if available.
3. Surveying for the improvements will be conducted after successfully obtaining right-of-entry (ROE), survey scope of work will include the following tasks:
 - a. Utility coordination. Prior to commencing any topographic fieldwork, surveyor will coordinate with, collect and review available public and private utility records within the project limits. The surveyor will submit a utility locate request for the project limits to Texas 811.
 - b. Right-of-Way and Property. Survey will locate and tie existing ROW, property lines and easements including type, size, volume and page, where applicable.
 - c. Survey will horizontally and vertically pick up surface features; drainage features; building locations; fences/retaining walls; trees and/or tree lines; roadways; railways; and city, county and franchise utilities (as provided by Texas 811 utility locate request) within the project area to the following limits:

- 1) Approximately 2,000 LF of sanitary sewer to support the design of wastewater pipeline improvements.
- 2) Alignment swaths shall be approximately 100 feet wide centered on the centerline of the pipeline alignment corridor.
- d. The survey of trees shall include caliper size trunks approximately 6-in and larger. Based on the judgement of the ENGINEER the edge (tree line) of groups of trees or shrubs may be substituted for the survey of all trees within heavily wooded areas. In such areas, the ENGINEER shall survey trees that exceed 12-in caliper size. Identification of tree species or size beyond that provided under Basic Services shall be provided as an Additional Service. Individual trees will not be tagged unless specifically identified as a Special Service.
- e. Methods and precision. Survey coordinates will be reported on the Texas State Plane Coordinate System, NAD83 (+/- 0.01 feet) with vertical coordinates reported in the NAVD 88 Vertical System (+/- 0.01 feet). Horizontal and vertical control will be set using post-processed GPS static methods. Data will be collected using RTK GPS and robotic total stations for the majority of the survey. Laser scanning methods will be used at state highway and railroad crossings for safety reasons.
- f. All survey data collected will also be submitted in GIS format per project spatial data management and procedures with appropriate ground to grid conversion.
- g. The budget for survey established in this contract assumes full ground survey of the project limits. Billings will be based on actual work performed by the surveyor (whether ground survey, aerial survey or both).
 - 1) ENGINEER will research boundaries, subdivision plats, rights-of-way (ROW) and easements of which the surveyor has knowledge, which may affect the physical boundaries of the project. Easements with volume and page numbers will be identified and labeled in the survey submittal. Research will include public record resources, including but limited to: county records; TxDOT records; franchise utility records (gas, telephone, electric, cable and others); ownership or easement records as available; and title/abstracting reports from owner on proposed easement parent tracts.
 - 2) ENGINEER will prepare a metes and bounds description of permanent and temporary construction easements, with accompanying exhibits, for up to 9 parcels.
4. No geotechnical investigation for the gravity pipeline will occur. The ENGINEER shall obtain soil borings performed for installation of the parallel Upper Trinity Regional Water District (UTRWD) water line.
5. The ENGINEER shall perform a brief video condition assessment of the existing 10-inch Sanitary Sewer including inspection of up to 2,000 LF of PVC pipe. The inspection shall include:

- a. Cleaning of minor accumulations of debris to allow passage of the camera. Removal of major accumulations of debris, grease and wastewater solids, if required shall be performed as an Additional Service.
 - b. Documenting the location of service lines to facilitate restoration after replacement of the pipe by trenchless means (slip-lining, pipe bursting, etc.).
 - c. The ENGINEER shall provide a written report if requested as an Additional Service.
6. Preliminary design services shall include field data collection and development of 30% Plans for the recommended improvements. The ENGINEER shall:
 - a. Coordinate with utilities companies concerning upcoming projects and schedules (in concert with the OWNER'S relocation agent.)
 - b. Prepare preliminary construction plans of proposed project, approximately 30% complete.
 - c. Prepare a Table of Contents summarizing the proposed specifications book.
 - d. Prepare "Core" specifications for review with the TOWN. Specifications presented shall include pipe bursting and other sections deemed central to the project by the ENGINEER.
 - e. The preliminary plans shall include plan and profile sheet(s) of the pipe bursting and an area plan only. Preliminary plans (half-size), and specifications shall be forwarded electronically to the TOWN in PDF file format. After receipt and following review, the TOWN's comments will be incorporated.
 - f. Update the Conceptual OPCC to incorporate changes included in the 30% design.
7. Deliverables will include:
 - Metes and bounds description with accompanying exhibit.
 - One electronic executed PDF of the complete instrument for the parcel.
 - Five (5) original hard copies of the complete instrument for the parcel.
 - Electronic video files of covering the inspection of the existing sanitary sewer
 - 30% Plans
 - Specification Book Table of Contents and Core Specifications Sections
 - 30% OPCC

B. DESIGN PHASE SERVICES – SANITARY SEWER IMPROVEMENTS

1. Prepare detailed plans, technical specifications, contract documents, designs and layouts of improvements, decommissioning or additions, generally as indicated and approved in the preliminary design task. Specifications shall include provisions for submittals, testing plans, training and warranty, and documentation requirements. Items to be designed will generally consist of the following:
 - a. Area Plans, Plan and Profile drawings showing location of recommended improvements or work and required details.
 - b. Demolition and removal plans.
 - c. Specifications.
2. Provide updated OPCC at approximately sixty percent (60%) and ninety percent (90%) complete milestones and prepare a detailed statement of final opinion of probable construction cost. The ENGINEER'S projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost.
3. Progress meetings if requested by the TOWN or required by the ENGINEER shall be conducted via internet video/telephone conference.
4. Conduct up to one (1) Quality Assurance (QA) internet video/telephone conference with TOWN staff. The conference call shall be conducted when the plans and specifications are 60% complete. The ENGINEER'S QA review team shall consist of a senior staff member not associated with the day-to-day design of improvements.
5. Conduct up to one (1) Quality Assurance (QA) meeting with TOWN staff. The meeting shall be conducted when the plans and specifications are 90% complete. The ENGINEER'S QA review team shall consist of a senior staff member not associated with the day-to-day design of improvements.
6. Furnish one set of interim plans (half-size), specifications, and contract documents at the sixty percent (60%) completion points to the TOWN. The 60% documents shall be forwarded electronically to the TOWN in PDF file format. After receipt and following review, the TOWN's comments will be incorporated at each review stage.
7. Furnish up to four (4) sets of interim plans (half-size), specifications, and contract documents at the ninety percent (90%) completion points to the TOWN. After receipt and following review, the TOWN's comments will be incorporated at each review stage.
8. Upon completion, ENGINEER will furnish five (5) half-sized sets. Provide a copy on CD of final documents in electronic file format such as PDF.

9. Assist the TOWN in the preparation of formal Contract Documents.
10. Deliverables will include
 - 60%, 90% and Final Plans and Specifications
 - 60%, 90% and Final OPCC

C. BID PHASE SERVICES

1. The TOWN will secure bids, issue notice to bidders, and notify construction news publications of construction. The notice to bidders will be furnished by the TOWN for publication in the local news media. The TOWN will distribute bidding documents.
2. Assist the prospective bidders in interpreting the construction plans and specifications through the preparation and issuance of addenda and assist the TOWN in the analysis of the bids received and furnish recommendations on the award of the contracts or the appropriate actions to be taken by the TOWN.
3. Prepare Conformed Executed Project Documents incorporating changes issued by Amendment during the bidding phases. Furnish up to four (4) full-size sets of plans and specifications and one on CD in electronic format to Contractor. Furnish up to six (6) either full-size sets, or half-sized sets, or a combination of plans and specifications and in electronic format to TOWN. Provide a copy of conformed documents on CD in electronic PDF file format and AutoCAD “dwg” format to TOWN.

D. CONSTRUCTION PHASE SERVICES

1. The ENGINEER agrees to perform the construction phase services in assisting the TOWN and Contractor during construction as described in the following paragraphs.
2. Attend the on-site pre-construction meeting. If requested the ENGINEER shall make additional site visits during construction at times to be coordinated with the TOWN and the CONTRACTOR as an Additional Service.
3. Assist TOWN in preparation of Project closeout documentation and prepare Plans of Record based on the mark-up information provided by the CONTRACTOR and TOWN’s inspector.
4. Additional construction phase services if requested by the TOWN shall be performed as an Additional Service.

ADDITIONAL SERVICES

Additional services to be performed by the ENGINEER, if authorized by the TOWN, which are not included in the above-described Basic Engineering Services, are described as follows:

- A. Surveying, Geotechnical or Pipeline Condition Assessment (Video) Services not specifically identified in Basic Services.
- B. Extensive cleaning of sanitary sewer pipelines and removal of excessive volumes of debris, grease and wastewater solids.
- C. Review of submittals, handling of request for information (RFI) or change orders (CO) during construction.
- D. Additional visits to the site during construction beyond those identified in Basic Services.
- E. Providing shop, mill, field or laboratory inspection of materials and equipment.
- F. Coordination with other consultants.
- G. Assisting the TOWN in claims disputes with Contractor(s).
- H. Assisting TOWN or Contractor in the defense of prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. ENGINEER shall furnish such services, if any, on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- I. Sampling, testing or analysis beyond that specifically included in Basic Services.
- J. Preparing copies of Computer-Aided Drafting (CAD) electronic databases, drawings, or files for the TOWN's use in a future CAD system.
- K. Attending additional meetings as requested by TOWN.
- L. Providing additional copies of plans and specifications or providing services for more than one construction project.
- M. Providing arrangements for all subsurface investigations, including but not limited to geotechnical borings, test pits, soil resistivity surveys, and other subsurface explorations beyond what is specifically included in basic services, and the TOWN making or arranging to have made the interpretations of data and reports resulting from such investigations.

- N. Corps of Engineer Permitting, SWPPP, Traffic Control Plans, Subsurface Utility Engineering.
- O. Providing design services to upsize the capacity of Justin or Sanctuary pumps, wet wells, force mains or gravity pipelines.
- P. Providing design and surveying services for easements or temporary construction easements.
- Q. Providing design services for modeling sanitary sewer collections system components.
- R. Revisions to the plans, specifications, or bid proposal made after approval of the final documents by the TOWN.
- S. Any additional services that may be required by the TOWN for completion of the project that are not included in the Basic or Special Services.
- T. Perform investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the plans and specifications.

END OF DOCUMENT

EXHIBIT B

COMPENSATION

Alan Plummer Associates will provide the Scope of Services for a lump sum fee.

A. Conceptual and Preliminary Design Services	\$10,600
B. Design Services	\$30,200
C. Bid Phase Services	\$7,800
D. Construction Phase Services	<u>\$8,200</u>
Basic Services Subtotal	\$56,800
E. <u>Direct Reimbursable and Sub-Consultant Expenses</u> ¹	
1. Surveying Services	\$8,900
2. Easement Documents	\$9,900
3. CCTV Inspection	\$5,800
4. Reimbursables (mileage, printing)	\$2,500
Reimbursable and Sub-Consultant Subtotal	\$27,100
Additional Services	\$0
Total	\$83,900

Notes:

¹Direct Reimbursable and Sub-Consultant Expenses includes Survey Subconsultant fees for Spooner & Associates, Subcontractor fees for Cleanserve, Inc., Mileage, Reproduction, Print, and Postage and Freight fees.

The ENGINEER may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to the TOWN will be by task for the percentage of work actually completed. The TOWN shall make interim payments within 30 calendar days in response to ENGINEER's interim statements.

The budgetary allowance for Additional Services is \$0. Additional Services if required will be authorized by amendment of the Agreement in writing.

EXHIBIT C
TIME OF COMPLETION

Upon Receipt of a notice to proceed, we anticipate the following:

	<u>Calendar Days</u>
Conceptual and Preliminary Design Services	30
Final Design Services	60
Bid Phase Services	30
Construction Phase Services	90



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: March 19, 2018

FROM: Doug Stevens, Assistant Director of Public Works

ITEM: Consider approval of Change Order No. 1, for the Creek Bank Stabilization at 3100 River Hill project, to Knight Erosion Control, Inc., a sole source provider, in the amount of \$77,972.00; and authorization for the Mayor to execute the same on behalf of the Town.

BACKGROUND INFORMATION: On April 3, 2017, Knight Erosion Control, Inc. was awarded a purchasing agreement for creek bank stabilization and erosion control services for 3100 River Hill Court in the amount of \$19,999.00. After determining a flood study would be required, field surveying established the need for additional creek bank stabilization necessary to secure the existing structure located extremely close to existing erosion and to satisfy the zero rise requirements of the flood study. Change Order No. 1 provides for the additional purchase of creek bank stabilization and erosion control services at 3100 River Hill Court and provides for an increase to the project in the amount of \$77,972.00, and a revised total contract amount of \$97,971.00.

The Creek Bank Stabilization at 3100 River Hill project was approved and funded in the FY2106-17 Capital Improvement Program and a budget increase in the amount of \$80,000.00 was approved in FY2017-18 in anticipation of the proposed Change Order No. 1.

The R-Rap bag wall product is a proprietary product offered solely by Knight Erosion Control, Inc. The purchase falls within the definition of a procurement that is available from only one source (Chapter 252 of the local Government Code) and is exempt from competitive bidding requirements. This proprietary product is sold exclusively to Knight Erosion Control, Inc., by the manufacturer, Quikrete-Dallas.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$77,972.00

Proposed Expenditure:	Account Number(s):
\$77,972.00	610-590-98913

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No. 1
2. Sole Source Letter

DRAFT MOTION: Move to approve Change Order No. 1, for the Creek Bank Stabilization at 3100 River Hill project, to Knight Erosion Control, Inc., a sole source provider, in the amount of \$77,972.00; and authorize the Mayor to execute the same on behalf of the Town.

CHANGE ORDER 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound
 Contractor: Knight Erosion Control, Inc.
 Attn: Russell Hergesell
 P.O. Box 202541
 Arlington, TX 76006

Project: 3100 River Hill Ct. - Flower Mound

CHANGE ORDER NO. 1

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

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

Item No.	Description	Unit	Add/ Deduct	Quan	Unit Price	Extended Amount
Proposal 2	R-Rap Wall	LS	Add	1.00	\$77,972.00	\$77,972.00
Subtotal						\$77,972.00

Contract Price	\$ 19,999.00
Change Order No. 1	\$ 77,972.00
Revised Contract Price	\$ 97,971.00

JUSTIFICATION

Allows for an increase in the Rip Rap Wall necessary to stabilize the creek bank from erosion adjacent to the existing structure at 3100 River Hill Court.

Recommended
for Approval


 Doug Stevens
 Assistant Director of Public Works
 2/20/18
 Date


 Russell Hergesell
 Director of Sales
 Knight Erosion Control, Inc.
 2/20/18
 Date

Approved

Tomas E. Hayden
 Mayor
 Date



QUIKRETE- DALLAS
1008 East Highway 67
Alvarado, Tx 76009-3302
(817) 783-3010
(817) 783-3089 Fax

March 13, 2017

Mr. Doug Stevens
Town of Flower Mound
2120 Cross Timbers Road
Flower Mound, TX 75028

Dear Mr. Stevens,

This letter is to serve as documentation that Knight Erosion Control (KEC) purchases their Rip Rap product exclusively from the Quikrete Companies. We supply them with a proprietary bag sold exclusively to KEC. Carl Hergesell and KEC have been doing business with Quikrete, formerly Rich Mix Products since the mid 1980's.

Sincerely,

A handwritten signature in black ink that reads "Andy Morton". The signature is written in a cursive, flowing style.

Andy Morton
Vice President Sales – SW Regional
The Quikrete Companies
1008 E. HWY 67
Alvarado, TX 76009





TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: March 19, 2018

FROM: David Bauer, Construction Manager

ITEM: Consider approval of a Professional Services Agreement with Alliance Geotechnical Group, for construction testing of materials and methods, for the Heritage Park Phase IV project, in the not to exceed amount of \$38,069.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: This construction testing agreement is for the Heritage Park Phase IV project, which bids were received and opened on February 7, 2018. North Rock Construction submitted the lowest qualified bid of the eight responding bidders at a base bid of \$1,309,937.41, with bid options totaling \$187,835.54, for a grand total of \$1,497,772.95.

Heritage Park Phase IV includes, a trellis shade structure, bed preparation and soil amendments with 3-inches of mulch, wildflower mix seeding areas, nature observation platform, entry sign, sundial entry circle, five wildlife encounter stations with interpretive signage, an 18 basket disc golf course with trash receptacles and benches, a disc golf map and frame, three culvert crossings and a low water crossing along the trail, over 6200 feet of eight foot trail, retaining irrigation and landscaping.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$38,069.00

Proposed Expenditure:	Account Number(s):
\$38,069.00	317-110-90708

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

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

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve a Professional Services Agreement with Alliance Geotechnical Group, for construction testing of materials and methods, for the Heritage Park Phase IV project, in the not to exceed amount of \$38,069.00; and authorize the Mayor to execute same on behalf of the Town.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALLIANCE GEOTECHNICAL GROUP**

This contract is entered into on this _____ day of _____, 20____, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **ALLIANCE GEOTECHNICAL GROUP**, ("hereinafter referred to as "CONSULTANT") whose address is 3228 Halifax Street, Dallas, TX 75247

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Heritage Park Phase IV; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Heritage Park Phase IV Construction Materials Engineering and Testing specifically

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

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed Thirty Eight Thousand Sixty Nine and No/100 Dollars (\$38,069.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

Each month CONSULTANT will submit to TOWN an invoice for actual services performed and reimbursable expenses incurred by CONSULTANT during the previous month for which payment is sought. Each invoice shall be itemized to show the amount of work performed that month broken down by the identity of the person(s) performing such work, the amount of time expended by such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work or testing performed by each such person. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, within thirty (30) days of receipt of each such monthly invoice TOWN shall make monthly payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted.

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractor's and Contractual Liability, including but not limited to coverage for all of the indemnification obligations of

CONSULTANT under this Contract, and fully insuring CONSULTANT's liability for injury to or death of employees of TOWN and of third parties, extended to include personal injury liability coverage and for damage to property of third parties, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate per occurrence. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis;

3. Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; and
4. Professional Liability Insurance: CONSULTANT shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance, which may be written on a claims made form provided that "tail coverage" or continuation coverage is provided. Limits of liability shall be \$1,000,000.00 per claim, \$1,000,000.00 annual aggregate. The coverage under this policy shall include a contractual liability endorsement.

If any of the foregoing insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the Contract and acceptance by the TOWN. All such insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

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

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;
2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;
3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

David Bauer, Construction Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6308 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;

3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

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

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

THE PROVISIONS OF THIS SECTION ARE SUBJECT TO THE LIMITATIONS OF TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 WILL STILL NAME TOWN AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY. CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION, INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, THAT MAY ARISE BY REASON OF DEATH OR INJURY TO PERSONS OR DAMAGE TO OR LOSS OF USE OF PROPERTY OCCASIONED BY ANY WRONGFUL INTENTIONAL ACT OR OMISSION OF CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS.

XIII.
Independent Contractor

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

XIV.
Default

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

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

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to TOWN; or
- (c) Monetary damages in an amount not to exceed:

(1) The amount of any applicable insurance coverage CONSULTANT is required to purchase and maintain under this Contract plus any deductible amount to be paid by CONSULTANT in conjunction with said coverage regardless of whether CONSULTANT has actually purchased and maintained said coverage, plus any additional insurance maintained by CONSULTANT in excess or in addition to the coverage required under this Contract; plus

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations

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

XIX.
Notice Information

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

David Bauer, Construction Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6308 Telephone

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

Robert P. Nance
Alliance Geotechnical Group
3228 Halifax Street
Dallas, Texas 75247
972-444-8889 Telephone
972-444-8893 Facsimile

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

This Contract is fully performable in Denton County, Texas, and the parties to this Contract agree and covenant that this Contract will be enforceable in Flower Mound, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXX.**No Third Party Beneficiary**

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

[The remainder of this page left blank intentionally]

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

**THE TOWN OF FLOWER MOUND,
TEXAS**

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

Date Signed: _____

Attest:

Town Secretary

**CONSULTANT:
ALLIANCE GEOTECHNICAL GROUP**

By: 
 Name: Robert Nance
 Title: President
 Date Signed: 2/2/18

State of Texas §

County of Dallas §

This instrument was acknowledged before me on the 12th day of FEBRUARY, 20 18, by Robert P. Nance in his capacity as President of Alliance Geotechnical Group Inc., a TEXAS Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of PRESIDENT of ALLIANCE GEOTECHNICAL GROUP, INC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12th DAY OF FEBRUARY, 20 18.


 Notary Public, State of Texas

My Commission Expires:

11-18-2019





- GEOTECHNICAL ENGINEERING
- ENVIRONMENTAL CONSULTING
- CONSTRUCTION MATERIALS ENGINEERING AND TESTING
- CONSTRUCTION INSPECTION

January 18, 2018

Mr. David Bauer
Construction Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Phn: (972) 874-6208
Email: david.bauer@flower-mound.com

Re: Heritage Park Phase IV
Flower Mound, Texas
Engineering Inspection & Testing Services
AGG Proposal No: P18-0126C

Dear Mr. Bauer:

Alliance Geotechnical Group (AGG) is pleased to confirm our firm's interest in providing materials inspection and testing services for the proposed project noted above. A schedule of unit fees for this project is attached

After reviewing our fee schedule if you have any questions, please contact the undersigned at (972) 444-8889. If acceptable, please sign below and fax back to our office as our Authorization to Proceed. We look forward to the opportunity of working with you on this project.

Respectfully submitted,

ALLIANCE GEOTECHNICAL GROUP


Perry Kakara, S.E.T.
CME Department Manager


Robert P. Nance
President

Approved by: _____
Signature

Date: _____

SCHEDULE OF FEES
FOR
CONSTRUCTION MATERIALS ENGINEERING & TESTING
HERITAGE PARK PHASE IV FLOWER MOUND, TEXAS AGG PROPOSAL NO.: P18-0126C

DESCRIPTION OF SERVICES	QUANTITY		UNIT FEE	UNIT	FEE
A. SUB-GRADE TESTING & INSPECTION					
• Moisture/Density Relationship of Soils (ASTM D-698)	8	@	\$165.00	each	\$1,320.00
• Material Analysis -200	8	@	\$35.00	each	\$280.00
• Atterberg Limits	8	@	\$55.00	each	\$440.00
• Splash Pad Moisture Conditioned In-Place Density Test	0	@	\$35.00	each	\$0.00
• Mass Fill In-Place Density Test	0	@	\$18.00	each	\$0.00
• Sulfate Test (1 per 300 lf) as needed	3	@	\$90.00	each	\$270.00
• Paving/Walks Subgrade In-Place Density Test*	45	@	\$35.00	each	\$1,575.00
• Lime Series (5 Point PI Method)	2	@	\$250.00	each	\$500.00
• Select Fill In-Place Density Test	0	@	\$190.00	each	\$0.00
• Lime Subgrade Gradation	3	@	\$18.00	each	\$54.00
• THD Triaxial (Tex.-117-E) (as needed)	0	@	\$1,550.00	each	\$0.00
• Lime Subgrade Depth Check	3	@	\$18.00	each	\$54.00
• Sr. Engineering Tech to perform testing	54	@	\$47.50	hour	\$2,565.00
• Sr. Engineering Tech Overtime to perform testing	12	@	\$71.25	hour	\$855.00
• Project Manager	8	@	\$75.00	hour	\$600.00
• Sr. Geotechnical Engineer Project Review	2	@	\$125.00	hour	\$250.00
• Vehicle Charge	13	@	\$40.00	trip	\$520.00
Sub-Total					\$9,283.00
B. UTILITY BACKFILL TESTING & INSPECTION					
• Moisture/Density Relationship of Soils (ASTM D-698)	0	@	\$165.00	each	\$0.00
• Atterberg Limits	0	@	\$55.00	each	\$0.00
• Material Analysis -200	0	@	\$35.00	each	\$0.00
• In-Place Density Test* (ASTM D2922)	0	@	\$35.00	each	\$0.00
• Concrete Test Cylinders (4 cylinders per set) Headwall	24	@	\$18.00	each	\$432.00
• Sr. Engineering Tech to perform testing	24	@	\$47.50	hour	\$1,140.00
• Project Manager	2	@	\$75.00	hour	\$150.00
• Vehicle Charge	8	@	\$40.00	trip	\$320.00
Sub-Total					\$2,042.00

SCHEDULE OF FEES
FOR
CONSTRUCTION MATERIALS ENGINEERING & TESTING
HERITAGE PARK PHASE IV FLOWER MOUND, TEXAS AGG PROPOSAL NO.: P18-0126C

DESCRIPTION OF SERVICES	QUANTITY		UNIT FEE	UNIT	FEE
C. CONCRETE & REINFORCING TESTING & INSPECTION					
• Sr. Geotechnical Engineer Pier Review	0	@	\$125.00	hour	\$0.00
• Concrete Inspection & Testing (regular time)	250	@	\$47.50	hour	\$11,875.00
• Concrete Inspection & Testing (over time)	76	@	\$71.25	hour	\$5,415.00
• Trail/Paving Concrete Cylinder Test	108	@	\$18.00	each	\$1,944.00
• Retaining Wall Concrete Cylinder Test	56	@	\$47.50	each	\$2,660.00
• Concrete Cylinders	0	@	\$18.00	each	\$0.00
• Project Manager	30	@	\$75.00	hour	\$2,250.00
• Vehicle Charge	65	@	\$40.00	trip	\$2,600.00
Sub-Total					\$26,744.00
D. ASPHALT TESTING & INSPECTION					
• Gradation/A. C. Content	0	@	\$175.00	each	\$0.00
• Density Air Voids	0	@	\$35.00	each	\$0.00
• Sulfate Soundness	0	@	\$285.00	each	\$0.00
• Hveem Stability	0	@	\$105.00	each	\$0.00
• Asphalt Cores	0	@	\$50.00	set	\$0.00
• Lab Molded Densities	0	@	\$45.00	set	\$0.00
• Rice Gravities	0	@	\$45.00	each	\$0.00
• TxDOT Level 1B Asphalt Technician	0	@	\$50.00	hour	\$0.00
• TxDOT Level 1A Asphalt Technician	0	@	\$55.00	hour	\$0.00
• Vehicle Charge	0	@	\$35.00	trip	\$0.00
Sub-Total					\$0.00
ESTIMATED TOTAL					\$38,069.00

NOTES:

- It is understood that the contractor will be invoiced at overtime rates of 1.5 times the regular hourly rate for hours worked over eight (8) hours per day Monday thru Friday or any time before 7:00 a.m. or after 5:00 p.m.
Service performed on Saturdays and Sundays will be billed at 1.5 times the regular hourly rate.
Services performed on recognized holidays will be billed at 2.0 times the regular hourly rate.
- All laboratory test fees are F.O.B. our laboratory; additional charge for sample pickup may apply.
- Any additional tests will be billed on a hourly rate and charged at the applicable rate, portal-to-portal.
- Additional test not specified in this proposal will be quoted upon request.
- This proposal does not include any technician stand-by, non-readiness charges, and/or trips or re-tests of the previous failing tests.
- The above unit rates are based on the project plans provided to AGG by the Town of Flower Mound



TOWN COUNCIL AGENDA ITEM NO. 10

REGULAR ITEM

DATE: March 19, 2018

FROM: Matthew Woods, Director of Environmental Services

ITEM: **Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Hawks Hill QT. The property is generally located west of Long Prairie Road and south of Waketon Road. (*The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its March 6, 2018, meeting*).**

BACKGROUND INFORMATION: The Hawks Hill QT development is generally located west of Long Prairie Road and south of Waketon Road. The site is approximately 1.5 acres in size. The site is currently master planned for Retail and is zoned for Retail-2 (R-2) uses within Planned Development District No. 141 (PD-141). According to the tree survey for the project, the site contains two (2) specimen trees within the proposed grading limits of the site. The applicant is requesting to remove one (1) specimen tree from the site in order to build a gas station. The specimen tree proposed for removal (Tree #9379 – 19" blackjack oak) is in good condition and is located outside the property line but within the proposed grading limits.

Although the Town's tree preservation ordinance, Chapter 94 – Trees, was amended in July of 2015 to remove the mitigation exception for non-residential uses within Specific Plan Areas, the initial development application for the entire Hawks Hill development was submitted prior to the ordinance adoption and is therefore not subject to the mitigation requirements.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its March 6, 2018, meeting. The ECC recommended approval of the requested permit to remove the specimen tree. A link to the ECC meetings can be found at: <https://tx-flowermound.civicplus.com/index.aspx?NID=969>

CITIZEN FEEDBACK: As of March 7, 2018, staff has not received feedback related to this item.

ALTERNATIVES/OPTIONS: The Town Council may approve or deny the requested tree removal permit, or may choose to approve the permit with conditions or changes.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter from the applicant indicating the reason(s) for the tree removal permit request.
2. Specimen tree removal permit application.
3. Photograph of the specimen tree proposed for removal.
4. Project Tree Survey.

DRAFT MOTION: Move to approve the requested permit for the removal of one (1) specimen tree on property proposed for development as Hawks Hill QT. The property is generally located west of Long Prairie Road and south of Waketon Road.



February 28, 2018

Jimmy Hoefert, Environmental Review Analyst
 Town of Flower Mound
 1001 Cross Timbers Road, Suite 2330
 Flower Mound, TX 75028

Reference: Tree Removal Permit Application
 FM 2499 & Waketon
 QuikTrip No. 0944
 Town of Flower Mound
 Denton, Texas

Dear Mr. Hoefert;

On behalf of the owner/developer on the aforementioned property, we are requesting that (1) specimen tree (as outlined on the attached tree removal exhibit), as defined in the TOFM Tree Preservation Code, be removed. The tree is being requested to be removed due to the offsite grading, which thereby means the subject development cannot reasonably be developed, based on economic and/or practical considerations, without removal of the tree included in the permit application.

TREE TABULATION FROM THE SPECIMEN TREE SURVEY

Total specimen trees on site to be saved	1 tree #9370, 32" Pecan
Total specimen trees off site to be removed due to grading	1 tree #9379, 19" Blackjack Oak

Several plans were generated with various renditions of each based on saving the specimen tree as per the owner. Due to preexisting conditions, grading, Town of Flower Mound Engineering Standards, and site conditions, the specimen tree is not able to be saved. The site plan before you appears to be the most beneficial for taking into account all the site constraints and opportunities.

The following is the specimen trees we are requesting to be removed: #9379, 19" Blackjack Oak

This tree is being removed due to existing conditions and site grading constraints.

Thank you for your consideration.

Based on the above data, I respectfully ask that the aforementioned trees be allowed to be removed from the site.

Respectfully submitted,

Ron Stewart, ASLA
 Landscape Architect, TX #791

Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 2/17/00- present)

Check one: ☐ Protected Tree ☒ Specimen Tree ☐ Majestic Tree

1. Applicant- Note: Must be a licensed Landscape Architect or Registered Arborist

Name:

Ron Stewart, P.L.A.
G&A Consultants, LLC

Address:

111 Hillside Dr.
Lewisville, TX 75057

Phone:

(972) 436-9712

Applicant's Legal Interest in the Property:

Landscape Architect

2. Property Owner(s)

Name(s) Hawks Ramsey, LLC

Address: 1044 115th Street
Suite 400
Omaha, NE 68154

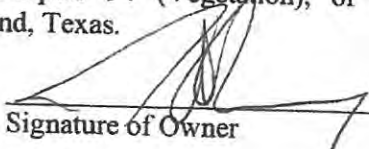
3. Location and Legal Description of Property:

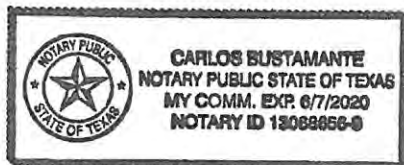
QuikTrip No. 0944 - FM 2499 + Wakeston, F.M.

page 2 of 3.

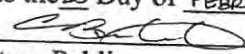
4. Owner's Authorization of Representation

I, JEFF RAMSEY, the owner of the above described real property, do hereby authorize Ron Stewart to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Vegetation), of the Land Development Code of the Town of Flower Mound, Texas.


Signature of Owner

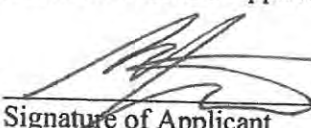


Given Under My Hand and Seal of Office
This the 23 Day of FEBRUARY, 2002018


Notary Public
In and For DENTON County, Texas.

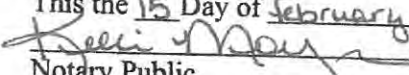
5. Applicants Affidavit- Note: Applicant must be a licensed Landscape Architect or Registered Arborist.

Subject to criminal penalties contained in Chapter 12, Land Development Code of the Town of Flower Mound, Texas, I RON STEWART, do hereby swear or affirm that all of the Information contained herein and submitted herein is, to the best of my knowledge, true, correct and complete and that no false, misleading or incomplete information has been intentionally provided or submitted with this Application for a Tree Removal Permit.


Signature of Applicant

Landscape Architect License No. 791
State of Licensure TX
Or ISA Certified Arborist No. _____



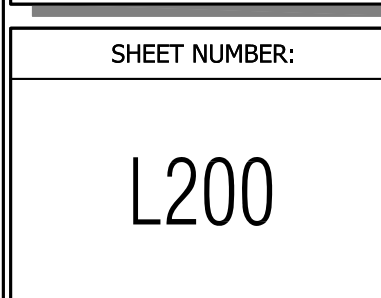
Given Under My Hand and Seal of Office
This the 15 Day of February, 2018

Notary Public
In and For Denton County, Texas

6. Received by Town of Flower Mound on (Date) 2/16/2018 by (initials) JRH.

Hawks Hill QT – Specimen tree proposed for removal

Tree #9379 – 19" blackjack oak



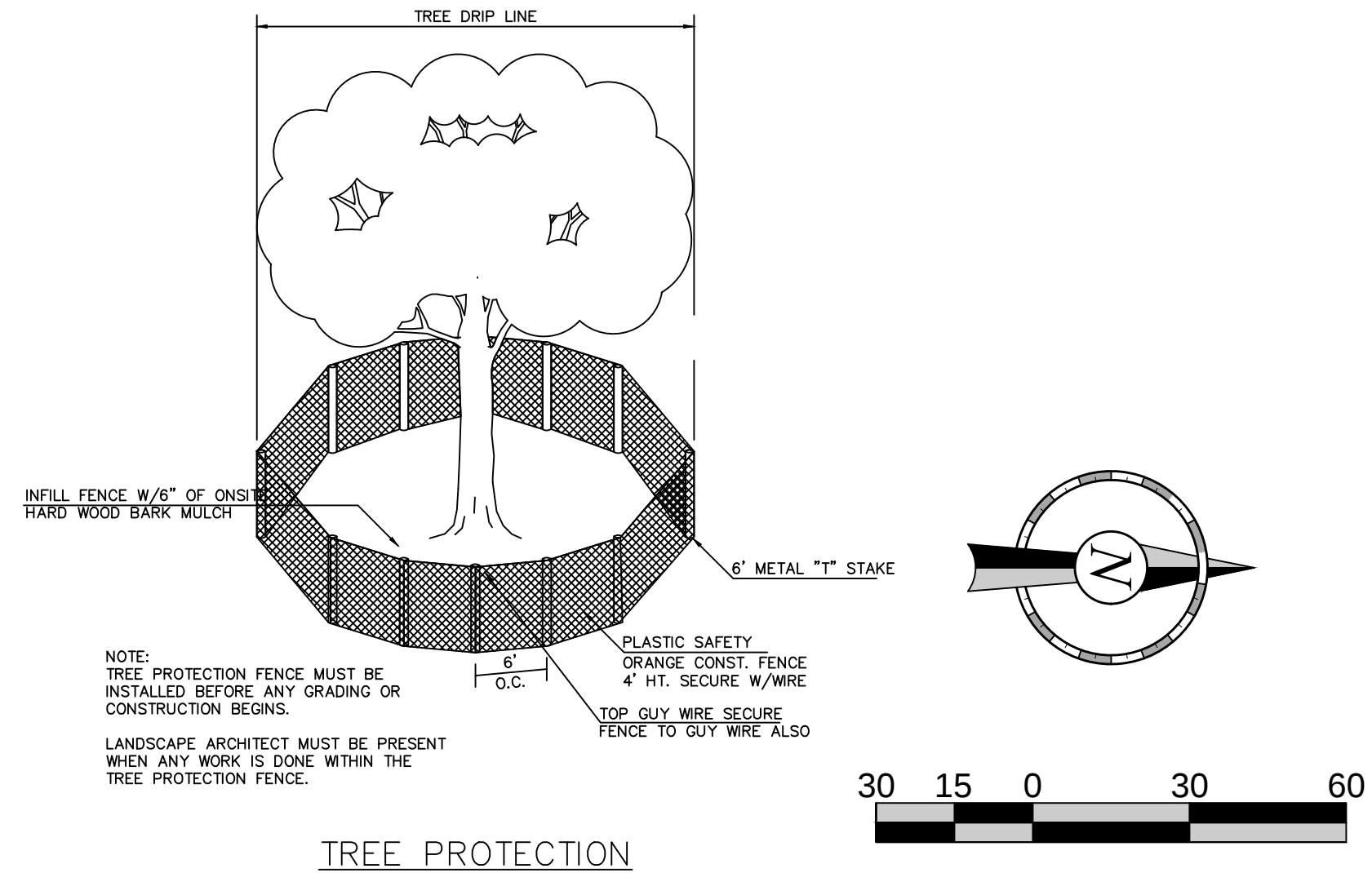




1. THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHERE INDICATED OR NOTED ON THESE PLANS OR NOT.
2. BEFORE BEGINNING WORK, THE FIELDWORK MANAGER, LANDSCAPE ARCHITECT AND/OR PROJECT MANAGER OR THEIR AGENTS
3. SHALL MEET TO REVIEW THE SITE TO VIEW THE WORK PROCEEDINGS, ROUTE, STORAGE AREA, AND TREE
4. PROTECTION MEASURES. ANY INTENDED CONSTRUCTION ACTIVITIES INSIDE THE TPZ SHALL BE CLEARLY OUTLINED
5. FENCES SHALL BE ERECTED TO PROTECT TREES TO BE PRESERVED. PRIOR TO CONSTRUCTION EQUIPMENT ARRIVING ON
6. THE SITE, ALL TREES WILL BE ERECTED WITH PROTECTION. PROTECTION FOR TREES WITH 12" DBH OR GREATER, FENCES ARE
7. TO BE MAINTAINED AND REMAIN UNTIL ALL SITE WORK HAS BEEN COMPLETED AND FINAL LANDSCAPE OPERATIONS
8. BEGIN. FENCES MAY NOT BE RELOCATED OR REMOVED WITHOUT WRITTEN PERMISSION FROM THE LANDSCAPE ARCHITECT.
9. 10. ALL TREES TO BE CONSTRUCTED WITH PROTECTION. PROTECTION FOR TREES WITH 12" DBH OR GREATER, FENCES ARE
11. ALL TREES TO BE PRESERVED SHALL HAVE 6" OF HARDWOOD MULCH APPLIED INSIDE THE TREE PROTECTION ZONE. THIS
12. HARDWOOD MULCH SHALL BE REFRESHED AS NECESSARY TO MAINTAIN A 6 INCH DEPTH.
13. 14. ALL TREES WITHIN THE TREE PROTECTION ZONE MUST REMAIN IN THESE AREAS AT ALL TIMES.
15. 16. TREE ROOTS EXTEND OUT IN A STRAIGHT, RADIAL DIRECTION FROM THE TREE MUCH LIKE SPOKES ON A WHEEL (TO A
17. DEPTH GREATLY NOT EXCEEDING 24"). ALL UNDERGROUND UTILITIES AND DRAIN OR IRRIGATION LINES SHALL BE
18. ROUTED OUTSIDE THE TREE PROTECTION ZONE. IF LINES MUST TRAVERSE THE PROTECTION AREA, THEY SHALL BE
19. ROUTED IN A STRAIGHT, RADIAL DIRECTION FROM THE TREE. (FOR TREE PROTECTION REMARKS, SEE REMARKS OR
20. TECHNOLOGY ARE THE ONLY EXCEPTIONS. IRRIGATION LINE MAY BE ROUTED IN ANY DIRECTION OUTSIDE THE DRILLPILE
21. OF RETAINED TREES. IRRIGATION LINES INSIDE THE DRILLPILE MUST BE IN A STRAIGHT, RADIAL DIRECTION TOWARDS THE
22. TREE. (FOR TREE PROTECTION REMARKS, SEE REMARKS OR TECHNOLOGY ARE THE ONLY EXCEPTIONS. IRRIGATION LINES
23. (IRRIGATION LINES SHALL NOT IN ANY WAY BISECT AND THEREFORE DAMAGE THE "SPOKE-LIKE" ROOT SYSTEMS).
24. 25. NO MATERIALS, EQUIPMENT, SPOIL, OR WASTE OR WASHOUT WATER MAY BE DEPOSITED, STORED, OR PARKED WITHIN THE
26. 27. IF UNINTENTIONAL INJURY SHOULD OCCUR TO ANY TREE DURING CONSTRUCTION, IT SHALL BE REPORTED TO THE
28. LANDSCAPE ARCHITECT WITHIN SIX HOURS SO THAT REMEDIAL ACTION CAN BE TAKEN. TIMELINESS IS CRITICAL TO TREE
29. LIFE. THE COST OF ANY REMEDIAL TREATMENTS WILL BECOME THE BURDEN OF THE OFFENDING CONTRACTING
30. COMPANY.
31. 32. ANY GRADING, CONSTRUCTION, DEMOLITION, OR OTHER WORK THAT IS EXPECTED TO ENCOUNTER TREE ROOTS MUST BE
33. 34. ALL TREES WITHIN THE TREE PROTECTION ZONE SHALL BE IDENTIFIED BY TAG NUMBERS OR TAGS.
35. 36. NO TREE MITIGATION IS REQUIRED IN SFA 5 NON-RESIDENTIAL.

TREE CHART

	TREE #	CALIPER (")	COMMON NAME	BOTANICAL NAME	PROTECTED/SPECIMEN	REMOVED	HEALTH
1	9368	26" (MT)	MESQUITE	Prosopis glandulosa	NO	YES	GOOD
2	9369	12"	POST OAK	Quercus stellata	PROTECTED	YES	GOOD
3	9370	32"	PECAN	Carya illinoensis	SPECIMEN	NO	GOOD
4	9371	14"	PECAN	Carya illinoensis	PROTECTED	YES	GOOD
5	9372	14"	RED CEDAR	Juniperus virginiana	NO	YES	GOOD
6	9373	12"	PECAN	Carya illinoensis	PROTECTED	YES	GOOD
7	9374	14"	RED CEDAR	Juniperus virginiana	NO	YES	GOOD
8	9375	6"	RED CEDAR	Juniperus virginiana	NO	YES	GOOD
9	9376	12'	POST OAK	Quercus stellata	PROTECTED	YES	GOOD
10	9377	6"	POST OAK	Quercus stellata	PROTECTED	YES	GOOD
11	9378	7"	HACKBERRY	Celtis occidentalis	NO	YES	GOOD
12	9379	19"	BLACKJACK OAK	Quercus marilandica	SPECIMEN	YES	GOOD
13	9380	12"	BLACKJACK OAK	Quercus marilandica	PROTECTED	YES	GOOD
14	9381	10"	POST OAK	Quercus stellata	PROTECTED	YES	GOOD
15	9382	14"	RED CEDAR	Juniperus virginiana	NO	YES	GOOD
16	9383	12"	BLACKJACK OAK	Quercus marilandica	PROTECTED	NO	GOOD
17	9384	8"	HACKBERRY	Celtis occidentalis	NO	YES	GOOD
18	9385	14"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
19	9386	10"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
20	9387	15"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
21	9388	10"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
22	9389	9"	HACKBERRY	Celtis occidentalis	NO	NO	GOOD
23	9390	14"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
24	9391	16"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
25	9392	9"	HACKBERRY	Celtis occidentalis	NO	YES	GOOD
26	9393	7"	POST OAK	Quercus stellata	PROTECTED	NO	GOOD
27	9394	10"	TEXAS ASH	Fraxinus texensis	PROTECTED	NO	GOOD



PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
RON STEWART LANDSCAPE ARCHITECT
DATED 2/16/2018

REGISTERED LANDSCAPE ARCHITECT
STATE OF TEXAS

NOT TO BE USED FOR CONSTRUCTION OR BIDDING PURPOSES

PREFLIMINARY PLANS

THIS DOCUMENT IS FOR
INTERIM REVIEW AND IS
NOT INTENDED FOR
CONSTRUCTION, BIDDING,
OR PERMIT PURPOSES.
G&A CONSULTANTS, F-1798
ROBERT JOHN DOLLAH, JR.,
P.E. #86898
DATE 2/16/2018

PROJECT NO.:17404



CONSULTANTS, LLC
AND SURVEYING
111 Hillside Drive • Lewisville, TX 75057
P: 972.436.9712 • F: 972.436.9715
144 Old Town Blvd. North, Suite 2
Argyle, TX 76226
P: 940.240.1012 • F: 940.240.1028
TBPLS Firm No. 10047700
TRPF Firm No. 1798

QuikTrip No. 0944

F.M. 2499 & WAKETON

TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS



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WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE: P-92.02 (11/01/17)

DIVISION: DAL

VERSION: 001

DESIGNED BY: DED

REVIEWED BY: J.D.

[illegible]

ORIGINAL ISSUE DATE:

SHEET TITLE:

TREE SURVEY

SHEET NUMBER

L200



TOWN COUNCIL AGENDA ITEM NO. 11

REGULAR ITEM

DATE: March 19, 2018

FROM: Matthew Woods, Director of Environmental Services

ITEM: **Public Hearing to consider an application for a tree removal permit for two (2) specimen trees on property proposed for development as Rocky Hill Farms. The property is generally located north of Cross Timbers Road and east of Lighthouse Drive. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its March 6, 2018, meeting).**

BACKGROUND INFORMATION: The Rocky Hill Farms development is generally located north of Cross Timbers Road and east of Lighthouse Drive. The site is approximately 48.706 acres in size. The site is currently master planned for the Cross Timbers Conservation Development District and is zoned for Agriculture (A) uses. According to the tree survey for the project, the site contains twelve (12) specimen trees within 50' from the centerline of a proposed road or affected by current grading. Any additional specimen trees will be identified on an individual lot basis when housing permits are submitted. The applicant is requesting to remove two (2) specimen trees from the site in order to build a residential subdivision. The two (2) specimen trees proposed for removal are both in good to fair condition and located within the proposed buildable area.

The following is a list of the two (2) specimen trees requested for removal: Tree #39 – 24" blackjack oak (fair condition); and Tree #4457 – 23" post oak.

The Town's tree ordinance requires that specimen trees removed from the site be replaced at a rate of two times their caliper inches. However, the two (2) specimen trees proposed for removal are both located within an area of the site designated as Upland Habitat. Therefore, the Upland Habitat mitigation fee of \$15,000/acre will be applied to the project and will address the mitigation of both specimen trees.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its March 6, 2018, meeting. The ECC recommended approval of the requested permit to remove the specimen tree. A link to the ECC meetings can be found at:

<https://tx-flowermound.civicplus.com/index.aspx?NID=969>

CITIZEN FEEDBACK: As of March 7, 2018, staff has not received feedback related to this item.

ALTERNATIVES/OPTIONS: The Town Council may approve or deny the requested tree removal permit, or may choose to approve the permit with conditions or changes.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter from the applicant indicating the reason(s) for the tree removal permit request.
2. Specimen tree removal permit application.
3. Photographs of the specimen trees proposed for removal.
4. Project Tree Survey.

DRAFT MOTION: Move to approve the requested permit for the removal of two (2) specimen trees on property proposed for development as Rocky Hill Farms. The property is generally located north of Cross Timbers Road and east of Lighthouse Drive.



February 21, 2018

Jimmy Hoefert, Environmental Review Analyst
 Town of Flower Mound
 1001 Cross Timbers Road, Suite 2330
 Flower Mound, TX 75028

Reference: Tree Removal Permit Application
 Rocky Hill Farms
 Town of Flower Mound
 Denton, Texas

Dear Mr. Hoefert;

On behalf of the owner/developer on the aforementioned property, we are requesting that (2) specimen trees (as outlined on the attached tree removal exhibit), as defined in the TOFM Tree Preservation Code, be removed. The tree is being requested to be removed due to the onsite grading, which thereby means the subject development cannot reasonably be developed, based on economic and/or practical considerations, without removal of the tree included in the permit application.

TREE TABULATION FROM THE SPECIMEN TREE SURVEY

Total specimen trees on site to be saved: 10

TREE TAG #	CALIPER (")	COMMON NAME
485	26.5	Post Oak
3918	32	Post Oak
3921	27	Post Oak
4371	32	Post Oak
4458	24	Post Oak
4460	22	Post Oak
4466	23.5	Post Oak
4467	29.5	Post Oak
4470	22	Post Oak
4471	22.5	Post Oak

Total specimen trees off site to be removed due to grading: 2

TREE TAG #	CALIPER (")	COMMON NAME
39	24	Blackjack Oak
4457	23	Post Oak

Page 2

Due to preexisting conditions, grading, Town of Flower Mound Engineering Standards, and site conditions, these specimen trees are not able to be saved. The site plan before you appears to be the most beneficial for taking into account all the site constraints and opportunities.

The following are the specimen trees we are requesting to be removed:

Tree #4457, 23" Post Oak & Tree #39, 24" Blackjack Oak

Thank you for your consideration.

Based on the above data, I respectfully ask that the aforementioned trees be allowed to be removed from the site.

Respectfully submitted,



Ron Stewart, ASLA
Landscape Architect, TX #791

Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 2/17/00- present)

Check one: ☐ Protected Tree ☒ Specimen Tree ☐ Majestic Tree

1. Applicant- Note: Must be a licensed Landscape Architect or Registered Arborist

Name:

Don STEWART, PLIA
G&W Consultants, LLC

Address:

111 Hillside Dr.
Newark TX 75057

Phone:

972-434-9712

Applicant's Legal Interest in the Property:

Landscape Architect

2. Property Owner(s)

Name(s) Michael + Mikala Sick

Address:

3. Location and Legal Description of Property:

Pink Hill Farms 48.67 acres - North of FM 117!
West of Freeman Road
East of Lighthouse

page 2 of 3.

4. Owner's Authorization of Representation

I, Michael Sisk, the owner of the above described real property, do hereby authorize Ron Stewart to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Vegetation), of the Land Development Code of the Town of Flower Mound, Texas.



Signature of Owner



Given Under My Hand and Seal of Office

This the 21 Day of February, 2018
S. Cheyenne Rodricks
 Notary Public
In and For Tarrant County, Texas.**5. Applicants Affidavit- Note: Applicant must be a licensed Landscape Architect or Registered Arborist.**

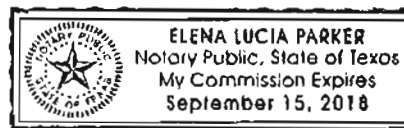
Subject to criminal penalties contained in Chapter 12, Land Development Code of the Town of Flower Mound, Texas, I Ron Stewart, do hereby swear or affirm that all of the Information contained herein and submitted herein is, to the best of my knowledge, true, correct and complete and that no false, misleading or incomplete information has been intentionally provided or submitted with this Application for a Tree Removal Permit.



Signature of Applicant

Landscape Architect License No. 791State of Licensure Texas

Or ISA Certified Arborist No. _____



Given Under My Hand and Seal of Office

This the 20 Day of January, 2018
E. Lucia Parker
 Notary Public
In and For Denton County, Texas

6. Received by Town of Flower Mound on (Date) 2/22/2018 by (initials) JRH

Rocky Hill Farms -
Specimen trees proposed for removal

Tree #39 – 24" blackjack oak



Tree #4457 – 23" post oak



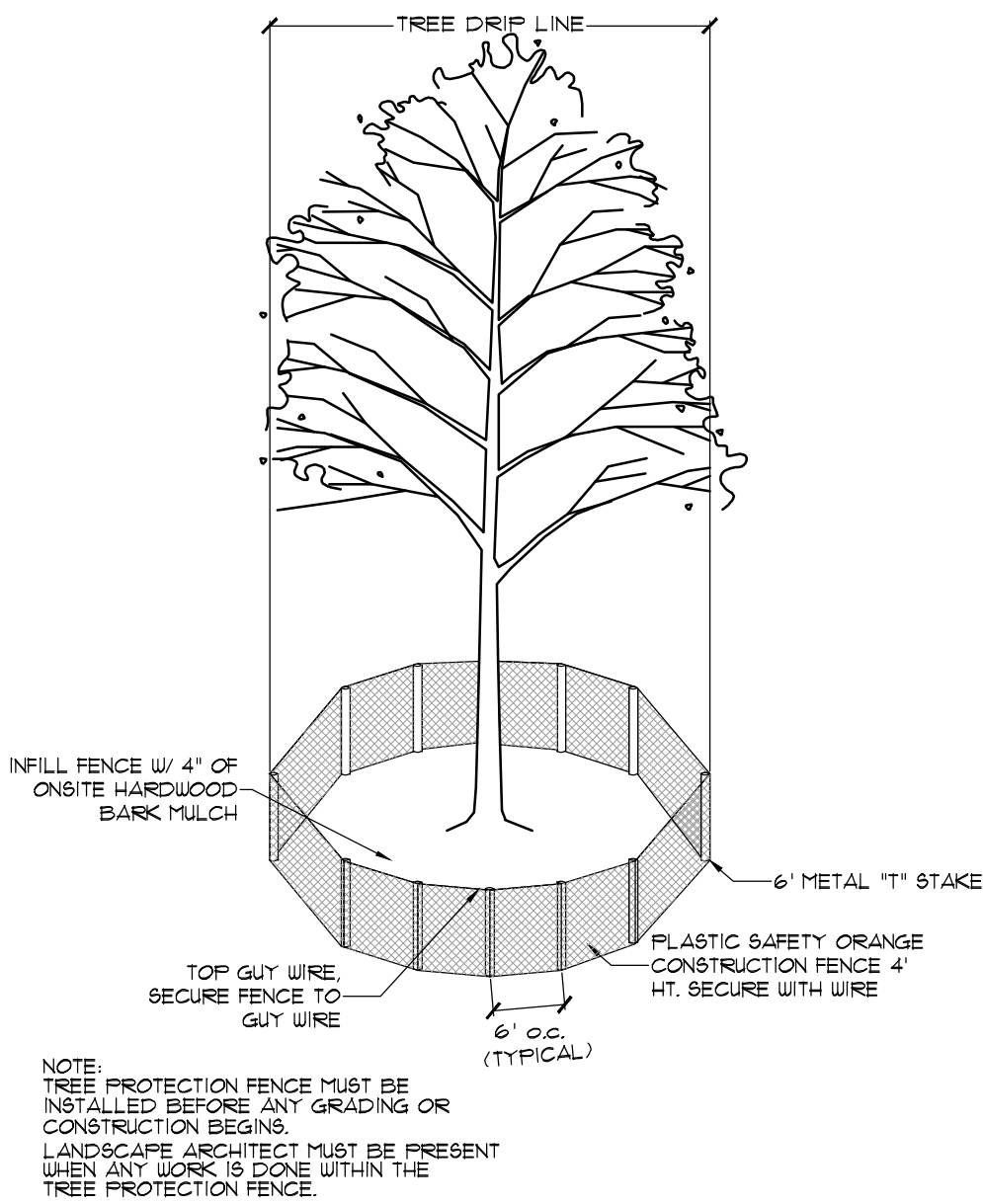
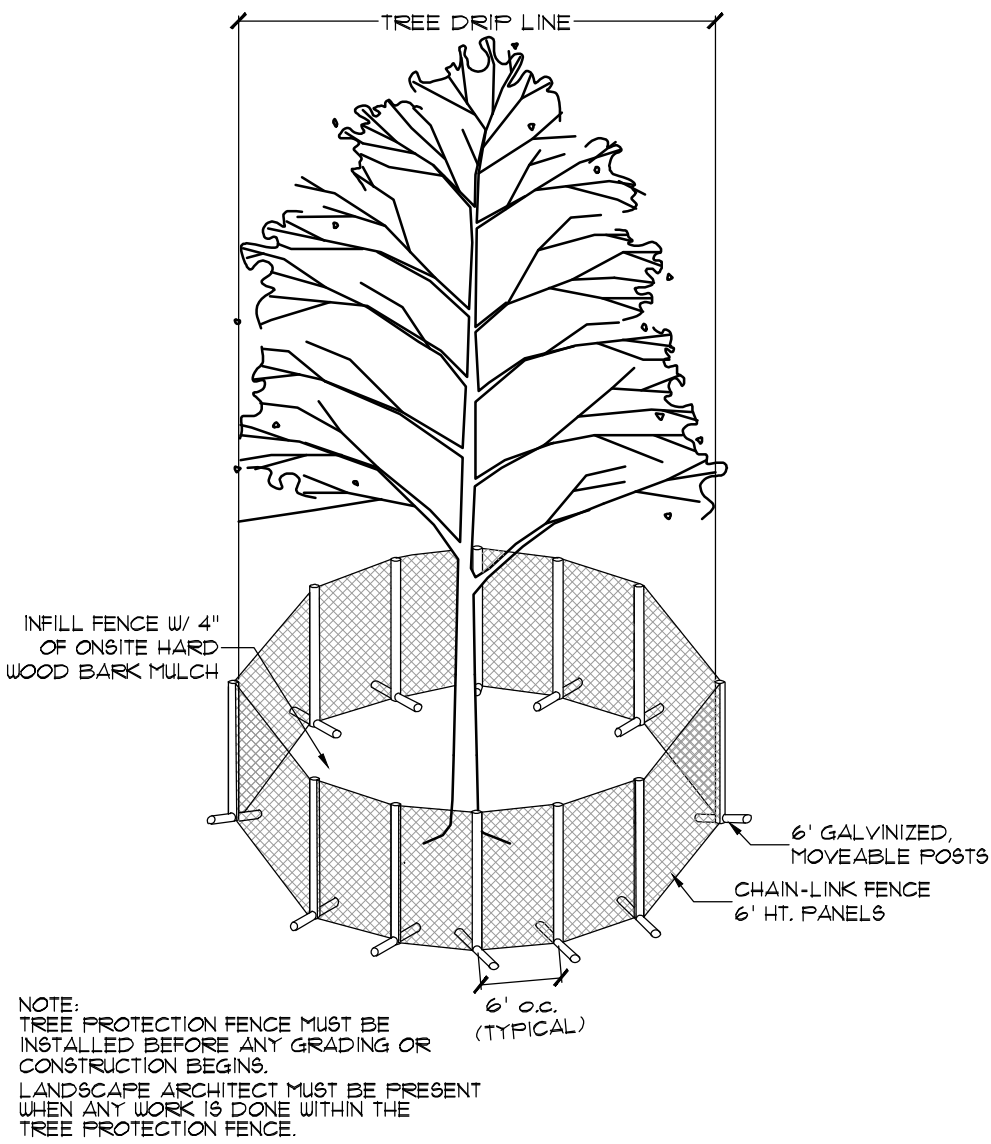


- OWNER/DEVELOPER**
SISK FARMS, LLC
1920 E. STATE HIGHWAY 114
SOUTHLAKE, TEXAS 76092
Ph. 817.410.3800
Contact Value

LIST #	TAG #	CALIPER (")	COMMON NAME	BOTANICAL NAME	SPECIMEN	PROTECTED	UPLAND HABITAT	REMOVED	REMARKS
1	39	24	BLACKJACK OAK	Quercus marilandica	YES	YES	YES	YES	
2	40	19	POST OAK	Quercus Stellata	NO	YES	YES	NO	
3	42	20	POST OAK	Quercus Stellata	NO	YES	YES	NO	MULTI-TRUNK
4	43	20	POST OAK	Quercus Stellata	NO	YES	YES	NO	
5	150	13	AMERICAN ELM	Ulmus americana	NO	YES	YES	YES	
6	151	18	AMERICAN ELM	Ulmus americana	NO	YES	YES	NO	
7	152	12	POST OAK	Quercus Stellata	NO	YES	YES	NO	
8	153	6	AMERICAN ELM	Ulmus americana	NO	YES	YES	NO	
9	154	15.5	POST OAK	Quercus Stellata	NO	YES	YES	NO	
10	155	16.5	POST OAK	Quercus Stellata	NO	YES	YES	NO	
11	156	9	POST OAK	Quercus Stellata	NO	YES	YES	NO	
12	157	15	POST OAK	Quercus Stellata	NO	YES	YES	NO	
13	158	15	POST OAK	Quercus Stellata	NO	YES	YES	NO	
14	159	8.5	POST OAK	Quercus Stellata	NO	YES	YES	NO	
15	160	14	POST OAK	Quercus Stellata	NO	YES	YES	NO	
16	161	13	POST OAK	Quercus Stellata	NO	YES	YES	NO	
17	162	13	POST OAK	Quercus Stellata	NO	YES	YES	NO	
18	163	18	POST OAK	Quercus Stellata	NO	YES	YES	NO	
19	164	12	POST OAK	Quercus Stellata	NO	YES	YES	NO	
20	165	13	POST OAK	Quercus Stellata	NO	YES	YES	NO	
21	166	11	CEDAR ELM	Ulmus crassifolia	NO	YES	YES	YES	
22	167	11	POST OAK	Quercus Stellata	NO	YES	YES	YES	
23	168	11	POST OAK	Quercus Stellata	NO	YES	YES	YES	
24	169	11.5	POST OAK	Quercus Stellata	NO	YES	YES	YES	
25	170	9.5	POST OAK	Quercus Stellata	NO	YES	YES	YES	
26	171	7	CEDAR ELM	Ulmus crassifolia	NO	YES	YES	YES	
27	172	7	CEDAR ELM	Ulmus crassifolia	NO	YES	YES	YES	
28	485	26.5	POST OAK	Quercus Stellata	YES	YES	YES	NO	
29	3918	32	POST OAK	Quercus Stellata	YES	YES	NO	NO	
30	3921	27	POST OAK	Quercus Stellata	YES	YES	YES	NO	
31	4356	6.5	CEDAR ELM	Ulmus crassifolia	NO	YES	YES	YES	
32	4371	32	POST OAK	Quercus Stellata	YES	YES	NO	NO	
33	4374	21	POST OAK	Quercus Stellata	NO	YES	NO	NO	
34	4457	23	POST OAK	Quercus Stellata	YES	YES	YES	YES	
35	4458	24	POST OAK	Quercus Stellata	YES	YES	YES	NO	
36	4460	22	POST OAK	Quercus Stellata	YES	YES	YES	NO	
37	4466	23.5	POST OAK	Quercus Stellata	YES	YES	YES	NO	
38	4467	29.5	POST OAK	Quercus Stellata	YES	YES	YES	NO	
39	4468	20	POST OAK	Quercus Stellata	NO	YES	NO	NO	
40	4469	21	POST OAK	Quercus Stellata	NO	YES	NO	NO	
41	4470	22	POST OAK	Quercus Stellata	YES	YES	NO	NO	
42	4471	22.5	POST OAK	Quercus Stellata	YES	YES	NO	NO	

TREE PRUNING, REMOVAL AND PROTECTION MEASURES

- A. QUALITY ASSURANCE
- 1) Comply with applicable Federal, state, county and local regulations governing landscape work.
 - 2) Employ only experienced personnel. Provide adequate supervision by qualified foreman.
- B. JOB CONDITIONS
- 1) Coordination: Coordinate and cooperate with other contractors to enable the work to proceed as rapidly and efficiently as possible.
 - 2) In order to minimize conflict, secure from the Construction Manager copies of layout drawings showing the location of all underground utility lines and other structures.
- C. PRODUCTS
- 1) MULCH: Double shredded hardwood mulch free of sticks, dirt and other debris as derived from the site clearing.
- D. DEFINITIONS
- 1) CRZ: Critical Root Zone: The soil space directly under the canopy of any tree, extending out at least 7 feet from the trunk or 2/3 the distance to the dripline, whichever is greater.
 - 2) TPZ: Tree Protection Zone: The entire soil space located directly under the dripline of any tree (the entire dripline).
 - 3) CRS: Complete Root System: The soil space directly under the dripline of any tree and an additional 7 feet beyond said dripline.
 - 4) TPF: Tree Protection Fence: The orange safety barrier netting that shall extend around the entire circumference of the tree at the TPZ.
- E. PRE - CONSTRUCTION TREE PRUNING
- 1) Personnel Qualifications: All pruning shall be performed under the supervision of an International Society Arboriculture (ISA) Certified Arborist.
 - 2) All trees within the project area shall be pruned to:
 - i) Clear the crown of diseased, crossing, weak and dead wood to a minimum of 1 ½ inches in diameter.
 - ii) Provide 14 feet of vertical clearance over streets and 8 feet over sidewalks.
 - iii) Remove stubs, cutting outside the woundwood tissue that has formed around the branch.
 - iv) Reduce end weight on heavy, horizontal branches by selectively removing small diameter branches, no greater than 2 to 3 inches, near the ends of the scaffolds.
 - 3) Pruning cuts shall be made in accordance with ANSI 300 Pruning Standard and work shall be performed in accordance with ANSI Z133.1 Safety Standard. Pruning shall be in accordance with ISA's Best Management Practices: Tree Pruning
 - 4) No more than 20 percent of live foliage shall be removed from any tree.
 - 5) Brush shall be chipped and chips shall be spread underneath trees within the tree protection zone to a maximum depth of 4 inches, leaving the trunk clear of mulch.
- F. TREE REMOVAL
- 1) Trees preservation requires a commitment to preserving and maintaining retained trees, as well as removal of any unsuited trees within the Project Area.
 - 2) All wood debris from all tree removals at the Project Site is to be chipped and stored on site for use on site in the tree preservation efforts at the discretion of the Landscape Architect.
 - 3) The limits of all tree protection zones shall be staked in the field and observed by all contractors.
 - 4) Any brush clearing required within the tree protection zone shall be accomplished with hand operated equipment.
 - 5) Trees to be removed from within the tree protection zone shall be removed under the supervision of a Certified Arborist. The trees shall be cut near ground level and the stump ground out.
- G. TREE PROTECTION
- 1) Before beginning work, the Project Manager, Landscape Architect and/or Owner or their agents are required to meet at the site to review all work procedures, access routes, storage areas, and tree protection measures. Any intended construction activities inside the TPZ shall be clearly outlined.
 - 2) Fences shall be erected to protect trees to be preserved prior to construction equipment arriving on the Project Site. Fences will define the specific protection zone for each tree or group trees. Fences are to be maintained and remain until all site work has been completed and final landscape operations begin. Fences may not be relocated or removed without written permission from the Landscape Architect. Fences may be constructed from 6" "T" stakes and orange web fence material.
 - 4) All trees to be preserved shall have 4 inches of hardwood mulch applied inside the tree protection zone. This hardwood mulch shall be replenished as necessary to maintain a 4 inch depth.
 - 5) Construction trailers, traffic and storage areas must remain outside fenced areas at all times.
 - 6) Tree roots extend out in a straight, radial direction from the tree much like spokes on a wheel (to a depth generally not exceeding 24"). All underground utilities and drain or irrigation lines shall be routed outside the tree protection zone. If lines must traverse the protection area, they shall be tunneled or bored under the tree. Trench es "airdug" with Air Spade (registered trademark) or similar technology are the only exceptions. Irrigation line may be routed in any direction outside the dripline of retained trees. Irrigation lines inside the dripline must be in a straight, radial direction towards the tree trunk and terminate in a dead end sprinkler head no greater than 7 feet from a tree trunk. (Irrigation lines shall not in any way bisect and therefore damage the "spoke-like" root system).
 - 7) No materials, equipment, spoil, or waste or washout water may be deposited, stored, or parked within the tree protection zone.
 - 8) If unintentional injury should occur to any tree during construction, it shall be reported to the Landscape Architect within six hours so that remedial action can be taken. Timeliness is critical to tree health. The cost of any remedial treatments will become the burden of the offending contracting company.
 - 9) Any grading, construction, demolition, or other work that is expected to encounter tree roots must be monitored by the Landscape Architect. Specific locations or tree tag numbers should be identified.



1. SPECIMEN TREE PROTECTION FENCING
1/4"=1'

2. PROTECTED TREE PROTECTION FENCING
NTS

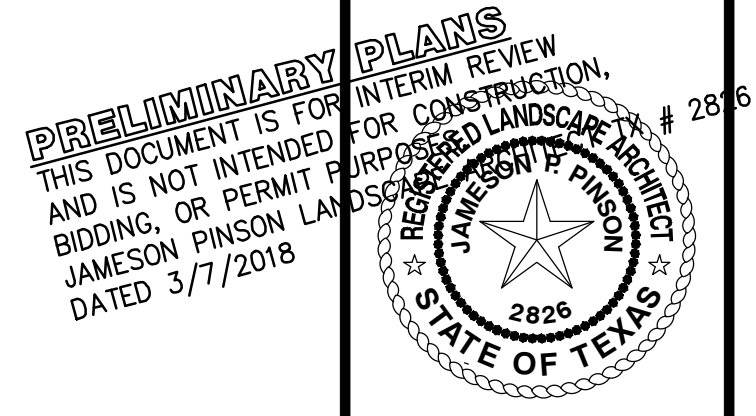
OWNER/DEVELOPER
SISS FARM, LLC
1920 E. STATE HIGHWAY 114
SOUTHLAKE, TEXAS 76092
Ph. 817.410.3800
Contact Value

SITE PLANNING CIVIL ENGINEERING PLATTING
CONSULTANTS, LLC
LAND SURVEYING LANDSCAPE ARCHITECTURE
111 Hillside Drive • Lewisville, TX 75057
P: 972.436.9712 • F: 972.436.9715
144 Old Town Blvd. North, Ste 2 • Argyle, TX 76226
P: 940.240.1012 • F: 940.240.1028
TBPES Firm No. 1798 TBPES Firm No. 10047700



ROCKY HILL FARMS
48,706 Acres
in the
MEP. & PRR. CO. SURVEY, ABSTRACT NO. 928
J. GIBSON SURVEY, ABSTRACT NO. 1270
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

TREE SURVEY



Drawn By: LD
Date: 11/20/2017
Scale:
Revisions:
12/27/2017
01/31/2018
02/26/2018
03/07/2018

16079

T1.1



TOWN COUNCIL AGENDA ITEM NO. 12

REGULAR ITEM

DATE: March 19, 2018

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

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA18-0001 – Silveron Boulevard Thoroughfare Plan Amendment) to amend Section 7.0, Thoroughfare Plan, for the section of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Tarrant/Denton County Line, and to consider adopting an ordinance providing for said amendment. (*The Transportation Commission recommended denial by a vote of 6 to 0 at their February 13, 2018, meeting*) (*The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its March 12, 2018, meeting.*)**

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report which includes the Transportation Commission report as backup for this item. Correspondence was received by the properties along both sides of Silveron Boulevard and was handed out at the meeting. Planning and Zoning Commission can be watched at the following link: <https://flowermoundtx.swagit.com/play/03122018-1146>. Item D4. Transportation Commission (TRC) meeting can be watched at the following link: <https://flowermoundtx.swagit.com/play/02132018-1397>. Item F2. Both the P&Z and TRC voted denial of the Thoroughfare Plan change.

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

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report
2. Draft Ordinance
3. Correspondence

DRAFT MOTION: Move to approve a request for a Master Plan Amendment (MPA18-0001 – Silveron Boulevard Thoroughfare Plan Amendment) to amend Section 7.0, Thoroughfare Plan, for the section of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Tarrant/Denton County Line to an Urban Minor Arterial (Divided 2-lane) with optional angled parking, and adopt an ordinance providing for said amendment.



PLANNING AND ZONING COMMISSION AGENDA ITEM NO: 4

DATE: March 12, 2018

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

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA18-0001 – Silveron Boulevard Thoroughfare Plan Amendment) to amend Section 7.0, Thoroughfare Plan, for the section of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Tarrant/Denton County Line. (*The Transportation Commission voted 6-0 to keep Silveron status quo at their February 13, 2018, meeting*).**

I. ITEM SUMMARY

This application has been reviewed by DRC and has been found to be in conformance with all applicable Town regulations. This began as a Town initiative based on the Town Council's desire to evaluate Silveron as a pedestrian friendly street to support the proposed adjacent mixed-use developments in the immediate area. The Transportation Commission (TRC) packet for this case and associated attachments are included with this item (Attachment A.1). Staff received direction from Town Council during the February 19, 2018, meeting to continue the process for formal consideration by the Planning and Zoning Commission; and Town Council.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

This application was presented to the TRC on February 13, 2018. The details of the request and staff report are contained in Attachment A.1. The video of the meeting can be viewed at:

<http://flowermoundtx.swagit.com/play/02132018-1397> (Item F2.)

At this meeting, the TRC's recommendation for this section of Silveron Boulevard was to keep it as an Urban Minor Arterial (UMA). A motion was made to recommend a 2 lane arterial with angled parking but failed for a lack of a second.

A. Thoroughfare Plan Amendment

Section 7.0 of the Master Plan contains the Thoroughfare Plan for the Town. This particular requested amendment concerns the section of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Denton/Tarrant County Line. The current Thoroughfare Plan has this section of Silveron Boulevard as an UMA. An UMA is a 4-lane divided roadway in 90 feet of Right of Way (ROW) with a median. This area of Silveron Boulevard was reviewed at the request of Town Council to examine pedestrian friendly designs that

include on-street parking along this section of roadway. A traffic impact analysis (TIA) was conducted to determine whether or not this section of Silveron Boulevard could support a reduction in lanes and either parallel or angled parking. The results of the TIA indicate that this section of Silveron Boulevard could either remain as an UMA or be reduced to a 2 lane arterial street with angled parking. The parallel parking option does not provide the capacity needed for the roadway. If the 2 lane arterial street section is chosen a new cross section will be required, a change to the SMARTGrowth table to include a 2 lane arterial along with geometric requirements in the Code of Ordinances and design standards. Until such time, the UMA geometric design parameters would be used.

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all Master Plan amendment requests. Any correspondence received after this packet is posted will be handed out at the Planning and Zoning Commission meeting. To date, no correspondence has been received.

One citizen spoke at the Transportation Commission meeting and made a request that the roadway remain in its current configuration of an UMA.

IV. ATTACHMENTS

A. Background Information

1. Transportation Commission Agenda Item F2, February 13, 2018



TRANSPORTATION COMMISSION AGENDA ITEM NO. 2

REGULAR ITEM

DATE: February 13, 2018

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

ITEM: **Consider a recommendation regarding a Thoroughfare Plan Amendment for the section of Silveron Boulevard from approximately 400 feet east of Long Prairie Road (FM 2499) to approximately 500 feet east of the Tarrant/Denton County Line to the Town Council.**

BACKGROUND INFORMATION: This item is to consider changes to the Master Transportation Plan, more specifically the Thoroughfare Plan regarding Silveron Boulevard between approximately 400 feet east of Long Prairie Road (FM 2499) to approximately 500 feet east of the Tarrant/Denton County Line. A copy of the existing Thoroughfare Plan is included as Attachment 1. This section of Silveron Boulevard is currently built to the current Thoroughfare Plan designation of an Urban Minor Arterial (4 lane divided roadway that flares to a six lane divided arterial at the intersection of Long Prairie Road (FM 2499) to match up with Lakeside Village on the west side of Long Prairie Road (FM 2499). The Town initiated a Thoroughfare Plan Analysis for this section of roadway to determine if a 2 lane divided roadway with either parallel or angled parking would be sufficient to handle the anticipated traffic through this section of Silveron Boulevard. The section of Silveron northeast of this location would remain an Urban Minor Arterial (4 lane divided roadway). The traffic study for this location is included as Attachment 2.

The recently approved Point Development and an anticipated future development were used as part of this analysis to determine if this section of Silveron Boulevard would be satisfactory. The Town's TransCAD model was used to determine future volumes with a range of both high and low traffic volumes. Through the analysis, the anticipated build out of these two parcels fell within that range of traffic.

Council directed staff to examine pedestrian friendly designs that include on-street parking along this section of the roadway. The Town examined two options: 1) a 2 lane divided roadway with parallel parking, and; 2) a 2 lane divided roadway with angled parking. The purpose was to determine which design supported the best LOS while remaining pedestrian friendly. Currently, under design, is a traffic signal installation at the intersection of Long Prairie Road (FM 2499) that will provide pedestrian signals and crosswalks at that intersection. In the midblock location, there is currently no crosswalk or warning signs of a future crossing. They are not necessary at this time because there is no development on the ground currently. When the developments do break ground there is intended to be a private trail crossing at the median opening location to cross from the north side to the south side and vice versa. As a part of those development plans, Americans with Disabilities Act (ADA) ramps and warning signs will be installed. The Point Development has asked the Town to look at the possibility of converting the current outside travel lane to parallel parking. As part of the study both parallel and angled parking were studied. Both parallel and angled parking reduce the capacity of the adjacent travel lanes by approximately 20% and 10% respectively.

THOROUGHFARE CAPACITY ANALYSIS: The thoroughfare plan capacity analysis was used to determine if the new cross section would be acceptable or if the new cross section would fail Strategically Managed and Responsible Town Growth (SMARTGrowth). In order to determine if the new cross section would pass or fail, a new category within the Level of Service (LOS) Table was required. The new category would be an A2D (Arterial 2-lane Divided). The Town's acceptable LOS for arterial and collector's is LOS C. At LOS C, the upper limit for A2D was determined to be 650 vehicles without on-street parking. Therefore, an A2D with parallel parking would have an upper limit at LOS C of 520 vehicles and with angled parking an upper limit of 585.

Four scenarios were evaluated to determine if the LOS for the A2D would be acceptable. Those four scenarios are: Existing, Horizon, Model – Low, Model – High. Both of the model scenarios were based on

the Town's TransCAD model in year 2040. Using the existing configuration and current traffic volumes, the traffic condition of Silveron Boulevard is acceptable. Currently, there is very little traffic along this corridor but is anticipated to increase once the traffic signal is installed at Long Prairie Road (FM 2499 and Silveron Boulevard/Lakeside Village Boulevard).

Using the Horizon year (2021) of both the Point Development and the future development on the south side of Silveron Boulevard, both the current configuration and angled parking are within acceptable LOS. The conversion to parallel parking is beyond LOS C and would not pass SMARTGrowth. They would be tolerable to the fact that they have not made it to a LOS F.

Using the Model – Low volumes of the Town's TransCAD model, all scenarios are acceptable however, the analysis of the likelihood of how both of these properties developing would be at a higher level than those indicated by the Model – Low volumes.

Using the Model – High volumes of the Town's TransCAD model, only the current configuration of a 4 lane divided roadway would fall in the acceptable levels. Both types of parking scenarios would have failing (LOS F) sections of roadway. The directions that are not failing (LOS F) would not pass SMARTGrowth and would be beyond a LOS C.

ALTERNATIVES/OPTIONS: Leave Silveron Boulevard as is with additional pedestrian treatments or change to a different cross section.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

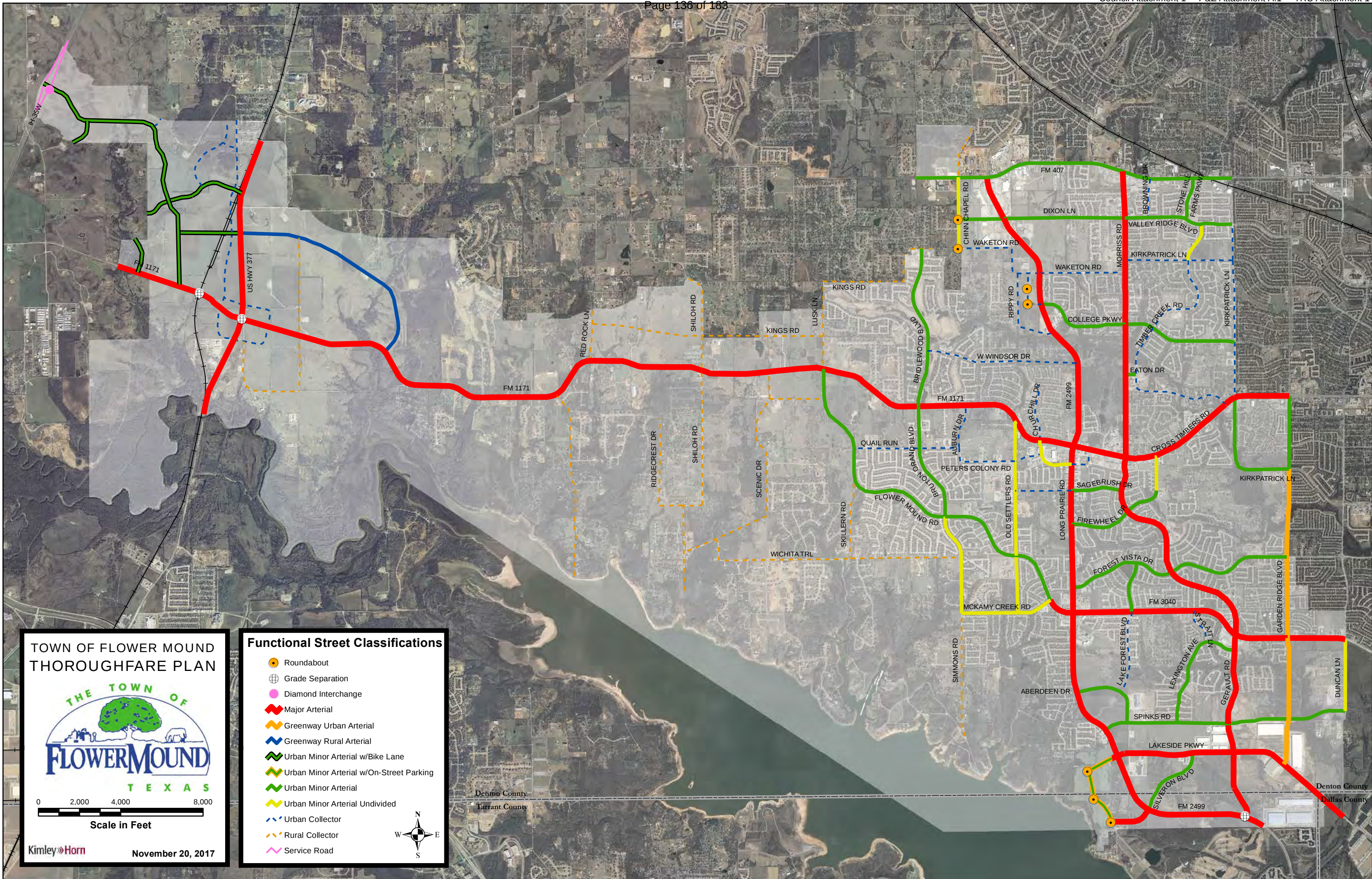
ATTACHMENTS:

1. Existing Thoroughfare Plan
2. Silveron Boulevard Thoroughfare Plan Analysis

DRAFT RECOMMENDATIONS: Move to recommend that Silveron Boulevard from approximately 400 feet east of Long Prairie Road (FM 2499) to approximately 500 feet east of the Tarrant/Denton County Line remain as currently shown on the Thoroughfare Plan.

Move to recommend that Silveron Boulevard from approximately 400 feet east of Long Prairie Road (FM 2499) to approximately 500 feet east of the Tarrant/Denton County Line be changed to a two lane divided arterial with angled parking on the Thoroughfare Plan.

Move to recommend that Silveron Boulevard from approximately 400 feet east of Long Prairie Road (FM 2499) to approximately 500 feet east of the Tarrant/Denton County Line be changed to a two lane divided arterial with parallel parking on the Thoroughfare Plan.



TOWN OF FLOWER MOUND
THOROUGHFARE PLAN

02,0004,0008,000

Scale in Feet

KimleyHorn

November 20, 2017

Functional Street Classifications

Roundabout

Grade Separation

Diamond Interchange

Major Arterial

Greenway Urban Arterial

Greenway Rural Arterial

Urban Minor Arterial w/Bike Lane

Urban Minor Arterial w/On-Street Parking

Urban Minor Arterial

Urban Minor Arterial Undivided

Urban Collector

Rural Collector

Service Road



MEMORANDUM

1-29-2018

To: Matthew J. Hotelling, P.E., PTOE
Transportation Services
Town of Flower Mound, Texas

From: Jeff Whitacre, P.E., AICP, PTP
Kimley-Horn and Associates, Inc.
TBPE Registered Firm Number F-928

Date: January 29, 2018

Subject: Silveron Boulevard Cross Section Evaluation
Flower Mound, Texas



Introduction

Kimley-Horn was retained by the Town of Flower Mound to perform a cross section evaluation of Silveron Boulevard. The purpose of this study is to evaluate the impact of converting the outside lanes to on-street parking. The study area for this evaluation is from FM 2499 to the existing bridge approximately 1,500 feet east of FM 2499. Silveron Boulevard in the study area is currently a six-lane divided facility between FM 2499 and the existing median opening, and a four-lane facility between the existing median opening and the bridge. This evaluation will consist of an analysis of Existing (2017) and Horizon (2021) conditions. It is proposed that by the Horizon year (2021), the outside lanes of Silveron Boulevard in the study area be converted to on-street parking to serve future mixed-use development.

To estimate Horizon (2021) traffic volumes in the study area, the analysis will consider development that is anticipated to be occur along Silveron Boulevard. Northwest of Silveron Boulevard, The Point is a known development anticipated to be built out by 2019. A Traffic Impact Analysis (TIA) was conducted for The Point and submitted to the Town of Flower Mound in September 2017. This TIA will be referenced in this study. The development pattern southeast of Silveron Boulevard is currently unknown. Estimates for future land uses were provided by the Town based on an anticipated growth pattern of mixed-use development, similar to The Point. This development area will be referred to in this study as Future Development. A vicinity map of the study area can be found in **Exhibit 1**.

The following sections document the data collection and methodology used in evaluating Silveron Boulevard.

North



Not To Scale



Exhibit 1

Vicinity Map

Silveron Cross Section Analysis

Existing (2017) and Horizon (2021) Background Traffic Volumes

Twenty-four-hour recording machine tube counts were obtained on December 12, 2017 on Silveron Boulevard, east of FM 2499. These volumes are presented in **Exhibit 2**.

In order to estimate future background growth along Silveron Boulevard, a growth rate of 4% was used to grow the Existing (2017) volumes to the Horizon (2021) year. This growth rate was obtained from The Point TIA. The calculated Horizon (2021) Background volumes can be found in **Exhibit 3**.

Horizon (2021) Total Traffic Volumes

The Horizon (2021) total traffic volumes were calculated by combining projected site traffic from The Point and Future Development with the Horizon (2021) Background volumes. Site traffic volumes for The Point are presented in **Exhibit 4**.

To estimate trips generated by the Future Development, average trip generation rates from the 10th edition of the *ITE Trip Generation Manual* were used. **Table 1** shows the trip generation rates for the proposed land uses.

Table 1. Trip Generation Rates

Land Use Description	ITE Code	Units	Daily	AM Peak Hour			PM Peak Hour		
				AVG Rate	Split		AVG Rate	Split	
					In	Out		In	Out
Single Family	210	Units	9.44 * (X)	0.74 * (X)	25%	75%	0.99 * (X)	63%	37%
Apartments (Multi-Family)	221	Rooms	5.44 * (X)	0.36 * (X)	26%	74%	0.44 * (X)	61%	39%
Hotel	310	Rooms	8.36 * (X)	0.47 * (X)	59%	41%	0.60 * (X)	51%	49%
Retail	820	1000 ft ²	37.75 * (X)	0.94 * (X)	62%	38%	3.81 * (X)	48%	52%
Restaurant	932	1000 ft ²	112.18 * (X)	9.94 * (X)	55%	45%	9.77 * (X)	62%	38%
Industrial	110	1000 ft ²	4.96 * (X)	0.70 * (X)	88%	12%	0.63 * (X)	13%	87%
Office	710	1000 ft ²	9.74 * (X)	1.16 * (X)	86%	14%	1.15 * (X)	16%	84%
Number of Trips Generated = Trip Rate * (Development Unit); X = Units									

Table 2 summarizes the total number of trips that are expected to be generated at build-out of the Future Development for daily and AM and PM peak periods. The variety and intensity of land uses were estimated based on coordination with Town staff. The number of trips generated represents the number of vehicles entering and exiting the proposed development to and from the adjacent street system.

Table 2. Trip Generation Analysis

Land Use Description	ITE Code	Intensity	Units	Daily	AM Peak Hour			PM Peak Hour		
					Split		Total	Split		Total
					In	Out		In	Out	
Single Family	210	250	Units	2360	46	139	185	156	92	248
Apartments (Multi-Family)	221	600	Rooms	3264	56	160	216	161	103	264
Hotel	310	90	Rooms	752	25	17	42	28	26	54
Retail	820	51,000	ft ²	1925	30	18	48	93	101	194
Restaurant	932	87,120	ft ²	9773	476	390	866	528	323	851
Industrial	110	30,000	ft ²	149	18	3	21	2	17	19
Office	710	171,000	ft ²	1666	170	28	198	32	165	197
Total					821	755	1576	1000	827	1827

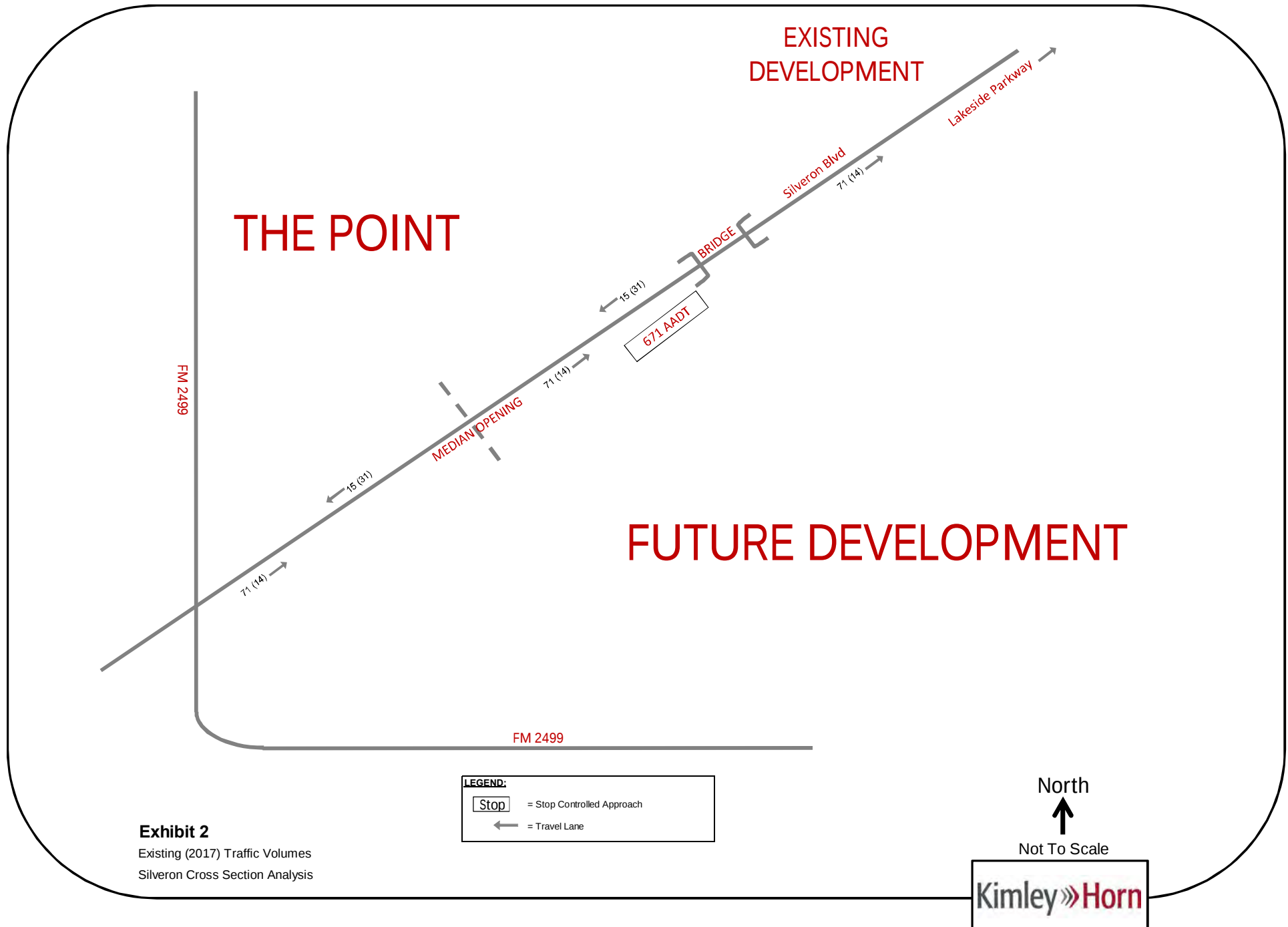
The distribution and assignment of site traffic to the study area roadway network were based on existing traffic patterns and the locations of the proposed driveway access to/from the site. The following percentages of trip distribution are assumed on the surrounding roadway network:

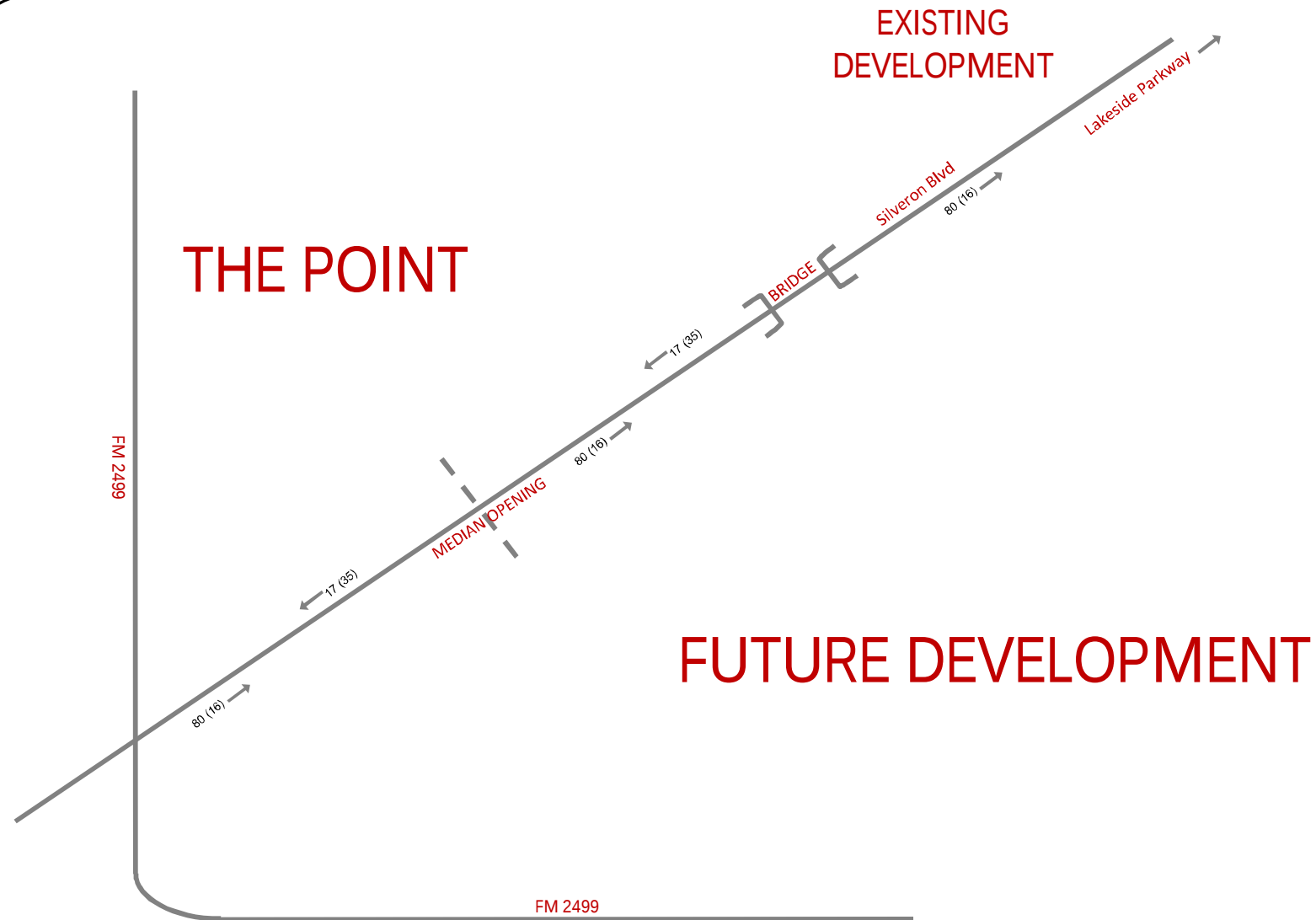
- 40% - FM 2499, south of the study area
- 30% - FM 2499 & Lakeside Village Boulevard intersection, southwest of the study area
- 30% - Lakeside Parkway, north of the study area

Exhibit 5 presents the inbound and outbound directional distribution percentages for traffic during the Weekday AM and PM peak hours for the Future Development. **Exhibit 6** presents the site trip assignment during the Weekday AM and PM peak hours.

These site-generated traffic volumes were added to the 2021 Horizon Background traffic volumes along with site traffic from The Point to obtain the 2021 Total Traffic Volumes. These volumes are presented in **Exhibit 7**.

Based on **Exhibit 7**, the traffic projected west of the bridge would be approximately 7,600 vehicles per day.



**Exhibit 3**

Horizon (2021) Background Volumes
Silveron Cross Section Analysis

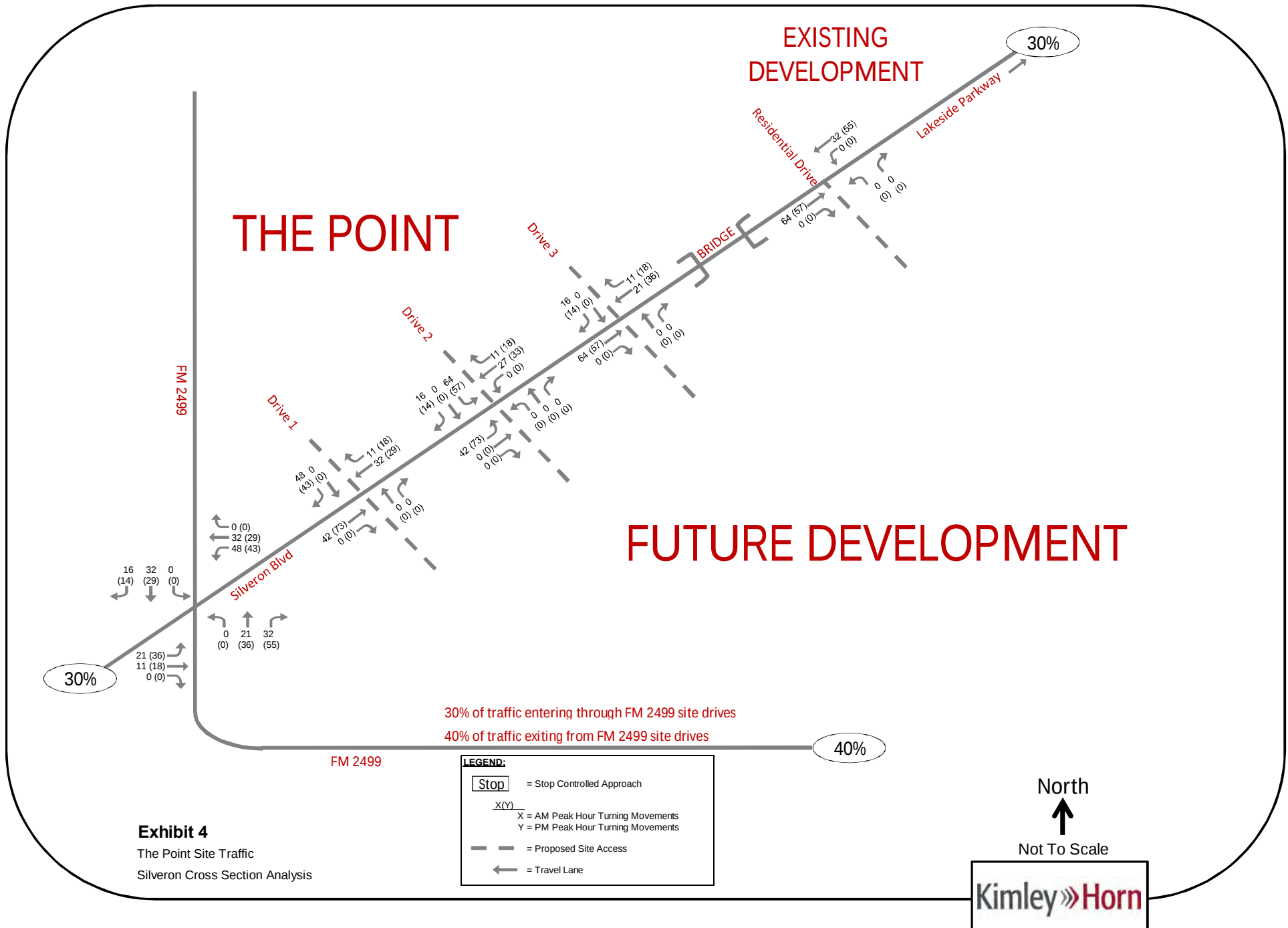
LEGEND:

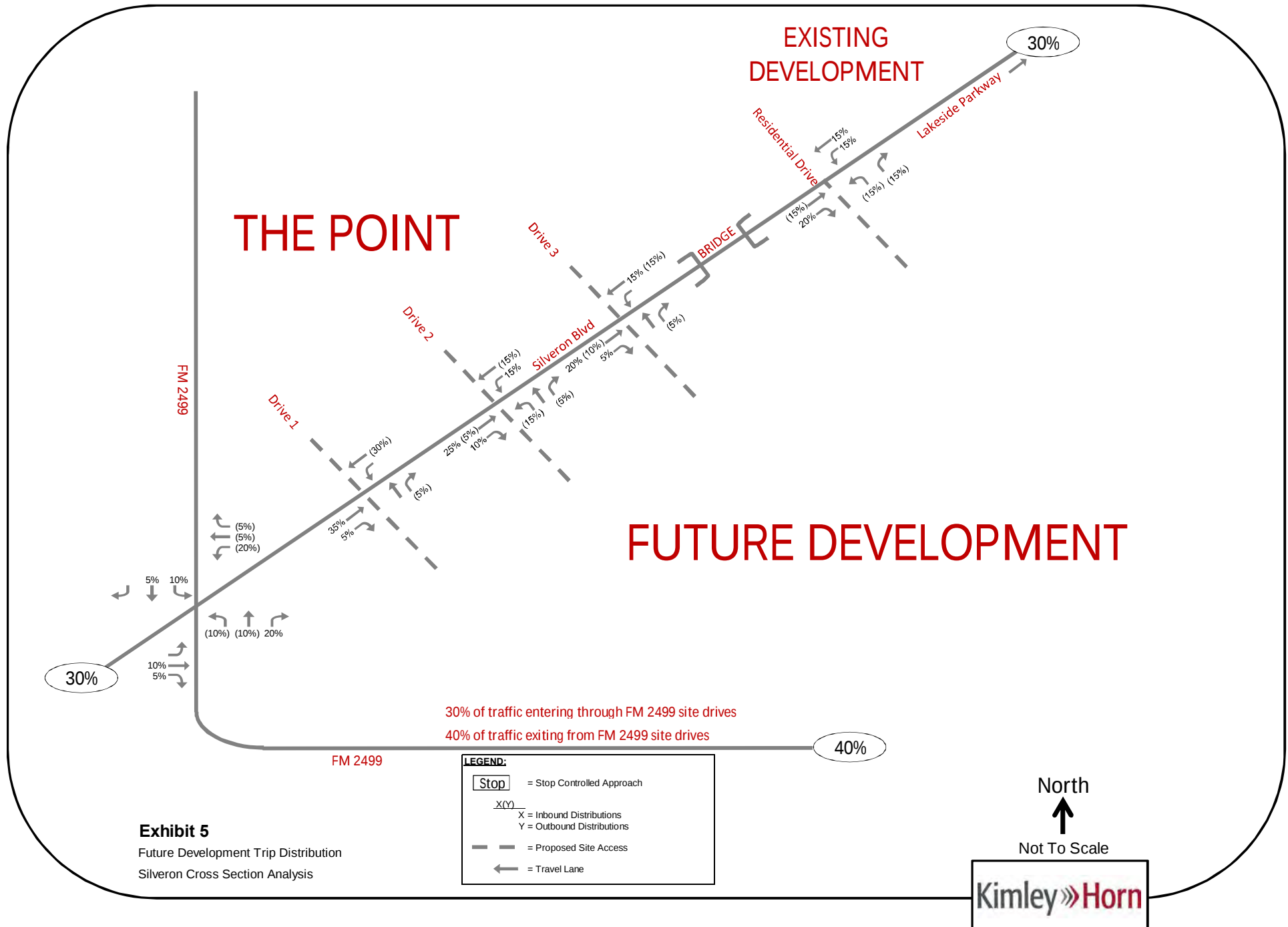
- Stop = Stop Controlled Approach
- ← = Travel Lane

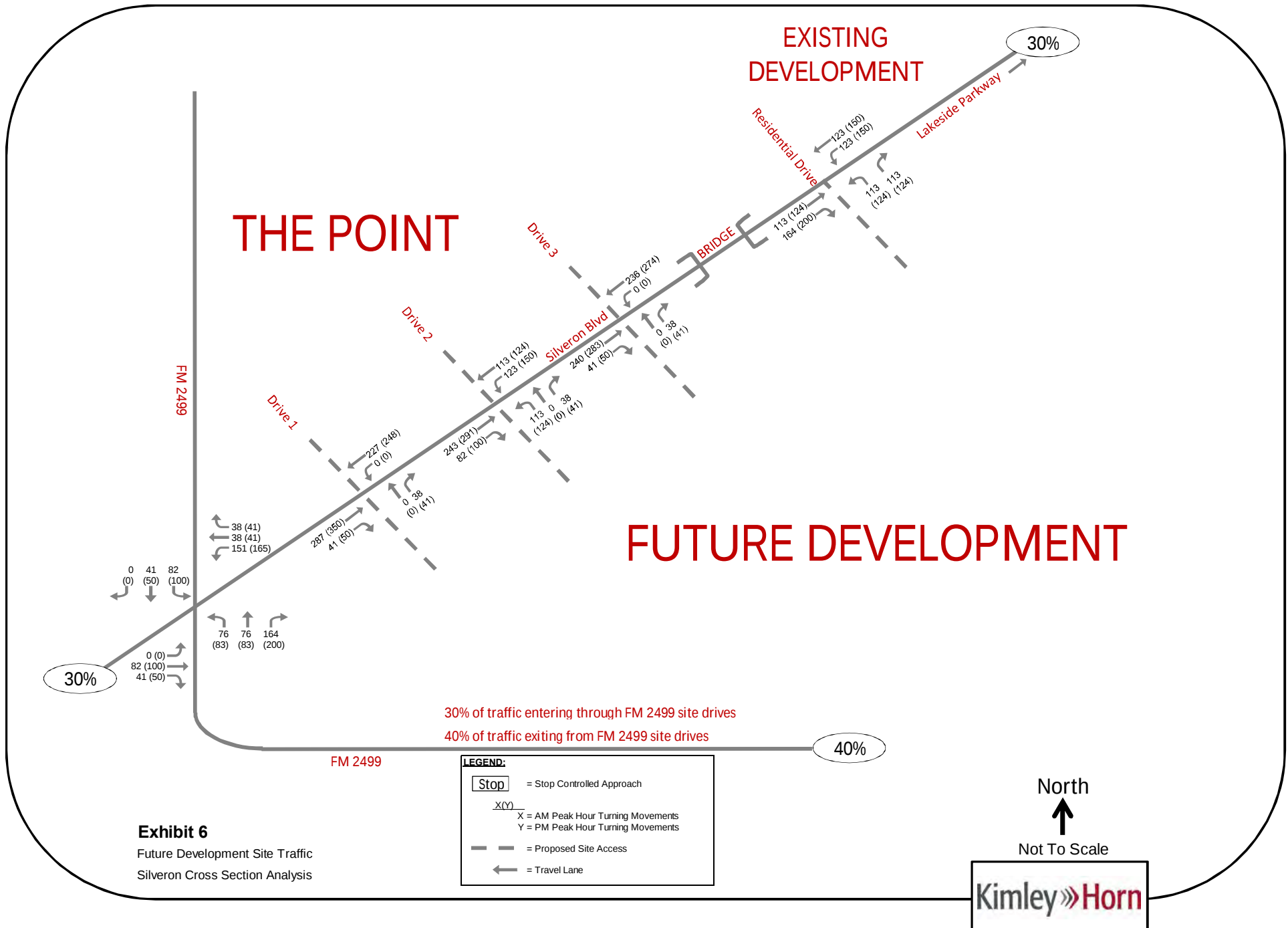
North
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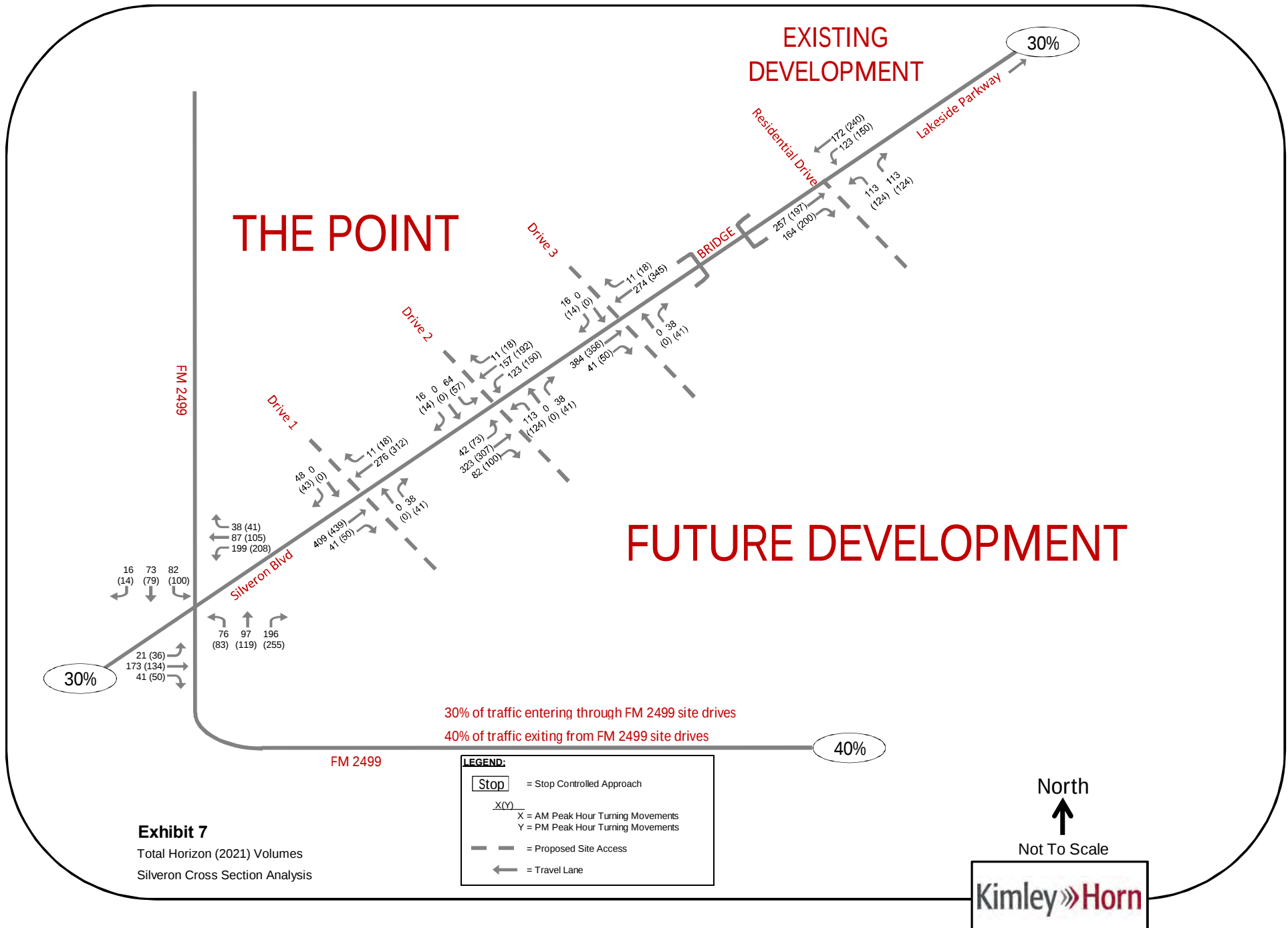
Not To Scale

Kimley»Horn









Future Model Volumes

Based on the model update for the 2014 Impact Fees, the future year ADT along Silveron Boulevard was forecasted to be approximately 3,000 vehicles per day. Recently, the DFW model was updated to reflect 2040 demographics and roadway network, and based on the updated model, the future year ADT along Silveron Boulevard is anticipated to be approximately 10,000 vehicles per day. Based on these two points of reference, it can be expected that the future year volume along Silveron Boulevard will be between 3,000 and 10,000 vehicles per day. Note the calculations in this traffic study were in this range (7,600 vehicles per day).

Thoroughfare Capacity Analysis

To properly evaluate the effects of reducing the number of lanes on Silveron Boulevard, a thoroughfare capacity analysis was conducted. The analysis was completed using level of service criteria provided in Chapter 6 of the *Town of Flower Mound SMARTGrowth Manual*.

Capacity defines the volume of traffic that can be accommodated by a roadway at a specific "level of service," and is affected by various geometric factors including roadway type (divided vs undivided), number of lanes, lane widths, and grade. Level of service (LOS), which is a measure of the degree of congestion, ranges from LOS A (free flowing) to LOS F (a congested, forced flow condition). **Table 3** shows the *Town of Flower Mound SMARTGrowth Manual* level of service criteria for the thoroughfare capacity analysis. LOS C is the minimum acceptable level of service by the Town of Flower Mound for design and evaluation purposes.

Table 3. SMARTGrowth Level of Service Thresholds for Thoroughfares

Roadway Type	Level of Service "C"		Level of Service "D"		Level of Service "E"	
	Daily Service Volumes*	Hourly Service Volume	Daily Service Volumes*	Hourly Service Volume	Daily Service Volumes*	Hourly Service Volume
A8D***	52,000 - 58,000	780 - 880**	58,000 - 66,000	880 - 990**	66,000 - 73,000	990 - 1,100**
A6D***	39,000 - 44,000	780 - 880**	44,000 - 49,000	880 - 990*	49,000 - 55,000	990 - 1,100**
A4D***	21,000 - 23,000	620 - 700**	23,000 - 26,000	700 - 775**	26,000 - 29,000	775 - 875**
MC4U	17,000 - 18,000	500 - 550**	18,000 - 21,000	550 - 625**	21,000 - 23,000	625 - 675**
C4U	15,000 - 17,000	440 - 500**	17,000 - 18,000	500 - 550**	18,000 - 21,000	550 - 625**
C2U	6,000 - 7,000	350 - 425**	7,000 - 8,000	425 - 500**	8,000 - 9,500	500 - 575**

* Level of service with "K" = 0.10 and "D" = 60%/40%

** Assumes signal progression; no parking; access management; increased intersection capacity and grade separation

*** Assumes 12' lanes and divided roadway; A8D = arterial 8 lane divided; A6D = arterial 6 lane divided; A4D = arterial 4 lane divided

Note: Metropolitan collector MC4U = 4 lane undivided (12' lanes); C4U = collector 4 lane undivided (11' lanes)

The Town of Flower Mound SMARTGrowth Manual does not currently provide capacity values for two-lane divided roadways (A2D). It is anticipated that this classification will be added to the *SMARTGrowth Manual* in the near future. To estimate the appropriate hourly capacity for A2D facilities, existing NCTCOG and *SMARTGrowth* capacity values were referenced. It is estimated that a two-lane divided facility will provide more capacity than a standard undivided collector, but less than a traditional divided arterial due to the lack of a passing lane. Based on these assumptions, an hourly capacity of 650 vehicles was assumed for the A2D facilities at the LOS C threshold.

Table 4 provides a summary of directional and two-way thoroughfare capacity analysis for Silveron Boulevard in Existing (2017), Horizon (2021), and Model volume conditions. The Model Volume analysis was split into two scenarios: a low-end scenario, and a high-end scenario. The low-end scenario is based on a daily volume of 3,000 vehicles, and the high-end scenario is based on a daily volume of 10,000 vehicles. The analysis evaluates the following lane configurations:

- Existing lane configuration
- Outside lanes converted to parallel parking
- Outside lanes converted to parallel parking from FM 2499 to the existing median opening, and angled parking between the median opening and the bridge

Effects of On-Street Parking

It is generally accepted that the presence of on-street parking has many different impacts on a roadway, including the portion of right-of-way not used for vehicular travel. On-street parking is widely recommended as a method of enhancing a street because it provides a barrier between vehicular and pedestrian traffic, acts as a traffic calming measure, and can help to boost the economic activity of the surrounding area.

The impact of on-street parking on traffic flow can vary widely depending on the type of parking that is provided and the expected hourly turnover. Studies have estimated that on-street parking can decrease roadway capacity by up to 17% in areas with high-turnover and parking configurations requiring reverse maneuvers. This reduction in capacity can also be as little as 2% in areas with low turnover and parking configurations that result in fewer reverse maneuvers. For the purposes of this analysis, conservative reduction factors of 10% and 20% were applied to the *SMARTGrowth* capacity values to account for the impacts of angled parking and parallel parking, respectively. As shown in the table, both roadway segments in Existing (2017) and Horizon (2021) scenarios are anticipated to perform at acceptable operations throughout the corridor.

Results

Based on the results of the thoroughfare capacity analysis presented in **Table 4**, Silveron Boulevard is anticipated to operate at LOS C or better for all scenarios except for the high-end model volume scenario along the two lane section west of the bridge. This scenario shows a potential for LOS D operation during the AM and PM peak hours in the direction of



peak hour flow. This represents the maximum growth along Silveron Boulevard based on the travel demand model. It is more likely that Silveron Boulevard will experience growth that is somewhere between the high and low end scenarios.



Table 4. Thoroughfare Capacity Analysis Summary

Scenario	Segment	Lane Configuration	Class (Section)	SMART-Growth Capacity	Capacity with On-Street Parking	Direction	AM Peak Hour			PM Peak Hour		
							Vol	V/C	Traffic Condition	Vol	V/C	Traffic Condition
Existing (2017)	East of FM 2499	6 Lanes Divided	Urban Minor Arterial	880	-	EB	71	0.03	Acceptable	14	0.01	Acceptable
						WB	15	0.01	Acceptable	31	0.01	Acceptable
						Total	86	0.02	Acceptable	45	0.01	Acceptable
	West of Bridge	4 Lanes Divided	Urban Minor Arterial	700	-	EB	71	0.05	Acceptable	14	0.01	Acceptable
						WB	15	0.01	Acceptable	31	0.02	Acceptable
						Total	86	0.03	Acceptable	45	0.02	Acceptable
Horizon (2021)	East of FM 2499	4 Lanes Divided with Parallel Parking**	Urban Minor Arterial	700	560	EB	447	0.40	Acceptable	480	0.43	Acceptable
						WB	270	0.24	Acceptable	316	0.28	Acceptable
						Total	717	0.32	Acceptable	796	0.36	Acceptable
	West of Bridge	2 Lanes Divided with Parallel Parking**	Urban Minor Arterial	650	520	EB	361	0.69	Tolerable	348	0.67	Tolerable
						WB	274	0.53	Acceptable	345	0.66	Tolerable
						Total	635	0.61	Acceptable	693	0.67	Tolerable
	West of Bridge	2 Lanes Divided with Angled Parking*	Urban Minor Arterial	650	585	EB	361	0.62	Acceptable	348	0.59	Acceptable
						WB	274	0.47	Acceptable	345	0.59	Acceptable
						Total	635	0.54	Acceptable	693	0.59	Acceptable
Model (Low End)	East of FM 2499	4 Lanes Divided with Parallel Parking**	Urban Minor Arterial	700	560	EB	180	0.16	Acceptable	120	0.11	Acceptable
						WB	120	0.11	Acceptable	180	0.16	Acceptable
						Total	300	0.13	Acceptable	300	0.13	Acceptable
	West of Bridge	2 Lanes Divided with Parallel Parking**	Urban Minor Arterial	650	520	EB	180	0.35	Acceptable	120	0.23	Acceptable
						WB	120	0.23	Acceptable	180	0.35	Acceptable
						Total	300	0.29	Acceptable	300	0.29	Acceptable
	West of Bridge	2 Lanes Divided with Angled Parking*	Urban Minor Arterial	650	585	EB	180	0.31	Acceptable	120	0.21	Acceptable
						WB	120	0.21	Acceptable	180	0.31	Acceptable
						Total	300	0.26	Acceptable	300	0.26	Acceptable
Model (High End)	East of FM 2499	4 Lanes Divided with Parallel Parking**	Urban Minor Arterial	700	560	EB	600	0.54	Acceptable	400	0.36	Acceptable
						WB	400	0.36	Acceptable	600	0.54	Acceptable
						Total	1,000	0.45	Acceptable	1,000	0.45	Acceptable
	West of Bridge	2 Lanes Divided with Parallel Parking**	Urban Minor Arterial	650	520	EB	600	1.15	Failing	400	0.77	Tolerable
						WB	400	0.77	Tolerable	600	1.15	Failing
						Total	1,000	0.96	Tolerable	1,000	0.96	Tolerable
	West of Bridge	2 Lanes Divided with Angled Parking*	Urban Minor Arterial	650	585	EB	600	1.03	Failing	400	0.68	Tolerable
						WB	400	0.68	Tolerable	600	1.03	Failing
						Total	1,000	0.85	Tolerable	1,000	0.85	Tolerable

* A 10% reduction of SMARTGrowth capacity volumes was assumed for Angled On-Street Parking capacity in the Horizon and Model scenarios.

** A 20% reduction of SMARTGrowth capacity volumes was assumed for Parallel On-Street Parking capacity in the Horizon and Model scenarios.

Conclusion

Based on the results of the Silveron Boulevard cross section analysis, we offer the following conclusions and recommendations:

- Based on an analysis of anticipated development, Silveron Boulevard is projected to grow to a peak hour volume of 700 - 800 vehicles by the Horizon (2021) year.
- Based on a model volume analysis, Silveron Boulevard is project to grow to a peak hour volume of 300 - 1,000 vehicles by the year 2040.
- It is anticipated that Silveron Boulevard in the study area will operate at LOS C or better in the Horizon (2021) and Low-End Model Volume Scenarios if the outside lanes are converted to on-street parking. If volumes approach the 2040 high-end model volume scenario (10,000-11,000 daily), it is anticipated that operating conditions in the study area will shift to LOS D.



Attachments

1. Exhibit 1 – Vicinity Map
2. Exhibit 2 – Existing (2017) Volumes
3. Exhibit 3 – Horizon (2021) Background Volumes
4. Exhibit 4 – The Point Site Traffic
5. Exhibit 5 – Future Development Trip Distribution
6. Exhibit 6 – Future Development Site Traffic
7. Exhibit 7 – Total Horizon (2021) Volumes

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

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 7.0 THOROUGHFARE PLAN OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, THROUGH THE AMENDMENT OF SECTION 7.0 THOROUGHFARE PLAN BY CHANGING THE DESIGNATION OF THE PORTION OF SILVERON BOULEVARD FROM APPROXIMATELY 400 FEET NORTHEAST OF LONG PRAIRIE ROAD (FM 2499) TO APPROXIMATELY 500 FEET NORTHEAST OF THE DENTON/TARRANT COUNTY LINE TO AN URBAN MINOR ARTERIAL (DIVIDED-2 LANE) ROADWAY ON THE THOROUGHFARE PLAN MAP ATTACHED TO SAID SECTION 7.0 AS AN APPENDIX, REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 27, 1999 the Town Council of the Town of Flower Mound adopted the Land Use Plan component of the Master Plan 2001; and

WHEREAS, on March 19, 2001, the Town Council of the Town of Flower Mound adopted all nineteen component plans specifically including the Land Use Plan, together with all amendments thereto, by Ordinance No. 24-01 as a component to Flower Mound Master Plan 2001; and

WHEREAS, The Town of Flower Mound Master Plan 2001, which document has been updated and amended from time to time and is now known and referred to simply as the Master Plan, establishes and articulates a community based vision to: preserve the country atmosphere and natural environment that makes Flower Mound a unique and desirable community; mitigate the ill effects of rapid and intense urbanization; create a balanced tax base to ensure the Town's long-term economic health and prosperity; and ensure all development is of enduring and exemplary quality; and

WHEREAS, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during said public hearings, the Town Council of the Town of Flower Mound, Texas, has determined that it is in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the Town of Flower Mound that Section 7.0 Thoroughfare Plan of the Master Plan of the Town of Flower Mound, Texas, be amended as more particularly set forth herein-below.

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

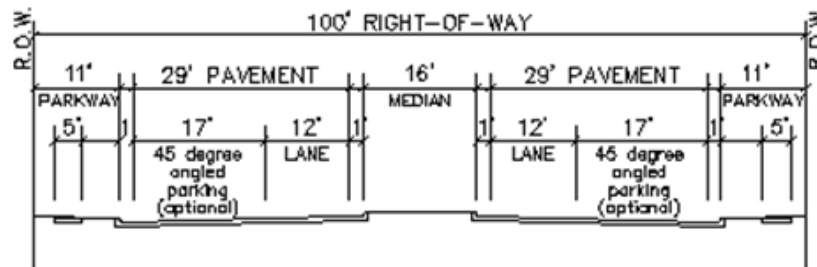
ORDINANCE NO. _____

PAGE 2**SECTION 1**

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

SECTION 2

From and after the effective date of this Ordinance, Section 7.0 Thoroughfare Plan of the Master Plan is hereby amended by amending the Thoroughfare Plan Map, attached as an Appendix to said Section 7.0, by changing the designation of a portion of Silveron Boulevard from approximately 400 feet northeast of Long Prairie Road (FM 2499) to approximately 500 feet northeast of the Denton/Tarrant County line to an Urban Minor Arterial (Divided-2 Lane) roadway on the Thoroughfare Plan. The following depiction is for illustrative purposes only:



URBAN MINOR ARTERIAL (DIVIDED-2 lane)

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4

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.

ORDINANCE NO. _____

PAGE 3

SECTION 5

This Ordinance shall take effect and be in full force from and after its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 19TH DAY OF MARCH, 2018.

APPROVED:

Thomas E. Hayden, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



**DEVELOPMENT SERVICES
PLANNING SERVICES DIVISION
Memorandum**

DATE: March 12, 2018

TO: Planning and Zoning Commission

FROM: Chuck Russell, Town Planner

SUBJECT: MPA18-0001 Silveron Blvd.

Chairman and Commissioners,

Attached is correspondence we received regarding Agenda Item No. 4 after the packets were completed.



March 9, 2018

The Town of Flower Mound

2121 Cross Timbers Road

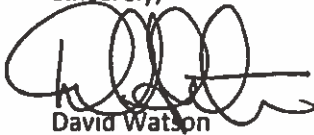
Flower Mound, TX 75028

Chairman Solis, Vice Chair McCall and Commissioners,

As we stated during the public hearings for The Point, we are supportive of the Town's desire to improve Silveron Blvd to enhance it's pedestrian appeal. It is our belief that this can be achieved by using a street profile that incorporates parallel parking only rather than the combination of parallel and angled parking. This is based, in large part, on our review of the traffic volumes used to develop the TIA volumes. Of particular note is the retail/restaurant square footages appear to be greater than 50% of the approved concept plan for The Point and the proposed concept plan for the property to the south of The Point submitted to the Town. Additionally, the TIA appears to assume 100% of the retail/restaurant traffic will be utilizing and only utilizing Silveron. It can reasonably be assumed that a significant portion of the retail/restaurant traffic will utilize FM 2499 to enter and exit the property.

The use of parallel parking (which can be achieved by pavement striping and signage) substantially reduces the Town's cost associated with reconfiguring Silveron. The Point's TIA and Development Agreement established that the current configuration of Silveron adequately served The Point and all of the costs associated with the reconfiguration are the Town's responsibility.

Sincerely,



David Watson

5310 Harvest Hill Road, Suite 250

Dallas, Texas 75230

PHONE 214.891.3222

FAX 214.891.3223

www.ddevelopment.com

From: jwills

> Sent: Monday, March 12, 2018 1:39 PM

> To: Chuck Russell <chuck.russell@flower-mound.com>; Tommy Dalton <tommy.dalton@flower-mound.com>; Jimmy Stathatos <jimmy.stathatos@flower-mound.com>

> Subject: Silveron Road for P&Z

>

> Chuck, will you please pass on to the P&Z members that we are in support of the Town's desire to improve Silveron to provide for a more pedestrian friendly environment. We feel this could be achieved with parallel parking that would minimize costs to transform this road to the walkable, pedestrian friendly road which is the design criteria we are using for our 120 acres and the criteria The Point has demonstrated with their concept plan.

> Thank you,

> Jim Wills

>

> Sent from Jim Wills



TOWN COUNCIL AGENDA ITEM NO. 13

REGULAR ITEM

DATE: March 19, 2018

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

ITEM: Consider an adoption of a resolution to become a partner with the North Texas Airbag Recall Coalition to disseminate information to the community. (Transportation Commission recommended 6 to 0 to become a partner at the January 9, 2018, meeting.)

BACKGROUND INFORMATION: The Transportation Commission (TRC) packet for this item as associated attachment is included with this item (Attachment 1). A subcommittee of TRC was formed and the ideas of the subcommittee are identified in Section 1 of the attached resolution (Attachment 2). Some of those ideas include adding a slide to FMTV, posts on the Town's social media outlets, posting of information at Town Hall, CAC and the Library among other items.

BOARD REVIEW/CITIZEN FEEDBACK: The TRC recommended that the Town become a partner with the North Texas Airbag Recall Coalition and to create a subcommittee of three Transportation Commissioners and staff to come up with ideas on how to disseminate the information.

ALTERNATIVES/OPTIONS: Not become a partner with the North Texas Airbag Recall Coalition.

FISCAL IMPACT: N/A

LEGAL REVIEW: Andrea D. Russell of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the resolution as to form and legality.

ATTACHMENTS:

1. TRC Agenda Item from January 9, 2018
2. Draft Resolution

DRAFT MOTION: Move to approve a resolution to become a partner with the North Texas Airbag Recall Coalition to disseminate information to the community.

**TRANSPORTATION COMMISSION AGENDA ITEM NO. 2****REGULAR ITEM**

DATE: January 9, 2018

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

ITEM: **Next Steps regarding the Airbag Recall and Options for Outreach through the Town and the Transportation Commission.**

BACKGROUND INFORMATION: During the December 2017 Transportation Commission (TRC) meeting, Commissioner Gilmore brought to the TRC information regarding the National Airbag Recall program. There was discussion at that meeting regarding ideas on what the Town can do for its part regarding getting the information out to the citizenry. This item is to formalize the recommendations from the Commission and possibly come forward with new ideas regarding outreach opportunities. Commissioner Gilmore has received various electronic items regarding this recall. They are provided as attachment 1. Some of the interesting facts regarding this recall are:

- Over 500,000 airbag inflators in North Texas are defective
- Thousands of North Texas airbag inflators are categorized as higher risk with up to a 50% chance of rupture
- Does not take a major accident for the airbag to deploy and the airbag inflator to rupture. A minor fender bender that deploys the airbag can have potential injury or worse consequences
- If affected by the recall, the inflator is replaced for free with a typical procedure taking typically 30 – 60 minutes to replace.

The check for the recall is easy. One can go to the <https://www.airbagrecall.com/> website and enter either the vehicle identification number (VIN) or the vehicles license plate number. It will indicate if that vehicle is at risk and if the airbag needs to be replaced.\

What can the Town and/or TRC do to help spread the word. There were several ideas that were brought forward at the last meeting. This item is to formally make those items a recommendation from the Commission. Some of those ideas from the last meeting were to publish to the Town's social media pages, add information to the utility bill insert, Town's website, message board with the Police Department, and Nextdoor App.

Some other ideas include Homeowner Association outreach, booth at the Environmental Health Fair, presentations from Ken Benson consultant with the Airbag Recall North Texas Coalition to either TRC or Town Council or both.

Attachments:

1. Electronic material for airbag recall

RECOMMENDATION: Recommend to staff that the following items be pursued as an outreach program regarding the North Texas Airbag Recall.

AIRBAG RECALL FACTS: BY THE NUMBERS



AIRBAG RECALL



THE SITUATION

More than **a half million airbag inflators in North Texas** are defective. Even a minor fender bender can cause these airbags to rupture, spraying metal shrapnel into drivers and passengers. **Thousands of North Texas airbag inflators are categorized as higher-risk** and pose up to a **50 percent chance of rupture**.



**70 million
airbags
are affected**

VEHICLES IMPACTED

Nearly 70 million defective airbag inflators, in approximately 42 million vehicles, are or will be under recall in the United States by 2019.¹ Owners of 2001 and 2002 Honda Civics and Accords, the 2002 and 2003 Acura TL, the 2002 Honda Odyssey and CR-V, and the 2003 Acura CL and Honda Pilot are advised to **stop driving** these vehicles until defective airbag inflators have been replaced.²



**11 U.S.
fatalities**

WHY IT CAN'T BE IGNORED

At least **11 people** in the U.S. have been killed by defective airbag inflators.³

Approximately **180 Americans** have suffered injuries, serious injuries, such as cuts or lacerations to the face or neck, broken or fractured facial bones, loss of eyesight, and broken teeth..⁴



**Look up
your VIN
number**

WHAT TO DO NOW

Visit AirbagRecall.com or SaferCar.gov to look up your **vehicle identification number (VIN)** and learn if your vehicle has a defective airbag inflator.

Call your automaker's nearest dealership.

- If affected by the recall, schedule an appointment to have the defective airbag inflator replaced for free. The procedure takes typically 30-60 minutes to complete.
- If not affected, or if parts are not yet available for your vehicle, make sure your contact information is up to date so the dealership can keep you informed.



**Call your
automaker's
dealership**

Many dealers offer **loaner cars** for those who need transportation while their vehicle is being repaired.

^{1,4} U.S. DOT accelerates replacements of Takata airbag inflators." U.S. Department of Transportation National Highway Traffic Safety Administration.
http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_accelerates_takata_inflators_replacements_12092016

² "New test data on particular subset of Takata air bag inflators shows substantially higher risk." U.S. Department of Transportation National Highway Traffic Safety Administration.
http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_takata_high_risk_inflators_06302016

³ "NHTSA confirms 11th U.S. fatality tied to rupture of Takata air bag inflator." U.S. Department of Transportation National Highway Traffic Safety Administration.
http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_takata_11th_fatality_10202016



AIRBAGRECALL.COM

INFORMACIÓN SOBRE EL PROGRAMA DE RETIRO DEL MERCADO DE LAS BOLSAS DE AIRE: **SEGÚN LOS NÚMEROS**



AIRBAG RECALL



LA SITUACIÓN

Más de **medio millón de infladores de bolsas de aire en el Norte de Texas** tienen defectos. Incluso un leve golpe al guardabarros puede provocar que estos infladores de bolsas de aire se rompan, esparciendo esquirlas metálicas hacia los conductores y pasajeros. **Miles de infladores de bolsas de aire están clasificados como de mayor riesgo** y tienen un **50% de probabilidades de ruptura al desplegarse**.



70 millones
de bolsas de aire
se encuentran
afectadas

VEHÍCULOS AFECTADOS

Casi 70 millones de infladores de bolsas de aire Takata, en aproximadamente 42 millones de vehículos, son o serán retirados del mercado en los Estados Unidos antes de 2019.¹ Se aconseja que los propietarios de Honda Civics y Accords 2001 y 2002, Acura TL 2002 y 2003, Honda Odyssey y CR-V 2002, Acura CL y Honda Pilot 2003 **dejen de conducir** estos vehículos hasta que se hayan reemplazado los infladores de bolsas de aire defectuosos.²



11 muertes
en EE. UU.

POR QUÉ NO SE PUEDE IGNORAR

En EE. UU. al menos **11 personas** han muerto como consecuencia de los infladores de bolsa de aire defectuosos, incluidos dos habitantes de Texas.³

Aproximadamente **180 estadounidenses** han sufrido lesiones **graves**, como cortes o laceraciones en el rostro o cuello, fracturas completas con o sin desplazamiento de los huesos del rostro, pérdida de la vista y rotura de dientes.⁴



Busque su
número VIN

QUÉ HACER AHORA

Visite **AirbagRecall.com** para buscar **su número de identificación del vehículo (Vehicle Identification Number, VIN)** y para saber si su vehículo tiene un inflador de bolsas de aire defectuoso.

Llame al concesionario del fabricante de automóviles más cercano.

- Si se encuentra afectado por el retiro del mercado, programe una cita para efectuar el reemplazo del inflador de bolsas de aire defectuoso de forma gratuita. El procedimiento tarda normalmente entre 30 y 60 minutos en completarse.
- Si no se encuentra afectado, o si las piezas aún no se encuentran disponibles para su vehículo, asegúrese de que su información de contacto esté actualizada para que el concesionario pueda mantenerlo informado.



Llame al
concesionario
del fabricante de
automóviles

Muchos concesionarios ofrecen **autos en préstamo** para aquellos que necesitan transporte mientras su vehículo está siendo reparado.

^{1,4} "El Departamento de Transporte de los EE. UU. (U.S. Department of Transportation, U.S. DOT) acelera los reemplazos de los infladores de las bolsas de aire Takata". Administración Nacional de Seguridad en el Tránsito por Carreteras (National Highway Traffic Safety Administration, NHTSA) del Departamento de Transporte de los EE. UU. http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_accelerates_takata_inflators_replacements_12092016

² "Nuevos datos de prueba en un subconjunto particular de infladores de bolsa de aire de Takata muestran un riesgo considerablemente mayor". Administración Nacional de Seguridad en el Tránsito por Carreteras (National Highway Traffic Safety Administration) del Departamento de Transporte de los EE. UU. http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_takata_high_risk_inflators_06302016

³ "La NHTSA confirma la 11ª muerte en EE. UU. vinculada a la ruptura del inflador de las bolsas de aire Takata". Administración Nacional de Seguridad en el Tránsito por Carreteras (National Highway Traffic Safety Administration) del Departamento de Transporte de los EE. UU. http://www.nhtsa.gov/About-NHTSA/Press-Releases/nhtsa_takata_11th_fatality_10202016



AIRBAGRECALL.COM

IS YOUR AIRBAG DEFECTIVE?

Tens of millions of defective airbag inflators are under recall.

Even a fender bender can cause these airbags to rupture, spraying shrapnel into drivers and passengers.

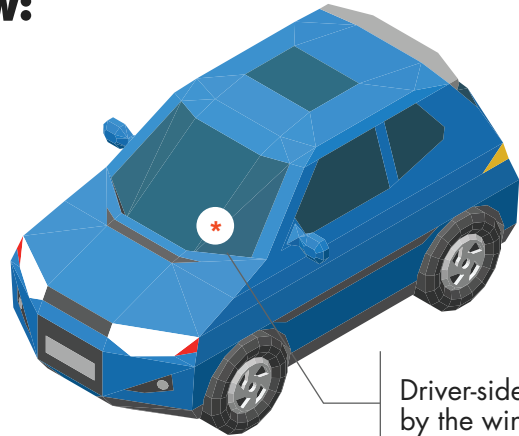
DON'T RISK INJURY OR DEATH, CHECK YOUR VEHICLE TODAY.

Here's How:

Find it

Write down or photograph your Vehicle Identification Number (VIN).

- * **Look for your VIN on the driver-side dashboard by the windshield or on your insurance card.**



Driver-side dashboard
by the windshield

Search it

Visit AirbagRecall.com or SaferCar.gov to look up your 17-digit VIN.



ENTER YOUR VIN HERE.



Then follow the on-screen instructions to prove you are not a robot.

Click

Submit →

Fix it

If you see text that reads recall incomplete...

**YOUR AIRBAG INFLATOR WILL
BE REPLACED FOR FREE.**



Schedule an appointment at your automaker's local dealership as soon as possible.

If you see text that reads "remedy not available," call a dealer anyway. Make sure your contact information is up to date so they can notify you as soon as parts are available for your repair.



AIRBAGRECALL.COM

¿TIENE DEFECTOS SU BOLSA DE AIRE?

Decenas de millones de infladores de bolsa de aire defectuosos son objeto de un retiro del mercado. Incluso un leve golpe al guardabarros puede provocar que estas bolsas de aire se rompan, esparciendo esquirlas hacia los conductores y pasajeros.

NO SE EXPONGA A SUFRIR LESIONES O MORIR, VERIFIQUE SU VEHÍCULO HOY MISMO.

Esta es la forma de hacerlo:

Encuéntrelo

Escriba o fotografíe el Número de Identificación del Vehículo (Vehicle Identification Number, VIN).

- * **Busque el VIN en el tablero de instrumentos del lado del conductor, cerca del parabrisas o en la tarjeta del seguro.**



Tablero de instrumentos del lado del conductor, cerca del parabrisas.

Búsquelo

Visite los sitios web www.AirbagRecall.com o www.SaferCar.gov para buscar el VIN de 17 dígitos.

Después, siga las instrucciones en la pantalla para probar que usted no es un robot.



ENTER YOUR VIN HERE. / INGRESE AQUÍ SU VIN.

Click/Haga clic en

Submit / Enviar →

Repárelo

Si ve texto que dice retiro del mercado incompleto...

EL INFLADOR DE LA BOLSA DE AIRE SE REEMPLAZARÁ GRATIS.



Programe una cita en una distribuidora local del fabricante de automóviles tan pronto como sea posible.

Si ve texto que dice "medida de reparación no disponible" llame de todas formas a la distribuidora. Asegúrese de que su información de contacto esté actualizada para que puedan notificarle tan pronto como estén disponibles las piezas de la reparación.



AIRBAGRECALL.COM

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. _____****A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BECOMING A PARTNER WITH THE NORTH TEXAS AIRBAG RECALL COALITION.**

WHEREAS, in the United States, tens of millions of vehicles from 19 vehicle manufacturers, including Acura, Audi, BMW, Ferrari, Fiat Chrysler, Ford/Lincoln, General Motors, Honda, Jaguar/Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Subaru, Tesla, Toyota and Volkswagen (VW), McLaren and Karma/Fisker contain unrepaired defective airbag inflators that are subject to a safety recall due to a defect that may cause the inflator to explode and cause serious injury or death, and

WHEREAS, owners of the 2001 and 2002 Honda Civic and Accord, the 2002 and 2003 Acura TL, the 2002 Honda Odyssey and CR-V and the 2003 Acura CL and Honda Pilot can face a 50% chance or higher of their vehicles' airbag exploding upon deployment and are advised to stop driving these vehicles until defective airbag inflators have been repaired, and

WHEREAS, owners of certain Ford Rangers and Mazda B-Series trucks also face a high risk of their vehicles' airbag exploding in the event of a crash and are advised to stop driving these vehicles until the defective airbag inflators have been repaired, and

WHEREAS, it is critical for residents to not ignore recall notices as at least 15 people in the United States have been killed, 2 in Texas, by defective airbag inflators and more than 220 Americans have suffered injuries, such as vision loss or broken bones, and

WHEREAS, all residents that may have a vehicle affected by this recall are encouraged to visit www.AirbagRecall.com or download the AirbagRecall app using the vehicle identification number (VIN) or license plate number; or www.NHTSA.gov/recalls to look up their VIN number to learn if their car, truck, or van has a defective airbag inflator, and

WHEREAS, a resident's vehicle may be affected by the recall, we urge them to contact their nearest dealership for a free airbag repair, and

WHEREAS, on January 9, 2018, the Transportation Commission of the Town of Flower Mound has recommended that the Town become a partner with the North Texas Airbag Coalition to help spread the word about the recall, and

WHEREAS, the Town Council also desires to become a partner with the North Texas Airbag Recall Coalition.

RESOLUTION NO. _____

PAGE 2

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

SECTION 1

The Town of Flower Mound agrees to become a partner with the North Texas Airbag Coalition to assist with informing the public about the vehicle airbag recall and the associated dangers, and to communicate this message will endeavor to spread the word throughout the community in as many ways as possible including but not limited to: making social media posts; posting of recall materials at Town Hall, Library and the Community Activity Center; advertisement on FMTV; outreach to Boy and Girl Scout Troops as a possible safety project; outreach to Homeowners Associations; posting on the Town's website; outreach to School Resource Officers at both Marcus and Flower Mound High Schools; outreach to Local Newspapers to encourage to write an article on the recall; outreach to all Town employees through email; and outreach at Town Events.

SECTION 2

This Resolution shall take effect immediately upon its passage by the Town Council of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS THE 19th DAY OF MARCH, 2018.

APPROVED:

ATTEST:

Thomas E. Hayden, MAYOR

Theresa Scott, TOWN SECRETARY

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, TOWN ATTORNEY



TOWN COUNCIL AGENDA ITEM NO. 14

REGULAR ITEM

DATE: March 19, 2018

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

ITEM: Consider approval of the award of Bid No. 2018-33-B to Fort Worth Civil Constructors, LLC, for phase one of the Lift Station Improvements and Decommissioning project, in the amount of \$1,492,656.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On February 12, 2018, bids were received and opened for the Lift Station Improvements and Decommissioning Phase I project. Fort Worth Civil Constructors, LLC, submitted the lowest qualified bid of the four (4) responding bidders with a bid of \$1,492,656.00

The Lift Station Improvements and Decommissioning Phase I project includes improvements to the Justin, Yucca, Wichita I, and Sanctuary Lift Stations and the decommissioning of Gerault, Morriss, and Simmons Lift Stations.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

FISCAL IMPACT: \$1,492,656.00

Proposed Expenditure:	Account Number(s):
\$1,492,656.00	630-970-98580

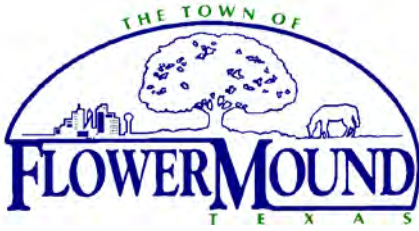
Finance Review by: Debra Wallace, Deputy Town Manager/CFO *DW*

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

ATTACHMENTS:

1. Bid Tab
2. Construction Agreement

DRAFT MOTION: Move to approve the award of Bid No. 2018-33-B to Fort Worth Civil Constructors, LLC, for phase one of the Lift Station Improvements and Decommissioning project, in the amount of \$1,492,656.00; and authorization for the Mayor to execute same on behalf of the Town.



Town of Flower Mound Bid Tabulation

Bid No: 2018-33-B - Lift Station Improvements and Decommissioning Phase I

Bid Opening: 2/12/2018 at 1:00 PAM

Company	Total Bid
Joe Funk Construction (Non Responsive)	\$ 1,376,399.80
Fort Worth Civil Constructors	\$ 1,492,656.00
Rey-Mar Construction	\$ 1,577,750.00
Red River Construction	\$ 1,759,900.00

******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	Date: February 12, 2018
---	-------------------------

TOWN OF FLOWER MOUND**LIFT STATION IMPROVEMENTS AND DECOMMISSIONING PHASE I****Bid # 2018-33-B****CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this 19 day of March, 2018, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and Fort Worth Civil Contracotrs, LLC, a Limited Liability 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:

LIFT STATION IMPROVEMENTS AND DECOMMISSIONING PHASE I
Bid # 2018-33-B

in the Town of Flower Mound, Texas, and all extra work in connection therewith, under the terms as stated in this Agreement, and under the terms of the Contract Documents; and at his, her, or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools, and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Conditions and Specifications as prepared by the Town or its consultant hereinafter called "Engineer", who has been identified by the endorsement of the Contractor's written proposal, and the General Conditions, Supplemental Conditions, and Special Provisions of this Agreement, and the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

ARTICLE 1. The Contract Documents shall consist of the following documents:

- A. The Construction Agreement;
- B. Properly executed Change Orders and Field Orders in writing and executed by the Town, the last in time being first in precedence;
- C. Any listed and numbered addenda;
- D. Special Provisions;

- E. Supplementary Conditions;
- F. Construction Drawings or Plans;
- G. Technical Specifications;
- H. Town's Standard Construction Details;
- I. The most current edition of the *Town of Flower Mound Design Criteria and Construction Standards* (by reference);
- J. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);
- K. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference);
- L. The General Conditions;
- M. *Public Works Construction Standards - North Central Texas, as amended* (by reference);
- N. Notice to Bidders;
- O. Instructions to Bidders;
- P. The Town's written notice to proceed to Contractor;
- Q. The Contractor's Bid Proposal;
- R. The Performance Bond, Payment Bond and Maintenance Bond; and
- S. Bid materials distributed by the Town that relate to the Project.

These Contract Documents are incorporated by reference into this Agreement as if set out in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided; however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair, and/or correct that component of the project.

ARTICLE 2. For performance of the Work in accordance with the Contract Documents, the Town shall pay the Contractor in current funds an amount not to exceed **One Million, Four Hundred Ninety-Two Thousand, Six Hundred Fifty-Six Dollars and No Cents (\$1,492,656.00)** taking into consideration additions to or deductions from the Total Bid through properly executed change orders by reason of alterations or modifications of the original quantities or by reason of “Extra Work” authorized under this Agreement in accordance with the provisions of the Contract Documents. It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the Contractor by the Town, the said Contractor shall furnish all labor, equipment, and material (except as otherwise specified above) and shall perform all work necessary to complete the improvements in a good and workmanlike manner, ready for use, within the specified time for substantial completion of One Hundred Eighty (180) calendar days, and final completion of Two Hundred Ten (210) calendar days ready for final payment, as measured from the Effective Start Date shown in the Notice to Proceed. The work shall be in strict accordance with this Agreement, a copy of which is filed pursuant to law in the office of the legal representative of the Town.

ARTICLE 3. Before commencing work, the Contractor shall, at its own expense, procure, pay for, and maintain the insurance coverage required by the Contract Documents written by companies approved by the State of Texas and acceptable to the Town of Flower Mound. Contractor shall provide the Town Purchasing Manager with certificates of insurance indicating coverage’s required by the Contract Documents. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

ARTICLE 4. The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment, and maintenance bonds shall be issued on the forms attached to this Construction Agreement. Other performance, payment, and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment, and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon Town request. In addition to the foregoing requirements if the amount of the bond exceeds One Hundred

Thousand and Zero/One Hundredths Dollars (\$100,000.00) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

ARTICLE 5. It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Town shall pay the Contractor the compensation due him by reason of said faithful performance of the work in accordance with the provisions of this Agreement. As it completes portions of the Work, the Contractor may request progress payments from the Town. Progress payments shall be made by the Town based on the Town's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Town satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Town:

1. copies of documents reasonably necessary to aid the Town in preparing an estimate of the value of Work properly completed;
2. full releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Town releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
3. an updated and current schedule clearly detailing the project's critical path elements; and
4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Town determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Town determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Town the overpayment amount specified

by the Town within thirty (30) calendar days after it receives written demand from the Town.

The fact that the Town makes a progress payment shall not be deemed to be an admission by the Town concerning the quantity, quality, or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Town shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set depending upon the value of the Contract Work on the effective date of the Contract:

<u>Contract Amount</u>	<u>Retainage Percentage</u>
Up to \$25,000.00	15%
\$25,000.00 to \$400,000.00	10%
Over \$400,000.00	5%

Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Town may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
2. ensure timely completion of the Work. The Town may use retained funds to pay liquidated damages; and
3. provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Town in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

ARTICLE 6. The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Town may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents. Amounts withheld under this section shall be in addition to any retainage.

ARTICLE 7. When the erosion control measures have been completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

ARTICLE 8. When the Work is completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Town's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Town's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Town may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

ARTICLE 9. After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and
3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens, or other evidence satisfactory to the Town to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Town may, but is not obligated to, issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Town copies of all documents that the Town determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Town has satisfied its obligation to administer the Agreement in accordance with applicable law.

Subject to the requirements of the Contract Documents, the Town shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

ARTICLE 10. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN, ITS TOWN COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK OR WHICH ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS, OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Town shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Town. Contractor shall retain approved counsel for the Town within seven business days after receiving written notice from the Town that it is invoking its right to indemnification under this

Agreement. If Contractor does not retain counsel for the Town within the required time, then the Town shall have the right to retain counsel and the Contractor shall pay the attorneys' fees and expenses.

The Town retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Town elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Town for such costs.

ARTICLE 11. The Contractor understands and agrees that time is of the essence in performing and completing the Work. The Town and Contractor acknowledge that the actual damages the Town may sustain if the Contractor fails to complete the Work on time are uncertain and will be difficult to ascertain. The Contractor agrees that the sum of Two Hundred Forty and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of Two Hundred Forty and Zero/One Hundredths Dollars (\$240.00) per day or portion of a day in Liquidated Damages for each calendar day or portion thereof the work has not been finally completed by the Contractor beyond the Contract time for final completion, or within such extra time as may have been allowed by an extension approved by the Town. The Town and the Contractor agree that this amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

ARTICLE 12. For a two-year period after the date specified in a written notice of acceptance of Work and authorization to make final payment by the Flower Mound Town Council, Contractor shall provide and pay for all labor and materials that the Town determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Town may make a warranty inspection of the Work. The Town shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Town shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Town may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the 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	3/27/2018	Work Session	Discuss Morriss Road Thoroughfare Plan designation and safety improvements.
	4/2/2018	Presentation	Recognition of the Flower Mound Citizens Academy - Class of 2018
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on March 19, 2018.
		Consent	Consider approval of the minutes from a special joint work session with Council and the Transportation Commission held on March 27, 2018.
		Consent	Consider approval of the 2018 US Army Corps of Engineer (USACe) Solicitation No. XXXX for Contract with the Town of Flower Mound for law enforcement services at Lake Grapevine; and authorization for the mayor to execute same on behalf of the Town.
		Consent	Consider approval to renew the Town's three year Enterprise Enrollment Agreement with Microsoft to provide the town with Licensing for Office 365 , Servers, Sharepoint, Advanced Threat Protection and Desktop Operating Systems from Software One in the amount of \$176,462.49.
		Regular	Public Hearing to consider a request for a Master Plan Amendment (MPA17-0010 – Lakeside Village) to amend Section 1.0, Land Use Plan, and Section 2.0, Area Plans, of the Master Plan to change the current land use designation from Campus Commercial use within the Lakeside Business District Area Plan to Mixed Use, and to consider adopting an ordinance providing for said amendment. The property is generally located west of Lakeside Parkway and south of Lakeside Village Boulevard. (The Planning and Zoning Commission recommended by a vote of to at its March 26, 2018, meeting.)
		Regular	Public Hearing to consider a request for a Master Plan Amendment (MPA17-0015 – Magnolia Court) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Medium Density to High Density Single Family Detached, and to consider adopting an ordinance providing for said amendment. The property is generally located on the northwest corner of the intersection of Gerault Road and Spinks Road. (Planning and Zoning Commission recommended by a vote of to at its March 26, 2018, meeting.)

SCHEDULED	4/2/2018	Regular	Public Hearing to consider a request for rezoning (MU17-0002 – Lakeside DFW/Lakeside Village) to amend Mixed Use District-1 (MU-1) to include additional land, amend certain conceptual plans and development standards in the Lakeside DFW Development Code, and request certain exceptions and modifications to the Code of Ordinances, and to consider adopting an ordinance providing for said amendment, subject to the terms and conditions in the attached Development Agreement and authorization for Mayor to execute same on behalf of the Town, and acceptance of cash in lieu of land in the amount of \$2,893,094.40 in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$317,852.00. The property is generally located west of Long Prairie Road along both sides of Lakeside Parkway. (The Planning and Zoning Commission recommended by a vote of to at its March 26, 2018, meeting.)
		Regular	Public Hearing to consider a request for rezoning (ZPD17-0020 – Magnolia Court) from Agricultural District (A) to Planned Development District No. 161 (PD-161) with Single-Family District-5 (SF-5) uses, with certain exceptions and modifications to the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located on the northwest corner of the intersection of Gerault Road and Spinks Road. (Planning and Zoning Commission recommended by a vote of to at its March 26, 2018, meeting.)
		Regular	Public Hearing to consider a request for a Master Plan Amendment (MPA17-0014 – CVS Pharmacy #10907) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Estate Residential to Retail use, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Cross Timbers Road and east of Lusk Lane. (Planning and Zoning recommended by a vote of to at its March 26, 2018, meeting.)
		Regular	Public Hearing to consider a request for rezoning (ZPD17-0018 - CVS Pharmacy #10907) from Agricultural District (A) to Planned Development District No. 160 (PD-160) with Retail uses, with certain modifications and exceptions to the Code of Ordinances, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Cross Timbers Road and east of Lusk Lane. (Planning and Zoning Commission recommended by a vote of to at its March 26, 2018, meeting.)
		Regular	Public Hearing to consider approval of a Chapter 380 Agreement between the Town of Flower Mound and Duke Realty, LP (Lakeside Ranch BP-Lot4R1, Blk A)
4/16/2018		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on April 2, 2018.
		Consent	Consider approval of Change Order No. 1 and final acceptance of the Sheffield Court, and Colonial Drive Reconstruction projects, amending the contract with 3D Paving and Contracting, LLC., for an increase to the contract in the amount of \$5,879.20, and authorizing final payment to 3D Paving and Contracting, LLC., in the amount of \$88,254.67; and authorization for the Mayor to execute same on behalf of the Town.

SCHEDULED	4/16/2018	Consent	Lake Forest Boulevard Roadway Improvements and 12-Inch Water Line Construction Award.
		Consent	Lakeside Lift Station and Force Main Change Order 3 and Final Acceptance.
		Consent	Consider approval of Change Order No. 1 and final acceptance of the Canterbury Lane & Superior Place Reconstruction projects, amending the contract with 3D Paving and Contracting LLC, for a decrease to the contract in the amount of \$27,350.90, and authorizing final payment to 3D Paving and Contracting LLC, in the amount of \$57,336.03; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Denton County Interlocal Agreement for Denton Creek Bridge TRIP-08 funds
		Consent	ADA - Changes to Chapters 2, 14, & 58
		Consent	Consider approval of Change Order No. 1 and final acceptance of the Bruton Orand Elevated Storage Tank Rehabilitation project, amending the contract with Utility Service Company, Inc., for an increase to the contract in the amount of \$ \$112,820.20, authorization final payment to Utility Service Company, Inc., in the amount of \$326,821.20; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Lake Forest Boulevard Water Line Testing Award.
		Consent	Consider approval of a Professional Services Agreement for the design phase services of the Denton Creek Boulevard Bridge and Water Line project, with Burns & McDonnell, for \$302,276.80; and authorization for the Mayor to execute same on behalf of the Town.
		Regular	Public Hearing to consider a request for a Specific Use Permit No. 451 (SUP17-0008 – Wichita Trail Cell Tower) to permit a communication tower, and to consider adopting an ordinance providing for said amendment. The property is generally located north of Wichita Trail and east of Skillern Road. (The Planning and Zoning Commission recommended denial by a vote of 5 to 1 at its March 12, 2018, meeting.)
	5/8/2018	Consent	Heritage Park Phase III Change Order No.1 and Final Acceptance.
		Consent	Shady Point Acres Water Line Change Order 2 & Final Acceptance
		Regular	Consider approval of an ordinance canvassing and declaring the results of a general election held May 5, 2018, for the purpose of electing the offices of Mayor, Town Council Place 2, and Town Council Place 4; establishing procedures for those elections; and providing an effective date (subject to change depending on any outstanding ballots & EVBB)
	6/4/2018	Presentation	Proclamation honoring Women Veterans