

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

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

1/7/2019

**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 COMMENT

To speak to Council during public comment, please fill out a [comment form](#).

- Turn in form by 6:10 p.m. to Town Secretary
- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired
- Please state your name and address when speaking

The purpose of this item is to allow the public an opportunity to address the Town Council on issues that are not indicated as a "Public Hearing" on this agenda. Issues regarding daily operational or administrative matters should first be dealt with 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. Hotel Land Use definitions

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).

Town Council Meeting Agenda
January 7, 2019
Page 2

H. COORDINATION OF CALENDARS

1. A work session is scheduled for Thursday, January 17.
2. A regular meeting is scheduled for Monday, February 4.

I. CONSENT ITEMS

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

1. Minutes 12/17/18- Consider approval of the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting held on December 17, 2018.
2. Truck Purchase - Fire- Consider approval of the purchase of (1) New Ford F-150 Crew Cab Special Service Vehicle 4x4 Pickup Truck with equipment and black exterior paint scheme per attached Vehicle/Equipment Quotes/Specifications from Sam Pack Five Star Ford in the amount of \$50,503.00.
3. Truck Purchase - Public Works- Consider approval of the purchase of a new Peterbilt 348 Truck with CLS VacCon V311E Combo Unit per Vendor Specifications/Quote from Rush Truck Center for Public Works - Utility Line Maintenance Division in the amount of \$379,655.75.
4. Vehicle Purchase - Dev. Services- Consider approval of the purchase of four (4) 2019 Ford F150 Extended Cab Pickup Trucks per Town of Flower Mound Specifications and Quote from Sam Pack's Five Star Ford in the amount of \$113,148.00.
5. Vehicle Purchase - Fire- Consider approval of the purchase of three (3) New 2019 Chevrolet Tahoe Special Service Vehicle, 4WD, Complete per Vendor Specifications/Quote from Holiday Ford & Holiday Chevrolet dba Johnson Grayson Automotive, Inc for Fire & Emergency Services in the amount of \$154,197.00
6. Vehicle Purchase - Meter Services- Consider approval of the purchase of three (3) New Chevrolet Colorado Half-Ton Double Cab Pickup Trucks with 6.5' Bed per Vehicle Quote/Specifications from Reliable Chevrolet in the amount of \$70,287.00.
7. Vehicle Purchase - Police- Consider approval of the purchase of eight (8) New 2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle (PPV) with equipment per Town of Flower Mound Specifications from Holiday Ford and Holiday Chevrolet dba Johnson Grayson Automotive, Inc in the amount of \$468,608.00.
8. US Food and Drug Admin. Grant- Consider acceptance of grant funds for FD 218 Training, from the U.S. Department of Food and Drug Administration for the Retail Standards Grant Program sponsored by the Association of Food and Drug Officials.
9. ADA Transition Plan- Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services associated with the ADA Transition Plan & Implementation project – 2019 Update, in the amount of \$100,000.00; and authorization for the Mayor to execute same on behalf of the Town.
10. CIP Amendment 2- Consider approval of Amendment No. 2 to the Fiscal Year 2018-2019 Capital Improvement Program.

Town Council Meeting Agenda**January 7, 2019****Page 3**

11. Glenview Rd 12" Water Line- Consider approval of a Development Agreement with JBGL Chateau, LLC, for the construction of the Glenview 12-Inch Water Line, in association with the Villas of Southgate Phase 3 Development, in the amount of \$38,749.50; and authorization for the Mayor to execute same on behalf of the Town.
12. Morriss Rd 20" Water Line- Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc. for the design phase services associated with the Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff) project in the amount of \$150,000.00; and authorization for the Mayor to execute same on behalf of the Town.
13. E Waketon Rd Drainage- Consider approval of a Professional Services Agreement with Halff Associates, Inc., to provide professional engineering services, for the East Waketon Road Drainage Improvements project, in the amount of \$212,790.00; and authorization for the Mayor to execute same on behalf of the Town.
14. Firewheel Dr Construction- Consider approval of Change Order No. 1 for the construction of the Firewheel Drive project, amending the contract with Cam-Crete Contracting, Inc., to provide for an increase to the contract in the amount of \$16,864.50; and authorization for the Mayor to execute same on behalf of the Town.
15. Grady Ct Recon. Design- Consider approval of a Professional Services Agreement with Criado & Associates Inc., for the design phase services associated with the Grady Court Reconstruction project, in the amount of \$73,738.00; and authorization for the Mayor to execute same on behalf of the Town.
16. Forest Vista Recon. Design- Consider approval of a Professional Services Agreement with Pacheco Koch, LLC., for the design phase services associated with the Forest Vista Reconstruction Phase II project, in the amount of \$160,487.00; and authorization for the Mayor to execute same on behalf of the Town.
17. Stone Creek Pk Playground- Consider approval of the purchase and installation of the 2018-19 Playground Replacements project, for Stone Creek Park Playground, from Webuildfun, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$199,767.84.
18. Park Renaming- Consider approval of renaming Leonard Johns Community Park to Helen and Leonard Johns Community Park.

J. REGULAR ITEMS

19. Fire Station # 7 Construction- Consider approval of the construction agreement for Fire Station No. 7 to Schmoltdt Construction Inc. in the amount of \$4,495,650.00; and authorization for the Mayor to execute same on behalf of the Town.
20. Pintail Pump Construction- Consider approval of a Construction Agreement with McDonald Municipal & Industrial, a Division of C.F. McDonald Electric, Inc., for the Pintail Pump Station (Auxiliary Power & Upgrades) project, in the amount of \$1,068,469.00; and authorization for the Mayor to execute same on behalf of the Town.
21. Charter Review- Discuss and consider Charter Review Commission recommendations and any proposed amendments to the Town Charter for a future election.

**Town Council Meeting Agenda
January 7, 2019
Page 4**

K. CLOSED MEETING

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

a. Consultation with Attorney.

1. All matters related to Cause No. 18-9622-431; EagleRidge Operating, LLC v. Town of Flower Mound.

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.

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

L. 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.

M. 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: January 4, 2019, 8:25 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.



TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: January 7, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting held on December 17, 2018.

BACKGROUND INFORMATION: The Town Council held a regular meeting of the Town Council; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special meeting; and Crime Control and Prevention District Special meeting on December 17, 2018.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:

Account Number(s):

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

DRAFT MOTION: Move to approve as presented in the agenda caption.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 1**

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17TH DAY OF DECEMBER 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.

Administrative Note:

Following a ribbon cutting event, this was the first meeting in the New Town Hall.

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

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

Steve Dixon	Mayor
Jason Webb	Mayor Pro Tem
Claudio Forest	Deputy Mayor Pro Tem
Sandeep Sharma	Councilmember Place 2
Kevin Bryant	Councilmember Place 3
Jim Engel	Councilmember Place 4

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
Chuck Russell	Town Planner
Tiffany Bruce	Executive Director of Public Works
Andy Kancel	Chief of Police
Andrea Roy	Director of Economic Development

A. CALL REGULAR MEETING TO ORDER

Mayor Dixon 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 Russ McNamer gave the invocation and Mayor Dixon led the pledges.

D. PRESENTATIONS**1. Certificate of Achievement, Gold Award, Girl Scout Service Unit 408**

Andie Milton, Girl Scout Service Unit Manager, announced the Girl Scout Gold Award recipients and Mayor Dixon presented a Certificate of Achievement to each of the girls.

2. Announcement and Presentation of 2018 Outstanding Citizenship Award(s)

Marilyn Lawson, Outstanding Citizenship Award Committee Chair, gave a presentation identifying or noting:

- Background information
- Purpose
- Criteria

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 2**

- Committee members
- Nominations received
- Committee feedback
- What award recipients will receive from the Town
- 2018 Award recipients announced:
 - o Don McDaniel (individual category)
 - o Summit Club (group category)
 - o Alton Bowman (New Category for 2018 - Lifetime Achievement Award)

E. PUBLIC COMMENT

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.	Jody Smith, 3705 Sarah Springs	Past Council Members
2.	Paul Stone, 4100 Broadway*	Merry Christmas
3.	Carol Kohankie, 4312 Lauren Way*	Merry Christmas
4.	Mary Kay Walker, 3229 Oak Meadow Dr*	Appreciation for the support of the senior center

**public comment form not provided*

F. ANNOUNCEMENTS

Mayor Pro Tem Webb extended appreciation for past elected officials who were a part of building the previous Town Hall. He also expressed appreciation for the Utility Billing staff for their customer service in a recent water bill situation.

Councilmember Engel announced that Jamie Siegel of Flower Mound High school was recently named the *USA Today* Volleyball Coach of the Year.

Several members of Council expressed well wishes for the holiday season.

G. TOWN MANAGER'S REPORT

Mr. Stathatos gave an update on the following projects:

1. Capital improvement projects
 - Old Town Hall demolition and future plans for that area
 - Professional Service Agreements update (on tonight's agenda)
 - Morriss Road improvements schedule
2. Economic Development projects
 - New businesses that have opened or coming soon to Flower Mound
3. Park Ordinance amendments

Mr. Dalton provided a summary of discussions to date regarding park ordinance amendments, including calculations and credit options and next steps.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 3****4. Other**

Mr. Stathatos responded to questions from Council regarding:

- o Why the speed limit changed from 40 to 35 mph on Morriss Road and Councilmember Bryant also provided background information.

H. FUTURE AGENDA ITEMS

1. Mayor Dixon requested a review of the last two Charter Review Commission recommendations that were presented for Council consideration, however, not placed on the ballot or that did not pass by the voters. There was Council consensus to have that discussion.

I. COORDINATION OF CALENDARS

Mayor Dixon announced that the next Town Council regular meeting is scheduled for Monday, January 7, 2019.

J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on December 3, 2018.
2. Consider approval to fund emergency vehicle wireless data device replacements, through GTS Technology Solutions, in the amount of \$51,913.34
3. Consider approval of a contract with Blue Cross and Blue Shield of Texas in the amount of \$515,469 for reinsurance coverage for the Town's Group Health Plan; and authorization for the Mayor to execute same on behalf of the Town.
4. Consider approval of a Professional Services Agreement for monthly gas well pad site air monitoring by Modern Geosciences, LLC, in the amount of \$124,800.00; and authorization for the Mayor to execute same on behalf of the Town.
5. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2017 and ending on September 30, 2018, as adopted by Ordinance No. 33-17 and amended by Ordinance No. 46-17, 20-18, 22-18 and 29-18 for adjustments to the General Fund, General Debt Service Fund, Utility Fund, Stormwater Utility Fund and the Hotel Occupancy Fund.

ORDINANCE NO. 38-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2017, AND ENDING ON SEPTEMBER 30, 2018, AS ADOPTED BY ORDINANCE NO. 33-17 AND AMENDED BY ORDINANCE NO. 46-17, 20-18, 22-18 and 29-18, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, GENERAL DEBT SERVICE FUND, UTILITY FUND, STORMWATER UTILITY FUND AND THE HOTEL OCCUPANCY FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 4**

6. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2017, and ending on September 30, 2018, as adopted by Resolution No. 15-17 and amended by Resolution No. 26-17.

RESOLUTION NO. 24-18

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018, AS ADOPTED BY RESOLUTION NO. 15-17 AND AMENDED BY RESOLUTION NO. 26-17; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

7. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2018 and ending on September 30, 2019, as adopted by Ordinance No. 30-18 for adjustments to the General Fund, Utility Fund and Vehicle and Equipment Replacement Fund.

ORDINANCE NO. 39-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2018, AND ENDING ON SEPTEMBER 30, 2019, AS ADOPTED BY ORDINANCE NO. 30-18, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, UTILITY FUND, AND VEHICLE AND EQUIPMENT REPLACEMENT FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

8. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2018, and ending on September 30, 2019, as adopted by Resolution No. 19-18.

RESOLUTION NO. 25-18

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018, AND ENDING SEPTEMBER 30, 2019, AS ADOPTED BY RESOLUTION NO. 19-18; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 5**

9. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2018, and ending on September 30, 2019, as adopted by Resolution No. 20-18.

RESOLUTION NO. 26-18

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018, AND ENDING SEPTEMBER 30, 2019, AS ADOPTED BY RESOLUTION NO. 20-18; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

10. Consider the approval of an annual contract for the purchase of water meters and meter reading equipment, on an as-needed basis, to Neptune Technology Group, Incorporated.
11. Consider approval of an Ordinance amending Appendix A "Fee Schedule," referenced in Chapter 70, "Utilities," Section 70-56(d), entitled "Water Meter Fee Schedule," of the Code of Ordinances of the Town of Flower Mound, Texas, by increasing the water meter fees."

ORDINANCE NO. 40-18

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A, "FEE SCHEDULE," REFERENCED IN CHAPTER 70, "UTILITIES," SECTION 70-56(d), ENTITLED "WATER METER FEE SCHEDULE," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY INCREASING THE WATER METER FEES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

12. Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.
13. Consider approval of a consulting contract with Carson Block Consulting INC to provide technology consulting services to the Library and authorize the Mayor to execute same on behalf of the Town.
14. *Item 14 was moved from consent to regular.*
15. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc. for the design phase services associated with the High Road Water Line Phase II project in the amount of \$260,000.00; and authorization for the Mayor to execute same on behalf of the Town.
16. Consider approval of a Construction Agreement with PM Construction & Rehab LLC, dba IPR South Central, for the Justin Road Lift Station Outfall project, in the amount of \$199,974.50; and authorization for the Mayor to execute same on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 6**

17. Consider approval of the Professional Services Agreement with Pacheco Koch Consulting Engineers, Inc., to provide professional engineering services, for the Valley Ridge Boulevard & Morriss Road Intersection Improvements/Windsor Drive Roundabout Connection project for an amount not to exceed \$84,414.00; and authorization for the Mayor to execute same on behalf of the Town.
18. *Item 18 was moved from consent to regular.*
19. Consider approval of the 2018 Annual Report for the Flower Mound Tax Increment Reinvestment Zone #1 (TIRZ #1) in accordance with Chapter 311 of the Texas Tax Code.
20. Consider approval of an ordinance to reappoint Municipal Judge Jeff Tasker for the period of January 1, 2019, through December 31, 2021.*

ORDINANCE NO. 41-18

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS APPOINTING THE JUDGE OF THE MUNICIPAL COURT OF RECORD IN THE TOWN OF FLOWER MOUND; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

*Council action for this item was based on how the Ordinance was written (Section 2) and for a term to begin on January 1, 2019, and to expire on December 31, 2020.

Mayor Pro Tem Webb moved to approve by consent Items 1 – 13; 15 – 17; 19 - 20, as presented in the agenda captions as identified above. Deputy Mayor Pro Tem Forest seconded the motion. Each item, as approved by consent, is restated above, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION:*Motion passed***AYES: SHARMA, FOREST, WEBB, ENGEL, BRYANT****NAYS: NONE****K. REGULAR ITEMS**

14. Consider approval of an Interlocal Agreement with Lewisville Independent School District (LISD) for additional School Resource Officers (SRO) and School Resource Sergeant, and provisions for contributions from LISD and the Town to cover the cost of salary and benefits for current and additional officers; and authorization for the Mayor to execute the same on behalf of the Town.

Councilmember Bryant provided background information regarding why he requested this item be moved from consent to regular, and mainly for the purpose of acknowledging the work of the Police Department in the schools.

Staff Presentation

Chief Kancel provided background information regarding the work of the school resource officers.

Councilmember Bryant moved to approve Item 14 as presented in the agenda caption. Mayor Pro Tem Webb seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018

PAGE 7

VOTE ON MOTION:*Motion passed***AYES: BRYANT, ENGEL, WEBB, FOREST, SHARMA****NAYS: NONE**

18. Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., for transportation planning services associated with the Transportation Model Update and LOS Mapping project, in the amount of \$70,000.00; and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Ms. Bruce provided background information regarding the purpose of the item, as well as the scope of work for the project, and as previously requested by Councilmember Sharma.

and there was Council discussion regarding:

- How the study will help Council in determining the appropriate action to take in order to provide traffic relief

Councilmember Sharma moved to approve as presented in the agenda caption. Mayor Pro Tem Webb seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: SHARMA, FOREST, WEBB, ENGEL, BRYANT****NAYS: NONE**

21. Public Hearing to consider a request for rezoning (ZPD18-0008 – Magnolia Court) from Agricultural District (A) to Planned Development District No. 168 (PD-168) with Single-Family District-10 (SF-10) and Agricultural District (A) uses, with certain exceptions and modifications to the Code of Ordinances, and to consider adopting an ordinance providing for said amendment, and acceptance of cash in lieu of land in the amount of \$263,088 in place of the otherwise required Park Land dedication and Park Development Fees in the amount of \$80,504. The property is generally located on the northwest corner of the intersection of Gerault Road and Spinks Road. (The Planning and Zoning Commission recommended approval with conditions by a vote of 6 to 0 at its November 12, 2018, meeting.)(Town Council postponed the item at its November 19, 2018, meeting.)

Staff Presentation

Mr. Russell gave a presentation identifying or noting:

- Zoning Chronology
- General and detailed location of subject property
- Land use and zoning
- Site photos of the subject property
- Modifications proposed
- Original request
- Concept site plan

Applicant Presentation

Heth Kendrick, 5301 Alpha Rd, Dallas, Texas, gave a presentation identifying or noting:

- Aerial of subject site
- Development summary

and he responded to questions or comments from Council regarding:

- Will Tract 2 be maintained
- How the revised plan meets the intent of the zoning and the resident requests
- Appreciation for the residents and the developer coming together for a project that appears will be successful

Mayor Dixon opened the Public Hearing at 7:02 p.m.

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

Support: Comments/Questions	Opposition: Comments/Questions	Question(s)/ Comments Only
Robert Sanders, 1406 St. Francis Ln	None	None
Jason Hobbs, 1000 St Francis Ln		
Jeffrey Blasko, 1720 Milford Dr		

Mayor Dixon closed the Public Hearing at 7:06 p.m.

Mayor Pro Tem Webb moved to approve as presented in the agenda caption. Councilmember Sharma seconded the motion.

ORDINANCE NO. 42-18

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 14.802 ACRES OF LAND SITUATED IN THE W. H. GIBSON SURVEY, ABSTRACT NO. 464, AND THE M. L. COWAN SURVEY, ABSTRACT NO. 1637, FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT NO. 168 (PD-168) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) USES AND AGRICULTURAL DISTRICT (A) USES, IN ACCORDANCE WITH SPECIFIC REQUIREMENTS STATED HEREIN AND EXHIBITS ATTACHED HERETO; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

AYES: BRYANT, ENGEL, WEBB, FOREST, SHARMA

NAYS: NONE

Motion passed

Mayor Dixon opened items 22 and 23 at the same time.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 9**

22. Public Hearing to consider a request for a Specific Use Permit No. 455 (SUP18-0018 - Cross Timbers Addition) to permit a restaurant with drive-through window and to consider adopting an ordinance providing for said amendment. The property is generally located south of Cross Timbers Road and west of Bruton Orand Blvd. (Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its December 10, 2018, meeting.)

Staff Presentation

Mr. Russell gave a presentation for items 22 and 22 identifying or noting:

- General and detailed location
- Land use and zoning
- Site photos of the subject property
- Approved concept plan
- SUP exhibit and conditions
- Elevations
- Site plan

Applicant Presentation

LJ Erickson, 16 Armstrong Drive, Frisco, TX

Mr. Erickson responded to questions or comments from Council regarding:

- Clarification regarding the SUP, as 5 a.m. opening time seems early for a spec building, and the 9 p.m. closing time seems late

Mayor Dixon opened the Public Hearing for item 22 at 7:13 p.m. No one spoke in support or opposition. Mayor Dixon closed the Public Hearing for item 22 at 7:13 p.m.

Councilmember Sharma moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Forest seconded the motion.

ORDINANCE NO. 43-18

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 455 (SUP-455) FOR A FAST FOOD RESTAURANT WITH A DRIVE-THROUGH WINDOW ON CERTAIN PROPERTY DESCRIBED AS 1.6341 ACRES OF LAND AND BEING ALL OF LOT 3, BLOCK A, OF THE CROSS TIMBERS VILLAGE ADDITION AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 103 (PD-103) WITH RETAIL DISTRICT-2 (R-2) USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018

PAGE 10

VOTE ON MOTION:*Motion passed***AYES: SHARMA, FOREST, WEBB, ENGEL, BRYANT****NAYS: NONE**

23. Consider a request for a Site Plan (SP18-0017 - Cross Timbers Addition, Lot 3) to develop one non-residential building. The property is generally located south of Cross Timbers Road and west of Bruton Orand Boulevard. (Planning and Zoning recommended approval by a vote of 6 to 0 at its December 10, 2018, meeting.)

Councilmember Bryant moved to approve as presented in the agenda caption. Councilmember Sharma seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BRYANT, ENGEL, WEBB, FOREST, SHARMA****NAYS: NONE**

24. Consider a request for a Site Plan (SP18-0013 - Alpha Warehouse Park) to develop three office/warehouse buildings, and a waiver to certain Architectural Standards in the Town's Urban Design Plan. The property is generally located south of Justin Road and west of Meadow View. (Planning and Zoning Commission recommended approval by a vote of 4 to 3 at its December 10, 2018, meeting.)

Staff Presentation

Mr. Russell gave a presentation identifying or noting:

- General and detailed location
- Aerial map of site location
- Land use and zoning
- Site photos of subject property
- Site plan
- Landscape plan
- Elevations
- Waivers requested
- P & Z Deliberation

and he responded to questions from Council regarding:

- Concerns regarding the pitch of the roof
- Concerns regarding the material of concrete block and how it's not in the Town's design plan

and there was Council discussion regarding:

- Benefits gained by allowing the waiver for the type of use presented, which allows the HVAC equipment to be hidden
- How the buildings fit with the surrounding area

Applicant Presentation

Bill Peck, Peck Architects, 105 W Main Street, Lewisville

Josh Barton, Project Engineer, G & A Consultants/McAdams, 111 Hillside Drive, Lewisville

FLOWER MOUND TOWN COUNCIL MEETING OF DECEMBER 17, 2018**PAGE 11**

Mr. Peck gave a presentation identifying or noting:

- Site photos
- Building materials

and he or Mr. Barton responded to questions from Council regarding:

- Clarification regarding where the bay doors will be located
- Clarification regarding the easement location
- Was there a point where one building versus multiple buildings was considered

Councilmember Bryant moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: SHARMA, FOREST, WEBB, ENGEL, BRYANT****NAYS: NONE**

25. Public Hearing to consider approval of an amendment to the Chapter 380 Agreement between the Town of Flower Mound, Newstream Hotels & Resorts, LLC, and Spectrum Origination, LLC, and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Ms. Roy provided background information about the project, including why the applicant is seeking an extension, and she responded to the following questions from Council:

- Clarification that no terms other than the date has changed, other than what is being offered in return for granting the extension

Mayor Dixon opened the Public Hearing at 7:44 p.m.

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

Support: Comments/Questions	Opposition: Comments/Questions	Question(s)/Comments Only
Jody Smith, 3705 Sarah Springs Trail	None	None

Mayor Dixon closed the Public Hearing at 7:45 p.m.

Councilmember Bryant moved to approve as presented in the agenda caption. Deputy Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BRYANT, ENGEL, WEBB, FOREST, SHARMA****NAYS: NONE**

26. Presentation and discussion of TIRZ Feasibility Study for Lakeside Village.

Staff Presentation

Ms. Roy gave a presentation identifying or noting:

- Background information

Consultant Presentation

Nina Meagan, Hawes Hill & Associates

Ms. Meagan gave a presentation identifying or noting:

- Project understanding
- Lakeside Village Development summary
- TIRZ funded project costs
- Build out scenarios
- Feasibility
- Recommended approach

and she or Ms. Roy responded to questions or comments from Council regarding:

- Interest in seeing information that demonstrates how the tax base acceleration works in order to make an informed decision
- Clarification regarding the objective for this evening
- Interest in talking about things that could be included in the TIRZ, such as an art center
- Interest in running a less optimistic model
- What are the next steps, including timing
- Professional experience in working with both developed and undeveloped scenarios
- Clarification regarding the lack of projection figures for the first few years, and the purpose of the jump in value for the later years
- Clarification regarding the actual area involved
- Interest in seeing a comparison as to what the Town would gain with or without a TIRZ (i.e. what would the Town gain in revenue without the TIRZ)
- What is the cost to the Town to go through the TIRZ option versus going the debt route
- Why would the Town want to issue a bond versus not issuing a bond
- What is the purpose of the complete versus partial buildout
- Clarification regarding the numbers and projections and what are those figures based on (current or a down turn economic environment)
- Clarification that the next step is to continue the discussion at the January work session if possible.

and there was Council discussion regarding:

- How the TIRZ works
- Ultimately there would be a TIRZ Board to make recommendations regarding what to issue debt for, and similar to what we have in existence already
- Encouraged members of Council, as well as the public, to look at the feasibility approach on page 357 of the study

L. BOARDS/COMMISSIONS (Pre-Council Conference Room)

27. Discuss and consider an appointment to the Denton County Greenbelt Plan Coordinating Committee.

Staff Presentation

Mr. Dalton summarized the purpose of the item.

There was Council discussion regarding:

- Past efforts regarding the Denton County Greenbelt
- Possibility of appointing both the ECC recommended member as well as a Councilmember.

Mayor Pro Tem Webb moved to appoint Councilmember Kevin Bryant as the primary member, and James Naylor as the alternate member. Deputy Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:

Motion passed

AYES: SHARMA, FOREST, WEBB, ENGEL, BRYANT

NAYS: NONE

M./N. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 8:19 p.m. on December 17, 2018, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, and reconvened into an open meeting at 9:14 p.m. on December 17, 2018, and there was no action taken on the following items:

a. Consultation with Attorney.

1. All matters related to Cause No. 18-9622-431; EagleRidge Operating, LLC v. Town of Flower Mound

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.

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

O. ADJOURN REGULAR MEETING

Mayor Dixon adjourned the meeting at 9:15 p.m. on December 17, 2018, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

STEVE DIXON, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 2

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of (1) New Ford F-150 Crew Cab Special Service Vehicle 4x4 Pickup Truck with equipment and black exterior paint scheme per attached Vehicle/Equipment Quotes/Specifications from Sam Pack Five Star Ford in the amount of \$50,503.00.

BACKGROUND INFORMATION: The Fire & Emergency Services Department is requesting the purchase of one (1) New Ford F-150 Crew Cab Special Service Vehicle 4x4 Pickup Truck with equipment and black exterior paint scheme in the amount of \$50,503.00 from Sam Pack Five Star Ford through existing interlocal agreement with Tarrant County to use Tarrant County Contract 2018-022. This vehicle is part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replaces unit #65000-05. Note: Purchase Order will be issued to Sam Pack Five Star Ford who will obtain after-market equipment and installation from Defender Supply.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$50,503.00

Proposed Expenditure:	Account Number(s):
\$50,503.00	565-450-84500-6130 - VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicle
2. Vehicle Quote & Specifications
3. Equipment Specifications

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation

**Co-op Contract:
Tarrant County Contract 2018-22**

Date: 11-16-2018

Description: New F-150 Crew Cab SSV 4x4

Replaces: 65000-05

Bidder #1: Sam Pack 5-Star Ford

Item bid: New 2019 Ford F-150 Crew Cab SSV 4x4 Pickup

Per: attached vehicle quote specifications

Per: attached equipment quote specifications

Unit TOTAL \$ 50,503.00

It is Fleet Services recommendation to award the bid to **Sam Pack 5-Star Ford** as the lowest responsible bidder in the amount of **\$ 50,503.00**.

H. Deats Stewart
Fleet Services Manager

11-16-2018
Date,-



DEFENDER SUPPLY

Date	9/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flow...
Estimate #	23194

Description	Location	Qty.	Cost	Vehicle and Em...
2018/2019 Ford F150 XLT Special Service Package, 4WD SuperCrew XL 145" Wheel Base, 5.0L V8, 240 Amp Alternator, 6-Speed Automatic Transmission, Electronic Locking 3.31 Axle Ratio, AM/FM/ CD Player, SYNC System, Trailer Tow Package, Class IV Trailer Hitch Receiver, Skid Plates, XL Power Equipment Group, Power Windows & Door Locks, Power Sideview Mirrors, Flip Key Keyless Entry Key FOB, Power Tail Gate Lock, Chrome Bumpers, Steel Gray Front Cloth & Rear Vinyl Seating, Cruise Control, Fog Lamps, Running Boards, Front License Plate Bracket & Full Size Spare Tire. (Purchased thru Holiday Ford)		1		
BLACK Exterior				
2 Year Texas State Inspection Certificate		1	7.00	7.00
Tonneau Cover For Ford F-150 2015-2018 5' Bed, Paint to Match		1	1,041.00	1,041.00
795DM Opticom Emmiler, Dash Mount	Front Dash/Visor	1	1,148.00	1,148.00
Whelen Inner Edge, F150, Duo, RW-Driver, BW-Passenger	Front Visor	1	937.00	937.00
Whelen Carbide System w/ Canport - WITH CANCTL7 CONTROL HEAD		1	949.00	949.00
Whelen Carbide Installation Kit for Dodge, Ford and all non-Tahoe Chevy vehicles		1	0.00	0.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Canport/Carbide)		1	0.00	0.00
Carbide Expansion Module		2	258.00	258.00
425-6491 Jotto Desk Wide Body AR/ZRT Console		1	91.00	91.00
Jotto Ford F150 2015+ HD 28" Floor Plate Kit		1	91.00	91.00
Jotto Cup Holder		1	31.00	31.00
Jotto Side Mount Console Arm Rest		1	74.00	74.00
Jotto Desk Magnetic Mic Clip		2	28.00	56.00
Whelen Eight Lamp TIR3™ Super-LED® Traffic Advisor™ with Two End Flashing LEDs - Red/Amber/Blue with On/Off Override Kill Switch	Rear Glass-Rear Facing	1	231.00	231.00
Whelen Dominator 4" Brackets		1	18.00	18.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Final sale amount may be subject to state and local sales tax PLEASE NOTE Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost



DEFENDER SUPPLY

Date	9/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flow...
Estimate #	23194

Description	Location	Qty.	Cost	Vehicle and Em...
TCRHT4 Whelen Tracer, 4 Lamp, Red/Blue/Amber	Under Rear Tailgate	1	653.00	653.00
Whelen Solid State Headlight Flasher		1	49.00	49.00
Whelen M4 Fog Light, Blue	Push Bumper-Front Facing	1	129.00	129.00
Whelen M4 Fog Light Red	Push Bumper-Front Facing	1	129.00	129.00
Forward Facing Steel Bracket for an Whelen M4 Light (each)		2	14.00	28.00
Whelen M4 Fog split Red/Blue	Push Bumper-Side Facing	2	129.00	258.00
Go Industries Heavy Duty Metal 45 Degree Mounting Bracket for Whelen M4 Lighting Products		2	9.00	18.00
Whelen Mirror Beams, F150, Red/Blue Split	Sideview Mirrors	1	244.00	244.00
6 Lamp Housing & TCRL*** TRIO Lighthead Tracer with F150 Mounting	Running Board	2	872.00	1,744.00
Center section push bumper for a 2018+ F150		1	259.00	259.00
Two Way 800 MHZ Radio Antenna & Coax Cable				45.00
Tremco Anti-Theft Device for Ford F150 Truck		1	129.00	129.00
EZ Rider 1/3 Prisoner 2/3 K9 Insert for a 2017 F 150 Crew Cab Incl Window Guards and Door Panels K9 Exits Driver Side, EZ LED POD Red White W/Switch, Non Toxic Custom Fit Rubber Liner Matte Black Powder Coat, Water Dish		1	2,261.00	2,261.00
DRIVER SIDE Deploy				
Ace K9 Single Purpose K9 Monitoring System with Heat, Smoke, Carbon Monoxide Detectors, Power Distribution Block and Electronic Window Fan Kit				2,394.00
Decked Bed System for F150		1	1,389.00	1,389.00
Defender Supply Wiring Harness Power Distribution Block and Battery Management System				413.50

Vehicle and Emergency Equipment Total

Quantity Ordered

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost

Date	9/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



23194

Description	Location	Qty.	Cost	Vehicle and Em...
Misc. Shop Supplies		1	100.00	100.00
Vehicle Dealer Prep		1	100.00	100.00
Shipping of Above Emergency Parts for Upfit		1	100.00	100.00
Installation of Above Equipment		1	100.00	100.00

\$50,991.00

Total Vehicle Order Cost



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of a new Peterbilt 348 Truck with CLS VacCon V311E Combo Unit per Vendor Specifications/Quote from Rush Truck Center for Public Works - Utility Line Maintenance Division in the amount of \$379,655.75.

BACKGROUND INFORMATION: The Public Works Department (Utility Line Maintenance Division) is requesting the purchase of one (1) New Peterbilt 348 Truck with CLS VacCon V311E Combo from Rush Truck Center in the amount of \$379,655.75 through BuyBoard Cooperative Contract No. 521-16. This vehicle purchase is part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replaces unit #9233-16.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$379,655.75

Proposed Expenditure:	Account Number(s):
\$379,655.75	565-450-84500-6130 - VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicle
2. Rush Truck Center Vehicle Quote with Specifications

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation

Buyboard #521-16

Date: 11-12-2018

Description: New Peterbilt 348 truck with CLS VacCon V311E Combo Unit

Replaces: NEW

Bidder #1: Rush Truck Center Drew Neubauer 830-302-5254

Item bid: New Peterbilt 348 truck with CLS VacCon V311E Combo Unit

Per: attached quote specifications

Unit TOTAL \$ 379,655.75

It is Fleet Services recommendation to award the bid to Rush Truck Center as the lowest responsible bidder in the amount of \$ 379,655.75.

H. Deats Stewart
Fleet Services Manager

11-12-2018
Date,-



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of four (4) 2019 Ford F150 Extended Cab Pickup Trucks per Town of Flower Mound Specifications and Quote from Sam Pack's Five Star Ford in the amount of \$113,148.00.

BACKGROUND INFORMATION: The Development Services Department is requesting the purchase of four (4) New 2019 Ford F150 Extended Cab Pickup Trucks in the amount of \$113,148.00 from Sam Pack's Five Star Ford through an existing interlocal agreement with Tarrant County using Tarrant County Contract 2018-022. These vehicles are part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replaces units #21000-01, #21000-02, #21000-03 and #21000-05.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$113,148.00

Proposed Expenditure:	Account Number(s):
\$113,148.00	565-450-84500-6130 - VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicles
2. Vehicle Quote
3. Vehicle Specifications

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation

Co-op Contract: Tarrant County 2018-022

Date: 11-29-2018

Description: New 2019 Ford F-150 Extended Cab Pickup

Qty required: Four (4) units

Replaces:

Unit #21000-01: Ford F-150 pickup

Unit #21000-02: Ford F-150 pickup

Unit #21000-03: Ford F-150 pickup

Unit #21000-05: Ford F-150 pickup

Bidder: Sam Pack's 5-Star Ford, Carrollton, Tx.

Item #1: bid: New 2019 Ford F-150 Ectd. Cab Pickup \$26,042.00 per unit

*Per TOFM specifications/Quote

To include following options:

HD Rawson-Koenig across-the-bed tool box (Qty 1) \$695.00 per ea

HD Rawson-Koenig Louvered Headache Rack (Qty1) \$475.00 per ea

HD in-the-bed, over-the top rail side tool box (Qty 2) \$950.00 per 2

Six way socket wired and mounted in bumper recess \$125.00 per ea

Installation included on listed options. -----

Per Unit options Total: \$2245.00

Per each unit + options included:

Unit TOTAL \$28,287.00

Total for four units + options: \$113,148.00

It is Fleet Services recommendation to award the bid to Sam Pack 5-Star Ford as the lowest responsible bidder in the amount of \$ 113,148.00.

H. Deats Stewart

Fleet Services Manager

11-29-2018

Date,



PURCHASING SPECIFICATIONS

SPECIFICATION #070-63-006206

Revision date: 03/02/17

ITEM: New , Full Size, Extended Cab, 1/2 Ton Pick-Up,
Short Bed (Approximate 6-1/2 ft.)

APPLICATION: Field application

REQUIREMENTS:

1. Manuals: One (1) each --- Parts, Service, Operator
(One (1) sets per unit class, NOT per unit.)

****These manuals MUST accompany the 'delivery documents' at time of unit(s) delivery.**

2. The vehicle **MUST** be complete, to include ALL options and bid requirements per awarded bidder specifications at time of unit delivery.

Failure to do so could result in refusal of unit delivery and/or payment refusal until such time that all items and specifications are met and delivered to the Town of Flower Mound.

*****ATTENTION !!!:**

It is the intent of the Town of Flower Mound to satisfy the requirements set forth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

☐ Yes ☐ No 1. Unit(s) bid are EPA LEV (or greater) certified.

☒ Yes ☐ No 2. Unit(s) bid are E-85 Flex-Fuel Vehicles (if available)

DRIVE TRAIN

☒ Yes ☐ No 1. **Engine: V-8, approx. 231 hp.@4750 rpm , gasoline

**** (state engine size and horse-power bid)**

Engine bid: S.O V-8 395Hp

☒ Yes ☐ No 2. Automatic Transmission

☒ Yes ☐ No 3. Fuel tank: standard equipment capacity

- ☒ Yes ___ No 4. Heavy duty battery
- ☒ Yes ___ No 5. GVWR 6200# minimum (approx.)
- ☒ Yes ___ No 6. Power Brakes
- ☒ Yes ___ No 7. Wheelbase: to accommodate bed length requested
- ☒ Yes ___ No 8. H.D. Trailer Towing Package w/7-way socket

TIRES AND WHEELS

- ☒ Yes ___ No 1. Tires: Radial highway tread
- ☒ Yes ___ No 2. Full size spare tire with jack
- ☒ Yes ___ No 3. Standard hub covers

CAB & EQUIPMENT

- ☒ Yes ___ No 1. Power Steering
- ☒ Yes ___ No 2. OEM standard tinted glass (All)
- ☒ Yes ___ No 3. Intermittent wipers
- ☒ Yes ___ No 4. Exterior paint: OEM Fleet White
- ☒ Yes ___ No 5. Seats: Bench type with vinyl covering, blue interior (if available).
- ☒ Yes ___ No 6. Air Conditioning
- ☒ Yes ___ No 7. Rear Step Bumper
- ☒ Yes ___ No 8. Radio: Standard AM / FM plus
- ☒ Yes ___ No 9. Power windows
- ☒ Yes ___ No 10. Power door locks

INSPECTION

- ☒ Yes ___ No 1. Current Texas Vehicle State Inspection when delivered
(2 year certificate)

OTHER

- ☒ Yes ___ No 1. Full Floor Covering
- ☒ Yes ___ No 2. Heavy duty floor mats to match covering
- ☒ Yes ___ No 3. **Three (3)** sets of keys/FOBs. (door, ignition, trunk as applicable)
- ☒ Yes ___ No 4. Spray-in bed liner, to include tailgate and on the top of rear quarter panels.
- ☒ Yes ___ No 5. Back up camera w/in-dash screen.

OPTIONS (Include installation in price)**Price**

- | | |
|---|-------------------|
| 1. Heavy Duty in-the-bed, over-the-top-rail mounted, locking side boxes | \$ <u>475 x 2</u> |
| 2. 6-way socket wired and mounted in bumper recess | \$ <u>125</u> |
| 3. Rawson/Koenig heavy duty across-the-bed locking toolbox. | \$ <u>695</u> |
| 4. Rawson/Koenig heavy duty louvered headache rack | \$ <u>475</u> |

WARRANTY:

State warranty terms and conditions below:

5yr 60k Powertrain

3yr 36k Bumper/Bumper

COMMENTS:



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of three (3) New Chevrolet Tahoe 4WD Special Service Vehicle (SSV) with equipment and black trim paint scheme per Town of Flower Mound Quote Specifications from Holiday Ford and Holiday Chevrolet dba Johnson Grayson Automotive, Inc in the amount of \$154,197.00.

BACKGROUND INFORMATION: The Fire & Emergency Services Department is requesting the purchase of three (3) New Chevrolet Tahoe 4WD Special Service Vehicle (SSV) with equipment and black trim paint scheme in the amount of \$154,197.00 from Holiday Ford and Holiday Chevrolet dba Johnson Grayson Automotive, Inc through an existing interlocal agreement with Tarrant County using Tarrant County Contract 2019-014. These vehicles are part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replace units #64000-01, #61000-04 and #62000-01.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$154,197.00

Proposed Expenditure:	Account Number(s):
\$154,197.00	565-450-84500-6130 - VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicles
2. Vehicle Quote & Specifications
3. Equipment Quote & Specifications

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation

**Co-op Contract:
Tarrant County Contract 2019-014**

REVISED 12-12-18

Date: 12-12-2018

Description: New Chevrolet Tahoe SSV 4x4 Complete

Replaces: 64000-01, 61000-04 & 62000-01

Quantity: Three (3)

**Bidder #1: Holiday Ford and Holiday Chevrolet
(DBA: Johnson Grayson Automotive, Inc.)**

Item bid: New Chevrolet Tahoe SSV 4x4 SUV

Per: TOFM attached vehicle quote specifications
Per: TOFM attached equipment quote specifications
To include black trim paint scheme.

*1 unit does not include Havis Docking Station (64000-01 replacement)

*2 units do include the Havis Docking Station (61000-04 & 62000-01 replacements)

Tahoe SSV TOTAL (3 units): \$ 110,682.00

Equipment Upfit Total (3 units): \$ 43,515.00

Turnkey (3 units) Total: \$ 154,197.00

It is Fleet Services recommendation to award the bid to **Holiday Ford & Holiday Chevrolet (DBA: Johnson Grayson Automotive, Inc.)** as the lowest responsible bidder in the amount of **\$ 154,197.00**.

H. Deats Stewart
Fleet Services Manager

12-12-2018
Date

Holiday Ford and Holiday Chevrolet
(DBA: Johnson Grayson Automotive, Inc.)
 1009 Highway 82 W
 Whitesboro, TX 76273

Date	11/21/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flower-mo...
Estimate #	23831

Description	Location	Qty.	Ext. Price
Tarrant County Contract # 2019-014			
2019 Chevrolet Tahoe 4WD SSV - Special Service Vehicle with EcoTec3 5.3-liter, Dual Batteries, Heavy Duty Locking Differential, OnStar with Bluetooth Connectivity & Front Tow Hooks. (No Spotlight)		3	106,131.00
All Terrain Tires			
18" Aluminum Wheels			
Victory Red Exterior			
Blue Tooth			
3 sets Keys/FOBs			
Remote Start			
Window Tint - For Two Front Windows		3	237.00
2 Year Texas State Inspection Certificate		3	21.00
Special Paint - Black Roof		3	4,293.00

Final sale amount may be subject to state and local sales tax.
 PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipme... \$110,682.00

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS **SPECIFICATION NO.:070-71-04009**

ITEM: New 1/2 Ton Non-Pursuit rated, SUV Vehicle, 4-door, 4 wheel drive

Revised: Sept. 06, 2018

FUNCTION: Fire Application Vehicle. Public Safety (Fire) rated with rear cargo area for transporting various types of equipment.

DESCRIPTION: (The following should be interpreted as examples only, for the type of vehicle requested. It is not the intent of the Town of Flower Mound to exclude any vehicle which meets or exceeds the required specifications in this bid.)

Example:

Chevy Tahoe (non-police pursuit rated)

NOTE:

Bidder **MUST** place a checkmark in the appropriate box to indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

ATTENTION:

It is the intent of the Town of Flower Mound to satisfy the requirements set forth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

- | | | |
|---|-----------------------------|---|
| ☒ Yes | ☐ No | 1. Unit bid is EPA LEV (Certified Low Emissions Vehicle). |
| ☒ Yes | ☐ No | 2. Unit bid is an E-85 flex-fuel vehicle. |

DRIVE TRAIN

- | | | |
|---|-----------------------------|---|
| ☒ Yes | ☐ No | 1. Engine: Gasoline, minimum 5.0L V-8, approx. 350 h.p. |
|---|-----------------------------|---|

State engine size bid: 5.0L

- | | | |
|---|-----------------------------|---------------------------|
| ☒ Yes | ☐ No | 2. Automatic Transmission |
|---|-----------------------------|---------------------------|

Sportutility Fire Public Safety Rated 4x4 8 cyl

- ☒ Yes ☐ No 3. Fuel tank: min. 25 gal.
- ☒ Yes ☐ No 4. Severe Duty battery
- ☒ Yes ☐ No 5. Power Anti-lock Braking System, 4-wheel Disc
- ☒ Yes ☐ No 6. four wheel drive (4WD)

TIRES AND WHEELS

- ☒ Yes ☐ No 1. Tires: Radial all terrain
- ☒ Yes ☐ No 2. Full size spare tire with jack (all five tires must match)
- ☒ Yes ☐ No 3. Wheels: Aluminum, 18 inch
- ☒ Yes ☐ No 4. Matching spare tire wheel

CAB & EQUIPMENT

- ☒ Yes ☐ No 1. Power Steering
- ☒ Yes ☐ No 2. Tinted glass (All)
- ☒ Yes ☐ No 3. Intermittent wipers
- ☒ Yes ☐ No 4. Exterior Paint: Special Victory Red (to include all exterior body parts)
- ☒ Yes ☐ No 5. Front Seats: Cloth Front lowback (bucket) seats
- ☒ Yes ☐ No 6. Center full length floor console.
- ☒ Yes ☐ No 7. Rear Seats: Fold down, (preferred 60/40 split)
- ☒ Yes ☐ No 8. Air Conditioning
- ☒ Yes ☐ No 98. Radio: OEM Standard AM / FM, w/Blue Tooth for hands-free phone use
- ☒ Yes ☐ No 10. Rear Window Defroster
- ☒ Yes ☐ No 11. Interior cargo area.

Preferred width: min. 74" between wheel housing

State width of unit interior bid: 74"

Preferred cargo volume: min. 110 cu.ft.

State cargo volume of unit bid: 110 cu ft

- ☒ Yes ☐ No 12. Rear window washer and wiper
- ☒ Yes ☐ No 13. Power windows
- ☒ Yes ☐ No 14. Power door locks
- ☒ Yes ☐ No 15. Power Driver/Passenger Mirrors
- ☒ Yes ☐ No 16. Front and Rear: Full black rubber floor covering (no carpet)
w/front and rear heavy duty rubber floor mats.
- ☒ Yes ☐ No 17. Interior color: Dark gray or equivalent dark interior
- ☒ Yes ☐ No 18. Keyless entry (if applicable)
- ☒ Yes ☐ No 19. Three (3) sets of keys/FOBs
- ☒ Yes ☐ No 20. Rear lift hatch
- ☒ Yes ☐ No 21. Tilt steering wheel
- ☒ Yes ☐ No 22. Remote Start (Factory OEM)

OTHER

- ☒ Yes ☐ No 1. Running boards, full length.
- ☒ Yes ☐ No 2. Dual battery system

INSPECTION

- ☒ Yes ☐ No 1. Current Texas Vehicle State Inspection when delivered
(2 year certificate)

Warranty: Standard Manufacturers warranty. Please specify.

3y / 36K Mile Bumper to Bumper

5yr / 100K Mile Drive Train

Sportutility Fire Public Safety Rated 4x4 8 cyl

COMMENTS

Use this section to explain exceptions, bid clarification or any items that you marked "NO" on above:

N/A



DEFENDER SUPPLY

Date	11/21/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flow...
Estimate #	23832

Description	Location	Qty.	Cost	Vehicle and Em...
2019 Tahoe SSV for FD				
Havis Docking Station for Dell's Latitude 12 Rugged Tablet with Power Supply		2	537.00	1,074.00
Havis Dash Mount for 2015-2019 Chevrolet Tahoe		2	264.00	528.00
Whelen Carbide System w/ Canport - WITH CANCTL7 CONTROL HEAD		3	966.00	2,898.00
OBDII Module for Chevy Tahoe		3	0.00	0.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Control/Carbide)		3	0.00	0.00
Carbide Expansion Module		6	139.00	834.00
Whelen Carbide WC External Amp for Dual Tone		3	168.00	504.00
Whelen 100 Watt All Weather Heavy Duty Composite Siren Speaker		6	169.00	1,014.00
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Chevrolet Tahoe 9C1, Driver Side		3	22.00	66.00
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Chevrolet Tahoe 9C1, Passenger Side		3	22.00	66.00
Tracer Duo, 5 Lamp Housing, Red/White		6	810.00	4,860.00
TRACER MTG KIT CHEVY TAHOE		6	37.00	222.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Red		6	139.00	834.00
Whelen under the Side Mirror Mount Bracket for LINSV2* for 2015+ Chevrolet Tahoe 9C1 - (one pair)		3	19.00	57.00
Whelen Inner Edge for 2015+ Chevy Tahoe 9C1, Suburban, 2014+ Chevy Silverado-1500/2500/3500, Twelve 6-LED DUO™ Lamps, Upper Front Unit, Two Piece, Individual Driver and Passenger Side Units - RW Driver and Passenger		3	939.00	2,817.00
Rear Outer Edge, Red/Blue with Amber Override, IE45UR8 Tahoe		3	846.00	2,538.00
Federal Signal LED Opticom ® Emitter, Infrared System - External Use		3	1,133.00	3,399.00
500 V-SERIES WARNING LT GREEN	Exterior Rear Handle Mount	3	223.00	669.00
Black flange kit for 5G series		3	6.00	18.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost



DEFENDER SUPPLY

Date	11/21/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flow...
Estimate #	23832

Description	Location	Qty.	Cost	Vehicle and Em...
Perimeter Enhancement LED	Interior Rear Hatch	3	118.00	354.00
Whelen Universal Mount ION™ with Combination 180° Warning, Take Down & Puddle Light Single Color – Red with Black Housing		3	149.00	447.00
Whelen Universal Mount ION™ with Combination 180° Warning, Take Down & Puddle Light Single Color – Amber with Black Housing		3	149.00	447.00
Whelen ION License Plate Bracket		3	19.00	57.00
Whelen ION Series LED, Red with Universal Clip Mounts		3	89.00	267.00
Whelen ION Series LED, Amber with Universal Clip Mounts		3	89.00	267.00
Whelen ION™ T-Series™ Linear Super-LED® DUO Color Surface Mount in Red/Amber Split Heads	Rear Hatch Edge	6	119.00	714.00
Whelen Vertex Hide-away LED Red/White Split	Headlight/Tail	12	89.00	1,068.00
DOMINATOR PLUS 4-LINZ6 R/R/W/W	Rear Quarter Glass	3	359.00	1,077.00
DOMINATOR PLUS 4-LINZ6 W/R/W/R	Rear Quarter Glass	3	359.00	1,077.00
Whelen Dominator 4" Brackets		6	19.00	114.00
Whelen Grille Mount Brackets for (2) Two ION's Mounted Side by Side for 2015+ Chevy Tahoe 9C1		6	19.00	114.00
Whelen ION Series LED, Red/White Split Head with Universal Clip Mounts	Behind Grill	12	135.00	1,620.00
Whelen M4 LED Light - Red/White	Fog Lights	6	139.00	834.00
One pair of fog light mounting brackets for M4 lighting on 2015+ Tahoes		3	41.00	123.00
C-VS-0812-TAH-1, Havis Console, Tahoe		3	312.00	936.00
Equipment Brackets: Cencom Carbide APX7500 Dash Mount/One piece APX6500 Dual Head Remote				
HAVIS Arm Rest - Side Mount		3	55.00	165.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost

Page 2

SIGNATURE



DEFENDER SUPPLY

Date	11/21/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	vickie.porter@flow...
Estimate #	23832

--

Description	Location	Qty.	Cost	Vehicle and Em...
Havis Two Console Mount Flush Cup Holders		3	34.00	102.00
Havis 3in. Accessory Pocket, 2.5 in. Deep		3	37.00	111.00
Whelen Solid State Chevrolet Tahoe Headlight/Taillight Flasher		3	69.00	207.00
Two Way 800 MHZ Radio Antenna & Coax Cable		3	44.00	132.00
Shipping of Above Emergency Parts for Upfit		3	69.00	207.00
Installation of Above Emergency Equipment and tail light activation		111	85.00	9,435.00
Defender Supply wiring harness, Top Hat Timer and Blue Sea power distribution block		3	365.00	1,095.00
Misc. Shop Supplies		3	49.00	147.00

Vehicle and Emergency Equipment Total
\$43,515.00

Quantity Ordered

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost

Town of Flower Mound

PURCHASING SPECIFICATIONS

Specification #: Fire Dept. Tahoe Equip

ITEM: Public Safety (Fire) rated equipment to include install as required

Equip. Fit: New and current Chevrolet Tahoe (non-pursuit rated) SUV, 4-wheel drive

GENERAL BID REQUIREMENTS:

Bidders are cautioned to read the specifications carefully, as there may be special requirements not commonly offered by other contracts. Do not assume your standard unit will meet all detailed specifications.

The equipment bid shall be new, manufactured the same year or succeeding year of bid, of current design and production model and available to the commercial market. Any additions, deletions or variations from the following specifications must be noted or the bid will be rejected. Standard items appearing in the manufacturers published specifications furnished by the bidder shall be included in the bid unless otherwise noted. One copy of the manufacturers published specifications shall be included with the bid.

NOTE:

Bidder MUST place a checkmark in the appropriate box to indicate: 'Yes' Unit bid meets or exceeds the minimum required specification, or 'No' unit Bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

*****ATTENTION:**

ITEM PART NUMBERS MAY NOT BE CURRENT BASED ON NEW UNIT BEING 2019 APPLICATION. PLEASE MAKE PART NUMBER CORRECTIONS AND/OR ADDITIONS AS REQUIRED.

Items and Part Numbers are based on last 2017 Fire Dept. Tahoe application up-fitted by Defender Supply. Make deletions and additions as needed or required to complete unit and make notation of changes on co-op contract quote submitted.

<u>Item Part #</u>	<u>Qty</u>	<u>Description</u>	<u>Price (total #)</u>
WH-CCSRNT4G	1	Carbide SRN SYS 21 Button	\$ <u>1244⁰⁰</u>
WH-CCSRN-4DA	1	Whelen Carbide WC External Amp for Dual Tone	\$ <u>168⁰⁰</u>
WH-SA315P	2	Whelen 1 Watt All Weather Heavy Duty Composite Siren Speaker	\$ <u>338⁰⁰</u>
WH-SAK63D	1	Whelen Behind the Grill Siren Speaker Bracket-2018+ Chevrolet Tahoe 9C1, Driver Side	\$ <u>44⁰⁰</u>
WH-TCRHD5	1	Tracer Duo, 5 Lamp Housing, Red/White	\$ <u>1620⁰⁰</u>
WH-TCRB45	2	Tracer Mtg Kit Chevy Tahoe	\$ <u>74⁰⁰</u>
WH-LINSV2R	2	Whelen V-Series, Combination 180 deg. Warning & Puddle light with Scan-Lock Flash Patterns for Under Surface Mounting – Red	\$ <u>278⁰⁰</u>
WH-LSVBKT45	1	Whelen under the Side Mirror Mount Bracket for LINSV2 for 2018+ Chevrolet Tahoe 9C1 – (one pair)	\$ <u>19⁰⁰</u>
WH-IW45UFX	1	Whelen Inner Edge for 2018+ Chevy Tahoe 9C1, Suburban, Chevy Silverado-1500/2500/3500. Twelve 6-LED DUO Lamps. Upper Front Unit. Two Piece, Individual Driver and Passenger Side Units	\$ <u>939⁰⁰</u>
		RW Driver, RW Passenger	
WH-IWDTRAY8	1	Read Outer Edge, Red with Amber Override, IE45UR8 Tahoe	\$ <u>846⁰⁰</u>
Federal Signal	1	Federal Signal LED Opticom Emitter, Infrared System-Low Profile LED Emitter-External Use. Note: Attach under light bar if applicable.	\$ <u>1133⁰⁰</u>
WH-5V1G	1	500 V-Series RIFS Warning Lt Green	\$ <u>223⁰⁰</u>
WH-5FLANGEB	1	Black flange kit for 5G series	\$ <u>6⁰⁰</u>

<u>Item Part #</u>	<u>Qty</u>	<u>Description</u>	<u>Price (total #)</u>
WH-PELCC	1	Perimeter Enhancement LED	\$ <u>118⁰⁰</u>
WH-IONV3R	1	Whelen Universal Mount ION with Combination 180 degree Warning, Take Down & Puddle Light Single Color-Red with Black Housing.	\$ <u>149⁰⁰</u>
WH-IONV3A	1	Whelen Universal Mount ION with Combination 180 degree Warning, Take Down & Puddle Light Single Color-Amber with Black Housing.	\$ <u>149⁰⁰</u>
WH-IONBKT1	1	Whelen ION License Plate Bracket.	\$ <u>19⁰⁰</u>
WH-IONR	1	Whelen ION Series LED, Red with Universal Clip Mounts.	\$ <u>89⁰⁰</u>
WH-IONA	1	Whelen ION Series LED, Amber with Universal Clip Mounts.	\$ <u>89⁰⁰</u>
WH-TL12K	2	ION T-SERIES LINEAR DUO R/A	\$ <u>238⁰⁰</u>
WH-VTX609D	4	Whelen Vertex Hide-away LED Red/White Split.	\$ <u>356⁰⁰</u>
WH-DP4CRCR	1	DOMINATOR PLUS 4-LINZ6 W/R/W/R	\$ <u>359⁰⁰</u>
WH-DP4RRCC	1	DOMINATOR PLUS 4-LINZ6 R/R/W/W	\$ <u>359⁰⁰</u>
WH-DBKT4	2	Whelen Dominator 4" Brackets	\$ <u>38⁰⁰</u>
WH-IONBKT7	2	Whelen Grille Mount Brackets for (2) Two ION's Mounted Side by Side for <u>2018+</u> Chevy Tahoe 9C1	\$ <u>38⁰⁰</u>
WH-IOND	4	Whelen ION Series LED, Red/White Split Head with Universal Clip Mounts.	\$ <u>540⁰⁰</u>
WH-M4D	2	Whelen M4 LED Light-Red/White	\$ <u>278⁰⁰</u>
WH-M4CT15B	1	One pair of fog light mounting brackets for M4 lighting on <u>2018+</u> Tahoes.	\$ <u>41⁰⁰</u>

<u>Item Part #</u>	<u>Qty</u>	<u>Description</u>	<u>Price (total #)</u>
??????????????	1	20" Vehicle Specific Console for <u>New 2019</u> Chevrolet Tahoe Police Pursuit Vehicle (PPV).	\$ <u>312⁰⁰</u>
		Cencom Carbide APX7500 Dash Mount/One piece APX6500 Dual Head Remote	
HV-C-ARM-102	1	HAVIS Arm Rest-Side Mount	\$ <u>55⁰⁰</u>
HV-C-CUP2-1	1	HAVIS Two Console Mount Flush Cup Holders.	\$ <u>34⁰⁰</u>
HV-C-AP-0325	1	HAVIS 3in Accessory Pocket. 2.5 in Deep	\$ <u>37⁰⁰</u>
Installation	33	Installation of Above Emergency Equipment. (2) customer-supplied radios and tail light Activation, 1 public safety, 1 amateur.	\$ <u>3145⁰⁰</u>
DS-Wire-Power...	1	Defender Supply wiring harness. Top Hat Timer and Blue Sea power distribution block.	\$ <u>365⁰⁰</u>
????????????????	1	Flasher Module	\$ <u>69⁰⁰</u>
????????????????	1	Antenna/Coax	\$ <u>44⁰⁰</u>
Misc. Shop Supp...	1	Misc. Shop Supplies	\$ <u>49⁰⁰</u>
Shipping	1	Shipping of above Emergency Parts for Upfit	\$ <u>69⁰⁰</u>

ANY EXCEPTIONS TO THESE SPECIFICATIONS MUST BE NOTED.

COMMENTS: 5 YEAR MANUFACTURER WARRANTY.



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of three (3) New Chevrolet Colorado Half-Ton Double Cab Pickup Trucks with 6.5' Bed per Vehicle Quote/Specifications from Reliable Chevrolet in the amount of \$70,287.00.

BACKGROUND INFORMATION: The Meter Services Department is requesting the purchase of three (3) New Chevrolet Colorado Half-Ton Double Cab Pickup Trucks with 6.5' Bed in the amount of \$70,287.00 from Reliable Chevrolet through an existing interlocal agreement with Tarrant County using Tarrant County Contract 2018-22. These vehicles are part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replace units #5220-10, #5220-11 and #5220-12.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$70,287.00

Proposed Expenditure:	Account Number(s):
\$70,287.00	565-450-84500-6130 - VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicles
2. Vehicle Quote & Specifications

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation

**Co-op Contract:
Tarrant County Contract 2018-022**

Date: 11-16-2018

Description: New ½ ton double cab pickup w/6.5 ft bed

QTY: Three (3)

Replaces: 5220-10,11,12

Bidder #1: Reliable Chevrolet

Item bid: New Chevrolet ½ ton Double Cab Pickup w/6.5 ft bed \$21,644.00
** Alternate vehicle quote

Per: attached vehicle quote specifications

To include: (Per Unit installed)

H.D. Rawson Koenig louvered headache rack Qty:1 \$ 595.00

H.D. Rawson Koenig STS side box (full length of side) Qty:2 \$ 1190.00

Per each Unit TOTAL \$23,429.00

Qty: (3) TOTAL: \$70,287.00

It is Fleet Services recommendation to award the bid to Reliable Chevrolet as the lowest responsible bidder in the amount of \$70,287.00.

H. Deats Stewart
Fleet Services Manager

11-19-2018
Date

From Adams
Does Adams
Reliable Chevy

Town of Flower Mound

Send back to Deats

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:070-63-04205

Revised: Oct. 17, 2018

ITEM: Compact Pickup, 2WD, Regular Cab, long bed

FUNCTION: Staff Vehicle

**Example: Chevrolet Colorado
Ford Ranger**

DESCRIPTION:

This specification is intended to describe for acquisition purposes by the Town of Flower Mound, a Compact Pickup to be used by the Town of Flower Mound.

REQUIREMENTS:

1. Manuals: Two (2) each --- ^{N/A} Parts, ^{N/A} Service, [✓] Operator ^(N/A) _{service parts} + *more operator*
(Two (2) sets per unit type, NOT per unit.)

****These manuals MUST accompany the 'delivery documents' at time of unit(s) delivery.**

*****ATTENTION !!!:**

It is the intent of the Town of Flower Mound to satisfy the requirements set forth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

☒ Yes ☐ No 1. Unit(s) bid, are EPA LEV (Low Emission Vehicle) certified.

NOTE:

Bidder MUST place a checkmark in the appropriate box to indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

DRIVE TRAIN

☒ Yes ☐ No 1. Engine: Gasoline, V6 cylinder.

- ☒ Yes ___ No 2. Automatic Transmission
- ☒ Yes ___ No 3. Fuel tank: 15 gal. minimum
- ☒ Yes ___ No 4. Heavy duty battery
- ☒ Yes ___ No 5. Power Brakes

TIRES AND WHEELS

- ☒ Yes ___ No 1. Tires: Radial highway tread
- ☒ Yes ___ No 2. Full size spare tire with jack

CAB & EQUIPMENT

- ☒ Yes ___ No 1. Power Steering
- ☒ Yes ___ No 2. OEM Factory Tinted glass (All)
- ☒ Yes ___ No 3. Intermittent wipers
- ☒ Yes ___ No 4. Exterior color: Fleet White
- ☒ Yes ___ No 5. Rear Step Bumper
- ___ Yes ☒ No 6. Seats: Bench type with vinyl covering, blue interior (if available) *Buckets only*
- ☒ Yes ___ No 7. Air Conditioning
- ☒ Yes ___ No 8. Radio: OEM Standard

INSPECTION

- ☒ Yes ___ No 1. Current Texas Vehicle State Inspection when delivered (2 year certificate)

OTHER

- ☒ Yes ___ No 1. Full Floor Covering *Carpet or vinyl*
- ☒ Yes ___ No 2. Front floor mats to match covering *(included with carpet)
n/a with vinyl*
- ☒ Yes ___ No 3. Spray-in bedliner. To include inside sides of bed and tailgate.

Warranty: Standard Manufacturers warranty. Please specify.

3 year / 36000 m bumper to bumper

5 year / 100000 m powertrain ~~to~~ deductible

5yr/100K courtesy trans, 5yr/100K roadside assistance

OPTIONS:

COST

1. Heavy duty Rawson Koenig louvered headache rack

595

2. Heavy duty Rawson Koenig STS style (side top style) side boxes (full length of sides. **Qty: 2**)

Per each:

1190

1785
installed

COMMENTS

Use this page to explain any items that you marked no on above:

front seats only available in buckets in Colorado

Chevrolet only offers the Colorado in EXT Cab or Crew Cab

Chevrolet not building regular Cab 8' until spring - NEW GENERATION

Offer Current generation Double Cab w/ 6.5' bed

46/20/40 Bench on DBL Cab

as alternative

ATTENTION: ALTERNATE BID

BID: New ½ ton full size Pickup, Regular Cab, Long Bed, 2WD

(Per the above specs for Compact pickup)

Bid total for alternate bid:

Cost for OPTIONS:

1. Heavy duty Rawson Koenig louvered headache rack

2. H.D. Rawson Koenig STS style side tool boxes (Qty 2) per ea. 1190

Using Tarrant Co
2018-022

ALT
Colorado X Cab
Price

23886

*floorliners +275

24161

595

1785
installed

ALT
Double
Cab
Price

21369

+275

21644

595

1785
installed



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: January 7, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of eight (8) New 2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle (PPV) with equipment per Town of Flower Mound Specifications from Holiday Ford and Holiday Chevrolet dba Johnson Grayson Automotive, Inc in the amount of \$468,608.00.

BACKGROUND INFORMATION: The Police Services Department is requesting the purchase of eight (8) 2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle (PPV) with equipment in the amount of \$468,608.00 from Holiday Ford and Holiday Chevrolet dba Johnson Grayson Automotive, Inc through existing interlocal agreement with Tarrant County to use Tarrant County Contract 2019-014. Four (4) of the vehicles are part of the approved Fiscal Year 2018-2019 Vehicle Equipment Replacement Fund (VERF) budget and replace units #43500-11, #43500-12, #43500-14 and #43500-15 for a total amount of \$210,664.00 (\$52,666.00 each). The remaining four (4) vehicles are new additions to the Town's Fleet Inventory...two (2) are being purchased for Patrol and are funded through the Crime District Fund in the amount of \$128,972.00 (\$64,486.00 each) and the two (2) new School Resource Officer Units are part of the Department's approved FY18-19 in the amount of \$128,972.00 (\$64,486.00 each).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$468,608.00

Proposed Expenditure:	Account Number(s):
\$210,664.00	565-450-84500-6130 - VERF
\$128,972.00	318-560-43500-6130 – Crime District
\$128,972.00	100-640-43500-6130 – Police Services

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation, Vehicle Quote/Specs & Equipment Quote/Specs (VERF Units)
2. Bid Award Recommendation, Vehicle Quote/Specs & Equipment Quote/Specs (New – Patrol)
3. Bid Award Recommendation, Vehicle Quote/Specs & Equipment Quote/Specs (New – SRO)

DRAFT MOTION: Move to approve as presented in the agenda caption.



Bid Award Recommendation
Co-op Contract:
Tarrant County Contract #2019-014

REVISED: 12-06-18

Date: 11-14-2018

Description: New 2018 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle

Quantity: 4 units

Replaces: 43500-11,12,14,15

Bidder #1: Holiday Ford and Holiday Chevrolet
DBA: Johnson Grayson Automotive, Inc.

Item bid: New 2018 Chevrolet Tahoe RWD 9C1 PPV

Per: TOFM specifications

Total Per Each Unit Complete: \$ 52,666.00
(includes unit cost + equip. cost)

Qty: 4 Units Complete Total: \$210,664.00

It is Fleet Services recommendation to award the bid to Holiday Ford & Holiday Chevrolet as the lowest responsible bidder in the amount of \$ 210,664.00.

H. Deats Stewart
Fleet Services Manager

11-14-2018
Date,

Holiday Ford and Holiday Chevrolet
(DBA: Johnson Grayson Automotive, Inc.)
1009 Highway 82 W
Whitesboro, TX 76273

Date	10/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower
Estimate #	23549

Description	Location	Qty.	Ext. Price
Tarrant County Contract # 2019-014			
2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle with EcoTec3 5.3-liter, Dual Batteries, Heavy Duty Locking Differential, OnStar with Bluetooth Connectivity, Vinyl Rear Seat & Front Recovery Tow Hooks. (No Spotlight)		4	128,508.00
BLACK Exterior			
6E2 Keyed Alike			
AMF 6 Sets of Keys/FOBs			
Rear Windows, Doors, Locks, Handles, INOP, 6N5, 6N6			
Ice/Snow Cables. 1 set, 2 tires		4	764.00
Window Tint - For Two Front Windows-Madico Onyx 55%		4	316.00
Unity Driver Side Halogen Spotlight, Spotlight Shaft, Handle & Mounting Bracket for a 2015+ Tahoe (LED Replacement Bulb Sold Separately).		4	1,152.00
Whelen LED 8 Degree Spotlight Replacement		4	636.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		4	276.00
2 Year Texas State Inspection Certificate		4	28.00
Vehicle Dealer Prep		4	520.00

Final sale amount may be subject to state and local sales tax
PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipme... \$132,200.00

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: September 14, 2018

**ITEM: (4) Four New Vehicle 1/2 Ton Pursuit rated
Police pkg. SUV, 4-door, 2 wheel drive
(TOFM vehicle replacement program)**

FUNCTION: Pursuit Application Vehicle. Public Safety unit with rear cargo area for transporting various types of equipment.

DESCRIPTION: (The following should be interpreted as examples only, for the type of vehicle requested. It is not the intent of the Town of Flower Mound to exclude any vehicle which meets or exceeds the required specifications in this bid.)

Example:

Chevy Tahoe (police pursuit rated)

NOTE:

Bidder MUST indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

ATTENTION:

It is the intent of the Town of Flower Mound to satisfy the requirements setforth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

Bidder / Flower Mound

Y/N Y/N

☒ Y__ 1. Unit bid is EPA LEV (Certified Low Emmissions Vehicle).

☒ Y__ 2. Unit bid is an E-85 flex-fuel vehicle. (FFV not required for this application.)

DRIVE TRAIN**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Engine: Gasoline, minimum 3.5L or equal
 State engine size bid: V8 5.3
 Flex-Fuel: ☒ Yes ___ No

☒ Y__ 2. Automatic Transmission

☒ Y__ 3. Fuel tank: min. 20 gal.

☒ Y__ 4. Dual Heavy duty battery

☒ Y__ 5. Power Anti-lock Braking System, 4-wheel Disc

☒ Y__ 6. Rear wheel drive

TIRES AND WHEELS**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Tires: Radial highway, all season

☒ Y__ 2. Full size spare tire with jack

☒ Y__ 3. Matching full size spare tire/wheel

☒ Y__ 4. Ice/Snow cables (1 set, for 2 tires) per the tire size bid

CAB & EQUIPMENT**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Power Steering

☒ Y__ 2. Tinted glass – Front Driver/Passenger 55% Madico Onyx (rear factory darkness)

☒ Y__ 3. Intermittent wipers

☒ Y__ 4. Exterior Paint: **Black**

☒ Y__ 5. Seats: Cloth Front lowback (bucket) seats, Rear Vinyl

- ☒ Y__ 6. Rear fold down seat, (preferred 60/40 split)
☒ Y__ 7. Air Conditioning
☒ Y__ 8. Radio: Standard AM / FM w/CD player
☒ Y__ 9. Rear Window Defroster
☒ Y__ 10. Interior cargo area.
 Preferred width: min. 74".
 State width of unit interior bid: 74"
 Preferred cargo volume: min. 27 cu.ft.
 State cargo volume of unit bid: 27
☒ Y__ 11. Rear window washer and wiper
☒ Y__ 12. Power windows (with inoperative rear window switches) 6N5
☒ Y__ 13. Power door locks (with rear door locks and handles inoperative) 6N6
☒ Y__ 14. Power Driver/Passenger Mirrors
☒ Y__ 15. Front and Rear: Full black rubber floor covering (no floormats).
☒ Y__ 16. Interior: Dark gray or equivalent dark interior
☒ Y__ 17. Keyless entry
☒ Y__ 18. six (6) sets of keys (Must be included at time of vehicle delivery) 5HP
☒ Y__ 19. All vehicles keyed alike (6E2 Key Common)
☒ Y__ 20. Rear lift hatch
☒ Y__ 21. 1 - Vehicle spotlight/post and door mount (LED), located on the driver side only.
☒ Y__ 22. Tow Hitch / Package
☒ Y__ 23. 6J7 Flasher System (Headlamp and Tailamp) 6J7
☒ Y__ 24. Bluetooth UE1

☒ Y__ 25. Rear Grounding Studs UT7

OTHER EQUIPMENT

Bidder / Flower Mound

Y/N Y/N

☒ Y__ 1. Running boards. full length.

☒ Y__ 2. Pursuit Package (Law Enforcement Emergency Vehicle Package) to include but not limited to: engine and transmission cooling package, increased electrical power and heavy duty suspension.)

☒ Y__ 3. Vehicle State Inspection when delivered (2 year certificate)

TOTAL BID PRICE

(To include all listed equipment and installation)

\$ 33,050⁰⁰ EA

x 4

Warranty: Standard Manufacturers warranty. Please specify.

\$132,200⁰⁰

26K/3 yr Bumper - Bumper

5 yr/100K Drive Train

COMMENTS

Use this page to explain any items that you marked no on above:



DEFENDER SUPPLY

Date	10/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23563

Description	Location	Qty.	Cost	Vehicle and Em...
Replacement Equipment - 4 each				
Troy Products Dash Contour Console Includes 2" USB plate, Arm Rest, Dual Cup Holder & Mic Clip.		1	259.00	259.00
Faceplates Watch Guard 4RE Cancom Motorola APX6500 Radio - 2 Piece				
Troy Internal Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Console, Side Mount Armrest		1	67.00	67.00
Troy Computer Mount, Side Clevis		1	315.00	315.00
5700VS Series, Space Saver Plus Partition with VIPER Shield Integrated Level IIIA Ballistic Shield (Side Curtain Airbag Compatible) for 2015+ Tahoe		1	2,596.00	2,596.00
Pro-Gard Charcoal Grey ABS Standard Straight Back Transport Seat with Wire Mesh Screen and Outboard Seat Belts for 2015+ Chevrolet Tahoe		1	1,019.00	1,019.00
Setina window bars for a 2015+ Tahoe		1	144.00	144.00
Door Panel VS TPO Plastic Black Installs Over OEM Door Panels for a 2015+ Tahoe		1	151.00	151.00
Dual T-Rail Weapon Lock with Timer & Handcuff Adjustable Locks Setina T-Rail Universal Lock, EoTech Bracket		1	17.00	349.00 17.00
Installation of Above Equipment		1	720.00	720.00
CANTROL WC CONTROL SYSTEM Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Control/Carbide)		1 1	1,097.00 0.00	1,097.00 0.00

Vehicle and Emergency Equipment Total

Quantity Ordered

4

Total Vehicle Order Cost

578,464.00

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Page 1

SIGNATURE

total of Equip for
4 units.

\$19,616 per unit.



DEFENDER SUPPLY

Date	10/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	23563

Description	Location	Qty.	Cost	Vehicle and Em...
OBDI Module for Chevy Tahoe		1	0.00	0.00
Whelen M4J Series SpR Head Red/Blue	Push Bumper Front & Side	4	129.00	516.00
Forward Facing Steel Bracket for an Whelen M4 Light (each)		2	12.00	24.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Blue	Siderview Mirror	1	139.00	139.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Red		1	139.00	139.00
Whelen under the Side Mirror Mount Bracket for LINSV2® for 2015+ Chevrolet Tahoe 9C1 - (one pair)		1	19.00	19.00
Whelen Surface Mount LED Duo ION, Red/Blue	Each Running Board	2	129.00	258.00
Whelen Universal Mount LED Duo ION, Red/Blue	Rear Quarter Glass	2	131.00	262.00
ION REAR PILLAR WC DUO TAHOE, Red/Blue	Rear Pillar	1	912.00	912.00
Whelen Trio Color Linear ION Red/Blue/White	Trailer Hitch Area	1	129.00	129.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		1	69.00	69.00
Whelen Universal Solid State Tail Light Flasher	For Rear Tail LED Ring	1	69.00	69.00
Whelen Low Frequency Howler Siren System programmed to run 60 seconds		1	443.00	443.00
Whelen Howler Bracket - 2017+ Tahoe		1	0.00	0.00
PLEASE INCLUDE REQUIRED PART #s WH-SAK63D AND WH-SAK63P				
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Tahoe, Driver Side *****MUST INCLUDE SAK63P IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen Behind the Grill Siren Speaker Bracket - 2017 Tahoe, Driver Side *****MUST INCLUDE SAK63D IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White	Rear Hatch & Prisoner	2	59.00	118.00
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00
Installation of Above Equipment		1	2,160.00	2,160.00

Vehicle and Emergency Equipment Total

Quantity Ordered

1

Total Vehicle Order Cost

\$78,464.00

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Page 2

SIGNATURE



DEFENDER SUPPLY

Date	10/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23563

Vehicle and Emergency Equipment Total

Description	Location	Qty.	Cost	Vehicle and Em...
Go Rhino Push Bumper, Textured, 2015+ Tahoe		1	289.00	289.00
Streamlight SL-20L LED Flashlight		1	102.00	102.00
Stinger power cable for mobile charging unit.		1	9.00	9.00
Stinger car charging unit		1	13.00	13.00
90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100, 110 Series, DS-DELL-200, 210, 220, 230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	132.00	132.00
Watch Guard 2016 Tahoe 4Re Mounting Kit		1	85.00	85.00
SafeStop for 2015+ Tahoe		1	118.00	118.00
Stalker Antenna Bracket for the Front Antenna for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	54.00	54.00
Stalker Counting Unit Mount for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	49.00	49.00
Watch Guard 4RE Cables, complete cable kit		1	291.00	291.00
Motorola External Speaker		1	133.00	133.00
Motorola APX4500 Cables, complete cable set		1	377.00	377.00
Stalker DSR-2X Radar Cable Kit		1	412.00	412.00
Federal Signal LED Opticom ® Emitter, Infrared System - External Use "Square Box Looking One"		1	1,218.00	1,218.00
Opticom Bracket for Front Push Bumper just like Fairview PD placing the Opticom up close to the top Horizontal Bar - Made by Defender Supply		1	39.00	39.00
Design & Installation of Graphics for Customer's Department-Mike Glass		1	688.00	688.00
Shipping of Above Emergency Parts for Upfl		1	103.00	103.00
Misc. Shop Supplies		1	77.00	77.00

Vehicle and Emergency Equipment Total

Quantity Ordered

4

Total Vehicle Order Cost

\$78,464.00

Page 3

SIGNATURE

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DEFENDER SUPPLY

Date	10/24/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@f...
Estimate #	23563

Description	Location	Qty.	Cost	Vehicle and Em...
Defender Supply Wiring Harness, Power Distribution Block and Battery Management System				375.00
Installation of Above Equipment		1	1,440.00	1,440.00
Removal of Below Equipment from Existing Tahoe's		1	450.00	450.00
Legacy Light Bar Go Industries Cargo Box 4-Wheel Dome Lights Stalker Radar Watch Guard 4RE Video Systems Havis Docking Station				
Installation of Removed Equipment		1	810.00	810.00
Legacy Light Bar Go Industries Cargo Box 4-Wheel Dome Lights Stalker Radar Watch Guard 4RE Video Systems Havis Docking Station				
Cradlepoint and Associated Cables				
Decommissioned Unit Removal Charge		1	180.00	180.00

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipment Total **\$19,616.00**

Quantity Ordered **4**

Total Vehicle Order Cost **\$78,464.00**

Town of Flower Mound

PURCHASING SPECIFICATIONS**SPECIFICATION NO.:**Revised: October 23, 2018

ITEM: Replacement Equipment for Tahoe's 43500-11,12,14,15
Police pkg. SUV, 4-door, 2 wheel drive
(TOFM vehicle replacement program)

NOTE:

Bidder **MUST** indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

EQUIPMENT OPTIONS:

Manufacturer brands and model numbers listed are to be interpreted as 'preferred'. Any equivalent bid must be an exact replacement for preferred Mfg. brand and model number.

*The following items will be included as Options. The listed Mfg. brand or a manufacture equivalent will be required. If an equivalent is named it must be approved by the Town of Flower Mound Chief of Police or his designee.

Interior*COST**
EACH**Bidder / Flower Mound****Y/N Y/N**

☒	Y	(4) Troy Standard Width Console 18" Part # CC-F-TMC-711AC	\$ <u>259⁰⁰</u>
☒	Y	(4) Troy Products Internal Bev Holder #AC-INBHG	\$ <u>38⁰⁰</u>
☒	Y	(4) Troy WatchGuard 4RE center console bracket	\$ <u>0</u>
☒	Y	(4) Troy console bracket for USB and 12v	\$ <u>42⁰⁰</u>

*Included
per Mike
11/6/18*

✓	Y_	(4) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$ 67 ⁰⁰
✓	Y_	(4) Troy Computer Mount Side Clevis Part # CM-SDMT-SLS-IIAV	\$ 315 ⁰⁰
✓	Y_	(4) Pro-Gard Viper Shield, Center sliding Poly Window Part # PVSSP5704T15A	\$ 2596 ⁰⁰
✓	Y_	(4) Pro-Gard Rear Transport Seats. Grey w/ Steel Screen & mount Part # S5704T15A	\$ 1019 ⁰⁰
✓	Y_	(4) Setina Window Barrier Part # WK0514TAH15	\$ 144 ⁰⁰
✓	Y_	(4) Setina Rear Door Panels Cover Part# DK0100TAH15	\$ 151 ⁰⁰
✓	Y_	(4) Pro-Gard Recessed Panel (Space Saver) Part# RP57T15	\$ 0 Included
✓	Y_	(4) Pro-Gard Extension Panels (Pair) Part# SP57BS15	\$ 0 Included
✓	Y_	(4) Pro-Gard Outboard Seat Belts	\$ 0 Included
✓	Y_	(4) Setina Partition Double Gun Mounting System (w/ optics ready bracket #PG7529) Part# GK10301S1UIIKSVCAXL	\$ 366 ⁰⁰

Total price for above "Interior" items: \$ 4997⁰⁰

Total installation charges for above "Interior" items: \$ 720⁰⁰

***Lighting**

Bidder / Flower Mound
Y/N Y/N

**COST
EACH**

✓	Y_	(4) Whelen - CENCOM CONTROL 21 push button control head	\$ 1097 ⁰⁰
---	----	--	-----------------------

Y_	(4) Whelen Canport for 2015+ Tahoe	\$ <u>Ø Included</u>
Y_	(16) Whelen M4 Series Part# M4J - Red/Blue w/ clear lens (R/B wire for each color)	\$ <u>250 516⁰⁰</u>
Y_	(8) mounting brackets for Whelen M4 (90* fwd)	\$ <u>124 24⁰⁰</u>
Y_	(4) Whelen LINSV2 (Red) Part# LINV2R (under mirror)	\$ <u>139⁰⁰</u>
Y_	(4) Whelen LINSV2 (Blue) Part# LINV2B (under mirror)	\$ <u>139⁰⁰</u>
Y_	(4) Whelen LINSV2 Under Mirror Mount Part# LSVBKT45 - Comes as a pair	\$ <u>19⁰⁰</u>
Y_	(8) Whelen ION DUO Red/Blue Surface Mount Part# I2SMJ black mounting flange	\$ <u>258⁰⁰</u>
Y_	(8) Whelen ION DUO Red/Blue Universal Mount/Blk Part# I2J (Rear Quarter Glass)	\$ <u>262⁰⁰</u>
Y_	(4) Whelen ION Rear Pillar Red/Blue DUO Part # RPWD46 (2- total / 1 each side)	\$ <u>912⁰⁰</u>
Y_	(4) Whelen ION TRIO RBW Universal Part# I3JC (LP)	\$ <u>129⁰⁰</u>
Y_	(8) Whelen Headlight/Tailight Flasher Modules Part# SSFPOS16 (2015+ Tahoe)	\$ <u>138⁰⁰</u>
Y_	(4) Whelen Howler Low Frequency Siren Part # HOWLER	\$ <u>489⁰⁰</u>
Y_	(4) Whelen Howler Mounting Bracket (2015+ Tahoe) Part #HWLRB20	\$ <u>Ø Included</u>
Y_	(8) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ <u>118⁰⁰</u>
Y_	(4) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ <u>55⁰⁰</u>

Total cost for above "Lighting" items:

\$ 4295⁰⁰

Total installation charges for above "Lighting" items:

\$ 2160⁰⁰*Other Equipment**Bidder / Flower Mound**

Y/N Y/N

COST EACH

☒	Y__	(4) Go Rhino Push Bumper	\$ <u>289⁰⁰</u>
☒	Y__	(4) Streamlight SL-20L LED Flashlight 350 lumen alum. body w/dc charger / charge sleeve Part# STL-20602	\$ <u>102⁰⁰</u>
☒	Y__	(4) Streamlight DS Charge Cable (22051)	\$ <u>9⁰⁰</u>
☒	Y__	(4) Streamlight DS Charging Base (75100)	\$ <u>13⁰⁰</u>
☒	Y__	(4) Lind Power Suply for Dell Lat. 5404 w/ cord	\$ <u>132⁰⁰</u>
☒	Y__	(4) Top Hat Equipment Timer	\$ <u>0 Included</u>
☒	Y__	(4) WatchGuard 2015+ Tahoe camera Bracket Part# WGP02225-102	\$ <u>85⁰⁰</u>
☒	Y__	(4) Pro-Gard Safe Stop	\$ <u>118⁰⁰</u>
☒	Y__	(4) Stalker Tahoe Antenna Mount 200-1088-00	\$ <u>54⁰⁰</u>
☒	Y__	(4) Stalker Tahoe Display Mount 200-1089-00	\$ <u>49⁰⁰</u>
☒	Y__	(4) WatchGuard 4RE wiring (all cabling associated with the 4RE system)	\$ <u>291⁰⁰</u>
☒	Y__	(4) Motorola Radio In-Car Speaker	\$ <u>133⁰⁰</u>
☐	Y__	(4) Motorola APX6500 wiring (all cabling/wiring associated with the APX6500)	\$ <u>377⁰⁰</u>
☒	Y__	(4) Stalker DSR-2X KA Radar cabling (all cabling needed for unit)	\$ <u>412⁰⁰</u>
☒	Y__	(4) Federal Signal 795H Opticom w/ bracket/mount	\$ <u>1257⁰⁰</u>

Y Y_ (4) FMPD Graphics Kit w/ US/TX Flags \$ 688⁰⁰

Total cost for above "Other Equipment" items: \$ 4009⁰⁰

Total installation charges for above "Other Equipment": \$ 1995⁰⁰

ATTENTION: **

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe's) AND RE-INSTALLED/TRANSFERRED ONTO NEW TAIHOE UNITS. ALL PRICING AND INSTALLATION CHARGES MUST BE INCLUDED IN THE OVERALL COST OF EACH UNIT.

****Transferred Items**

**REMOVE/RE-INSTALL
CHARGE**

Bidder / Flower Mound

Y/N Y/N

- | | | |
|----------|----|--|
| <u>Y</u> | Y_ | 1. (4) Whelen Legacy Duo Lightbars |
| <u>Y</u> | Y_ | 2. (4) Go Industries trunk boxes |
| <u>Y</u> | Y_ | 3. (8) 3" Whelen dome lights |
| <u>Y</u> | Y_ | 4. (4) Motorola APX6500 radio's |
| <u>Y</u> | Y_ | 5. (4) Stalker 2x radars |
| <u>Y</u> | Y_ | 6. (4) WatchGuard 4RE systems |
| <u>Y</u> | Y_ | 7. (4) Havis Docking Stations |
| <u>Y</u> | Y_ | 8. (4) Install Cradlepoint and associated wiring |

Total Remove/Re-install charges for
above "Transferred Items": \$ 1260⁰⁰

ATTENTION: ***

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe's) AND

RETURNED/SHIPPED LOOSE BACK TO THE TOWN OF FLOWER MOUND
FLEET SERVICE CENTER FACILITY AT 1101 DUNCAN LN., FLOWER
MOUND, TX 75028 ON OR BEFORE DELIVERY OF THE NEW UNITS. NEW
UNITS WILL BE DELIVERED TO THE FLEET SERVICE CENTER FACILITY
AT 1101 DUNCAN LN., FLOWER MOUND, TX. 75028.

*****Decommissioned Items**

Removal Charge

Bidder / Flower Mound

Y/N Y/N

✓ Y 1. None

\$ 180⁰⁰

Total removal charges for above "Decommissioned Items": \$ 180⁰⁰

TOTAL Cost of Installation and Materials \$ 19,616⁰⁰

TOTAL BID PRICE

\$ 78,464⁰⁰

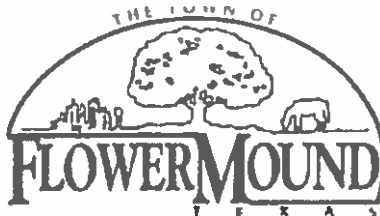
(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

5 year Manufacturer Warranty.
Labor Workmanship - Service Life of Unit.

COMMENTS

Use this page to explain any items that you marked no on above:



Bid Award Recommendation
Co-op Contract:
Tarrant County Contract #2019-014

REVISED: 12-06-18

Date: 11-14-2018

Description: New 2018 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle

Quantity: 2 units

Replaces: New

Bidder #1: Holiday Ford and Holiday Chevrolet
DBA: Johnson Grayson Automotive, Inc.

Item bid: New 2018 Chevrolet Tahoe RWD 9C1 PPV

Per: TOFM specifications

Total Per Each Unit Complete: \$ 64,486.00.00
(includes unit cost + equip. cost)

Qty: 2 Units Complete Total: \$128,972.00

It is Fleet Services recommendation to award the bid to Holiday Ford & Holiday Chevrolet as the lowest responsible bidder in the amount of \$ 128,972.00.

H. Deats Stewart
Fleet Services Manager

11-14-2018
Date,

Holiday Ford and Holiday Chevrolet
(DBA: Johnson Grayson Automotive, Inc.)
 1009 Highway 82 W
 Whitesboro, TX 76273

Date	10/29/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower
Estimate #	23600

Description	Location	Qty.	Ext. Price
Tarrant County Contract # 2019-014			
Additions to Police Fleet			
2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle with EcoTec3 5.3-liter, Dual Batteries, Heavy Duty Locking Differential, OnStar with Bluetooth Connectivity, Vinyl Rear Seat & Front Recovery Tow Hooks. (No Spotlight)		2	64 254.00
BLACK Exterior			
6E2 Keyed Alike			
AMF 6 Sets of Keys/FOBs			
Rear Windows, Doors, Locks, Handles, INOP, 6N5, 6N6			
Ice/Snow Cables. 1 set, 2 tires		2	382.00
Window Tint - For Two Front Windows-Madico Onyx 55%		2	158.00
Unity Driver Side Halogen Spotlight, Spotlight Shaft, Handle & Mounting Bracket for a 2015+ Tahoe (LED Replacement Bulb Sold Separately)		2	576.00
Whelen LED 8 Degree Spotlight Replacement		2	318.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		2	138.00
2 Year Texas State Inspection Certificate		2	14.00
Vehicle Dealer Prep		2	260.00

Final sale amount may be subject to state and local sales tax
 PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipme...

\$66,100.00

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: September 17, 2018

**ITEM: (2) Two New Vehicle 1/2 Ton Pursuit rated
Police pkg. SUV, 4-door, 2 wheel drive
(Additions to the Police Fleet)**

FUNCTION: Pursuit Application Vehicle. Public Safety unit with rear cargo area for transporting various types of equipment.

DESCRIPTION: (The following should be interpreted as examples only, for the type of vehicle requested. It is not the intent of the Town of Flower Mound to exclude any vehicle which meets or exceeds the required specifications in this bid.)

Example:

Chevy Tahoe (police pursuit rated)

NOTE:

Bidder MUST indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

ATTENTION:

It is the intent of the Town of Flower Mound to satisfy the requirements setforth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

Bidder / Flower Mound

Y/N Y/N

☒

Y__

1. Unit bid is EPA LEV (Certified Low Emmissions Vehicle).

☒

Y__

2. Unit bid is an E-85 flex-fuel vehicle. (FFV not required for this application.)

DRIVE TRAIN**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Engine: Gasoline, minimum 3.5l. or equal
 State engine size bid: 08, 5.3
 Flex-Fuel: ☒ Yes ☐ No

☒ Y__ 2. Automatic Transmission

☒ Y__ 3. Fuel tank: min. 20 gal.

☒ Y__ 4. Dual Heavy duty battery

☒ Y__ 5. Power Anti-lock Braking System, 4-wheel Disc

☒ Y__ 6. Rear wheel drive

TIRES AND WHEELS**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Tires: Radial highway, all season

☒ Y__ 2. Full size spare tire with jack

☒ Y__ 3. Matching full size spare tire/wheel

☒ Y__ 4. Ice/Snow cables (1 set, for 2 tires) per the tire size bid

CAB & EQUIPMENT**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Power Steering

☒ Y__ 2. Tinted glass – Front Driver/Passenger 55% Madico Onyx (rear factory darkness)

☒ Y__ 3. Intermittent wipers

☒ Y__ 4. Exterior Paint: **Black**

☒ Y__ 5. Seats: Cloth Front lowback (bucket) seats, Rear Vinyl

- ☒ Y__ 6. Rear fold down seat, (preferred 60/40 split)
- ☒ Y__ 7. Air Conditioning
- ☒ Y__ 8. Radio: Standard AM / FM w/CD player
- ☒ Y__ 9. Rear Window Defroster
- ☒ Y__ 10. Interior cargo area.
 Preferred width: min. 74".
 State width of unit interior bid: 74
 Preferred cargo volume: min. 27 cu.ft.
 State cargo volume of unit bid: 27
- ☒ Y__ 11. Rear window washer and wiper
- ☒ Y__ 12. Power windows (with inoperative rear window switches) 6N5
- ☒ Y__ 13. Power door locks (with rear door locks and handles inoperative) 6N6
- ☒ Y__ 14. Power Driver/Passenger Mirrors
- ☒ Y__ 15. Front and Rear: Full black rubber floor covering (no floormats).
- ☒ Y__ 16. Interior: Dark gray or equivalent dark interior
- ☒ Y__ 17. Keyless entry
- ☒ Y__ 18. six (6) sets of keys (Must be included at time of vehicle delivery) 5HP
- ☒ Y__ 19. All vehicles keyed alike (6E2 Key Common)
- ☒ Y__ 20. Rear lift hatch
- ☒ Y__ 21. 1 - Vehicle spotlight/post and door mount (LED), located on the driver side only.
- ☒ Y__ 22. Tow Hitch / Package
- ☒ Y__ 23. 6J7 Flasher System (Headlamp and Tailamp) 6J7
- ☒ Y__ 24. Bluetooth UE1

Y Y__ 25. Rear Grounding Studs UT7

OTHER EQUIPMENT

Bidder / Flower Mound

Y/N Y/N

Y Y__ 1. Running boards, full length.

Y Y__ 2. Pursuit Package (Law Enforcement Emergency Vehicle Package)
to include but not limited to: engine and transmission cooling
package, increased electrical power and heavy duty suspension.)

Y Y__ 3. Vehicle State Inspection when delivered (2 year certificate)

TOTAL BID PRICE

(To include all listed equipment and installation)

\$ 66,100⁰⁰

\$ 33,050.⁰⁰ EA

Warranty: Standard Manufacturers warranty. Please specify.

3yr/36k Mile Bumper to Bumper

5yr/100k Mile Drive Train

COMMENTS

Use this page to explain any items that you marked no on above:



DEFENDER SUPPLY

Date	10/29/2018
Estimate By	Mike Hewitt
	mike@defendersupply.com
	(903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23601

Description	Location	Qty.	Cost	Vehicle and Em...
Additions to Police Fleet - 2 Tahoe PPV				
Troy Products Dash Contour Console Includes 2" USB plate, Arm Rest, Dual Cup Holder & Mic Clip.		1	259.00	259.00
Faceplates: Watch Guard 4RE Cencom Motorola APX6500 Radio - 2 Piece				
Troy Internal Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Console, Side Mount Armrest		1	67.00	67.00
Troy Computer Mount, Side Clevis		1	315.00	315.00
Docking Station for Dell's Latitude 14 Rugged and Latitude 12 & 14 Rugged Extreme Notebooks (Basic Port Replication)		1	433.00	433.00
5700VS Series, Space Saver Plus Partition with VIPER Shield Integrated Level IIIA Ballistic Shield (Side Curtain Airbag Compatible) for 2015+ Tahoe		1	2,596.00	2,596.00
Pro-Gard Charcoal Grey ABS Standard Straight Back Transport Seat with Wire Mesh Screen and Outboard Seat Belts for 2015+ Chevrolet Tahoe		1	1,019.00	1,019.00
Setina window bars for a 2015+ Tahoe		1	144.00	144.00
Door Panel VS TPO Plastic Black Installs Over OEM Door Panels for a 2015+ Tahoe		1	151.00	151.00
Dual T-Rail Weapon Lock with Timer & Handcuff Adjustable Locks				349.00
Setina T-Rail Universal Lock, EoTech Bracket		1	17.00	17.00
Installation of Above Equipment		1	720.00	720.00

Vehicle and Emergency Equipment Total

Quantity Ordered

2

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Total Vehicle Order Cost

\$62,872.00

Page 1

SIGNATURE



DEFENDER SUPPLY

Date	10/29/2018
Estimate	Mike Hewitt
By	mike@defendersupply.com
	(903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23601

Description	Location	Qty.	Cost	Vehicle and Em...
Whelen Legacy 54" light bar with take downs, alleys and R/W/B/W front configuration and R/A/B/A rear configuration		1	1,710.00	1,710.00
Whelen Light Bar Strap Mount Kit for a 2015+ Chevrolet Tahoe		1	59.00	59.00
CANTROL WC CONTROL SYSTEM		1	1,097.00	1,097.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Control/Carbide)		1	0.00	0.00
OBDII Module for Chevy Tahoe		1	0.00	0.00
Whelen M4J Series Split Head Red/Blue	Push Bumper Front & Side	4	129.00	516.00
Forward Facing Steel Bracket for an Whelen M4 Light (each)		2	12.00	24.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Blue	Sideview Mirror	1	139.00	139.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Red		1	139.00	139.00
Whelen under the Side Mirror Mount Bracket for LINSV2* for 2015+ Chevrolet Tahoe 9C1 - (one pair)		1	19.00	19.00
Whelen Surface Mount LED Duo ION, Red/Blue	Each Running Board	2	129.00	258.00
Whelen Universal Mount LED Duo ION, Red/Blue	Rear Quarter Glass	2	131.00	262.00
ION REAR PILLAR WC DUO TAHOE, Red/Blue	Rear Pillar	1	912.00	912.00
Whelen Trio Color Linear ION Red/Blue/White	Trailer Hitch Area	1	129.00	129.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		1	69.00	69.00
Whelen Universal Solid State Tail Light Flasher	For Rear Tail LED Ring	1	69.00	69.00
Whelen Low Frequency Howler Siren System programmed to run 60 seconds		1	443.00	443.00
Whelen Howler Bracket - 2017+ Tahoe		1	0.00	0.00
PLEASE INCLUDE REQUIRED PART #s WH-SAK63D AND WH-SAK63P				
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Tahoe, Driver Side *****MUST INCLUDE SAK63P IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen Behind the Grill Siren Speaker Bracket - 2017 Tahoe, Driver Side *****MUST INCLUDE SAK63D IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White	Rear Hatch & Prisoner	4	59.00	236.00

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Vehicle and Emergency Equipment Total

Quantity Ordered 2

Total Vehicle Order Cost **\$62,872.00**



DEFENDER SUPPLY

Date	10/29/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23601

Description	Location	Qty.	Cost	Vehicle and Em...
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00
Installation of Above Equipment		1	2,160.00	2,160.00
Go Rhino Push Bumper, Textured, 2015+ Tahoe		1	289.00	289.00
Go Industries Rear Storage Box, Tahoe		1	1,445.00	1,445.00
Streamlight SL-20L LED Flashlight		1	102.00	102.00
Singer power cable for mobile charging unit		1	9.00	9.00
Singer car charging unit		1	13.00	13.00
90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100,110 Series, DS-DELL-200,210,220 230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	132.00	132.00
Watch Guard 2016 Tahoe 4Re Mounting Kit		1	85.00	85.00
SafeStop for 2015+ Tahoe		1	118.00	118.00
Watch Guard 4RE w/ Wireless Download System, Single Hi-Fi mic system w/Zoom Camera. 5 YEAR WARRANTY		1	6,619.00	6,619.00
Stalker DSR 2X - "Ka" Band - Front & Rear Antenna Moving Radar Unit. with EXTENDED WARRANTY		1	3,549.00	3,549.00
Stalker Antenna Bracket for the Front Antenna for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	54.00	54.00
Stalker Counting Unit Mount for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	49.00	49.00
Federal Signal LED Opticom @ Emitter, Infrared System - External Use "Square Box Looking One"		1	1,218.00	1,218.00
Opticom Bracket for Front Push Bumper just like Fairview PD placing the Opticom up close to the top Horizontal Bar - Made by Defender Supply		1	39.00	39.00

Vehicle and Emergency Equipment Total

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Quantity Ordered

2

Total Vehicle Order Cost

\$62,872.00

Page 3

SIGNATURE



DEFENDER SUPPLY

Date	10/29/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23601

Item

Description	Location	Qty.	Cost	Vehicle and Em...
Design & Installation of Graphics for Customer's Department-Mike Glass		1	688.00	688.00
Shipping of Above Emergency Parts for Upfit		1	103.00	103.00
Misc. Shop Supplies		1	77.00	77.00
Defender Supply Wiring Harness, Power Distribution Block and Battery Management System				375.00
Installation of Above Equipment		1	1,440.00	1,440.00
Removal of Below Equipment from Existing Tahoe's		1	180.00	180.00
Cradlepoint COR IBR900 w/Antenna 170654, Panorama GPS-D 2148 kit, C23F-SM, AFM-835 (700-800) Whip				
Installation of Removed Equipment		1	360.00	360.00
Cradlepoint COR IBR900 w/Antenna 170654, Panorama GPS-D 2148 kit, C23F-SM, AFM-835 (700-800) Whip				

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipment Total **\$31,436.00**

Quantity Ordered **2**

Total Vehicle Order Cost **\$62,872.00**

Page 4

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS**SPECIFICATION NO.:**Revised: October 23, 2018**ITEM: Equipment for Additions to the Police Fleet
(2) Police pkg. SUV, 4-door, 2 wheel drive****NOTE:**

Bidder MUST indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

EQUIPMENT OPTIONS:

Manufacturer brands and model numbers listed are to be interpreted as 'preferred'. Any equivalent bid must be an exact replacement for preferred Mfg. brand and model number.

*The following items will be included as Options. The listed Mfg. brand or a manufacture equivalent will be required. If an equivalent is named it must be approved by the Town of Flower Mound Chief of Police or his designee.

			<u>COST</u> <u>EACH</u>
<u>*Interior</u>			
Bidder / Flower Mound			
Y/N	Y/N		
✓	Y	(2) Troy Standard Width Console 18" Part # CC-F-TMC-711AC	\$ <u>259⁰⁰</u>
✓	Y	(2) Troy Products Internal Bev Holder #AC-INBHG	\$ <u>38⁰⁰</u>
✓	Y	(2) Troy WatchGuard 4RE center console bracket	\$ <u>0 Included</u>
✓	Y	(2) Troy console bracket for USB and 12v	\$ <u>42⁰⁰</u>
✓	Y	(2) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$ <u>67⁰⁰</u>

☒	Y__	(2) Troy Computer Mount Side Clevis Part # CM-SDMT-SLS-HAV	\$ <u>315⁰⁰</u>
☒	Y__	(2) Havis Docking Station for Dell Rugged Part#DS-DELL-405	\$ <u>433⁰⁰</u>
☒	Y__	(2) Pro-Gard Viper Shield, Center sliding Poly Window Part # PVSSP5704T15A	\$ <u>2594</u>
☒	Y__	(2) Pro-Gard Rear Transport Seats, Grey w/ Steel Screen & mount Part # S5704T15A	\$ <u>1019</u>
☒	Y__	(2) Setina Window Barrier Part # WK0514TAH15	\$ <u>144⁰⁰</u>
☒	Y__	(2) Setina Rear Door Panels Cover Part# DK0100TAH15	\$ <u>151⁰⁰</u>
☒	Y__	(2) Pro-Gard Recessed Panel (Space Saver) Part# RP57T15	\$ <u>Ø ±included</u>
☒	Y__	(2) Pro-Gard Extension Panels (Pair) Part# SP57BS15	\$ <u>Ø Included</u>
☒	Y__	(2) Pro-Gard Outboard Seat Belts	\$ <u>Ø Included</u>
☒	Y__	(2) Setina Partition Double Gun Mounting System (w/ optics ready bracket #PG7529) Part# GK10301S1UHKSVCAXL	\$ <u>366⁰⁰</u>

Total price for above "Interior" items:

\$ 5430⁰⁰

Total installation charges for above "Interior" items:

\$ 720⁰⁰

Lighting*Bidder / Flower Mound**

Y/N Y/N

COST
EACH

✓	Y_	(2) Whelen – Texas special 54" Legacy Duo Lightbar Red/White – Blue/White w/ TA	\$ <u>1769⁰⁰</u>
✓	Y_	(2) Whelen – CENCOM CONTROL 21 push button control head	\$ <u>1097⁰⁰</u>
✓	Y_	(2) Whelen Canport for 2015+ Tahoe	\$ <u>Included</u>
✓	Y_	(8) Whelen M4 Series Part# M4J – Red/Blue w/ clear lens	\$ <u>516⁰⁰</u>
✓	Y_	(4) mounting brackets for Whelen M4 (90° fwd)	\$ <u>24⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 (Red) Part# LINV2R (under mirror)	\$ <u>139⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 (Blue) Part# LINV2B (under mirror)	\$ <u>139⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 Under Mirror Mount Part# LSVBKT45 – Comes as a pair	\$ <u>19⁰⁰</u>
✓	Y_	(4) Whelen ION DUO Red/Blue Surface Mount Part# I2SMJ black mounting flange (1 ea running board)	\$ <u>258⁰⁰</u>
✓	Y_	(4) Whelen ION DUO Red/Blue Universal Mount/Blk Part# I2J (Rear Quarter Glass)	\$ <u>262⁰⁰</u>
✓	Y_	(2) Whelen Rear Pillar ION Red/Blue DUO Part # (2- total / 1 each side)	\$ <u>912⁰⁰</u>
✓	Y_	(2) Whelen ION Trio RBW Universal Part# I3JC (LP)	\$ <u>129⁰⁰</u>
✓	Y_	(4) Whelen Headlight/Tailight Flasher Modules Part# SSFPOS16 (2015+ Tahoe)	\$ <u>138⁰⁰</u>

☒	Y__	(2) Whelen Howler Low Frequency Siren Part # HOWLER	\$ <u>489⁰⁰</u>
☒	Y__	(2) Whelen Howler Mounting Bracket (2015+ Tahoe) Part #HWLRB20	\$ <u>Ø Included</u>
☒	Y__	(8) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ <u>236⁰⁰</u>
☒	Y__	(2) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ <u>55⁰⁰</u>

Total cost for above "Lighting" items: \$ 6182⁰⁰

Total installation charges for above "Lighting" items: \$ 2160⁰⁰

*Other Equipment

Bidder / Flower Mound

Y/N Y/N

COST EACH

☒	Y__	(2) Go Rhino Push Bumper	\$ <u>289⁰⁰</u>
☒	Y__	(2) Go Industries 2 Drawer Rear Storage Part #50026	\$ <u>1445⁰⁰</u>
☒	Y__	(2) Streamlight SL-20L LED Flashlight 350 lumen alum. body w/dc charger / charge sleeve Part# STL-20602	\$ <u>102⁰⁰</u>
☒	Y__	(2) Streamlight DS Charge Cable (22051)	\$ <u>9⁰⁰</u>
☒	Y__	(2) Streamlight DS Charging Base (75100)	\$ <u>13⁰⁰</u>
☒	Y__	(2) Lind Power Suply for Dell Lat. 5404	\$ <u>132⁰⁰</u>
☒	Y__	(2) Top Hat Equipment Timer	\$ <u>Ø Included</u>
☒	Y__	(2) WatchGuard 2015+ Tahoe camera Bracket Part# WGP02225-102	\$ <u>85⁰⁰</u>

<u>Y</u>	Y__	(2) Pro-Gard Safe Stop	\$ <u>118⁰⁰</u>
<u> </u>	Y__	(2) Motorola APX 6500 Digital Radio	\$ <u>No Bid</u>
<u>Y</u>	Y__	(2) WatchGaurd 4RE Wireless Download System Single Hi-Fi mic system w/ Zoom Camera 5 year warranty	\$ <u>6419⁰⁰</u>
<u>Y</u>	Y__	(2) Stalker 2X Radar System w/ extended Warranty	\$ <u>3549</u>
<u>Y</u>	Y__	(2) Stalker Tahoe Antenna Mount 200-1088-00	\$ <u>54⁰⁰</u>
<u>Y</u>	Y__	(2) Stalker Tahoe Display Mount 200-1089-00	\$ <u>49⁰⁰</u>
<u>Y</u>	Y__	(2) Federal Signal 795H Opticom w/ bracket/mount	\$ <u>1257⁰⁰</u>
<u>Y</u>	Y__	(2) FMPD Graphics Kit w/ US/TX Flags	\$ <u>688⁰⁰</u>

Total cost for above "Other Equipment" items: \$ 14,409⁰⁰

Total installation charges for above "Other Equipment": \$ 1995⁰⁰

ATTENTION: **

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe) AND RE-INSTALLED/TRANSFERRED ONTO NEW TAHOE UNITS. ALL PRICING AND INSTALLATION CHARGES MUST BE INCLUDED IN THE OVERALL COST OF EACH UNIT.

****Transferred Items**

**REMOVE/RE-INSTALL
CHARGE**

Bidder / Flower Mound

Y/N Y/N

<u>Y</u>	Y__	(2) Cradlepoint COR 1BR900 w/ antenna 170654-001	\$ <u>540⁰⁰</u>
		Panomara GPS-D 2148 kit , C23F-SM. AFM-835 (700-800 whip)	

Total Remove/Re-install charges for
above "Transferred Items":

\$ 540⁰⁰

ATTENTION: ***

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe) AND RETURNED/SHIPPED LOOSE BACK TO THE TOWN OF FLOWER MOUND FLEET SERVICE CENTER FACILITY AT 1101 DUNCAN LN., FLOWER MOUND, TX 75028 ON OR BEFORE DELIVERY OF THE NEW UNITS. NEW UNITS WILL BE DELIVERED TO THE FLEET SERVICE CENTER FACILITY AT 1101 DUNCAN LN., FLOWER MOUND, TX. 75028.

*****Decommissioned Items****Removal Charge****Bidder / Flower Mound**

Y/N Y/N

Y_ Y_

I. None

\$ ~~100.00~~ ϕ **Total removal charges for above "Decommissioned Items":**\$ ~~100.00~~ ϕ **TOTAL Cost of Installation and Materials \$** 31,436⁰⁰each
up 4x**TOTAL BID PRICE**\$ 62,872⁰⁰

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.5 year Manufacturer.Install & workmanship Service Life of Vehicle.**COMMENTS**

Use this page to explain any items that you marked no on above:



Bid Award Recommendation
Co-op Contract:
Tarrant County Contract #2019-014

REVISED: 12-06-18

Date: 11-14-2018

Description: New 2018 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle

Quantity: 2 units

Replaces: New SRO

Bidder #1: Holiday Ford and Holiday Chevrolet
DBA: Johnson Grayson Automotive, Inc.

Item bid: New 2018 Chevrolet Tahoe RWD 9C1 PPV

Per: TOFM specifications

Total Per Each Unit Complete: \$ 64,486.00.00
(includes unit cost + equip. cost)

Qty: 2 Units Complete Total: \$128,972.00

It is Fleet Services recommendation to award the bid to Holiday Ford & Holiday Chevrolet as the lowest responsible bidder in the amount of \$ 128,972.00.

H. Deats Stewart
Fleet Services Manager

11-14-2018
Date,

Holiday Ford and Holiday Chevrolet
(DBA: Johnson Grayson Automotive, Inc.)
 1009 Highway 82 W
 Whitesboro, TX 76273

Date	10/25/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounspayable@flower
Estimate #	23577

Description	Location	Qty.	Ext. Price
Tarrant County Contract # 2019-014			
Additions to Police Fleet			
2019 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle with EcoTec3 5.3-liter, Dual Batteries, Heavy Duty Locking Differential, OnStar with Bluetooth Connectivity, Vinyl Rear Seat & Front Recovery Tow Hooks. (No Spotlight)		2	64,254.00
BLACK Exterior			
6E2 Keyed Alike			
AMF 6 Sets of Keys/FOBs			
Rear Windows, Doors, Locks, Handles, INOP, 6N5, 6N6			
Ice/Snow Cables. 1 set, 2 tires		2	382.00
Window Tint - For Two Front Windows-Madico Onyx 55%		2	158.00
Unity Driver Side Halogen Spotlight, Spotlight Shaft, Handle & Mounting Bracket for a 2015+ Tahoe (LED Replacement Bulb Sold Separately).		2	576.00
Whelen LED 8 Degree Spotlight Replacement		2	318.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		2	138.00
2 Year Texas State Inspection Certificate		2	14.00
Vehicle Dealer Prep		2	260.00

Final sale amount may be subject to state and local sales tax
 PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.

Vehicle and Emergency Equipme...

\$66,100.00

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: September 17, 2018

**ITEM: (2) Two New Vehicle 1/2 Ton Pursuit rated
Police pkg. SUV, 4-door, 2 wheel drive
(Additions to the Police Fleet)**

FUNCTION: Pursuit Application Vehicle. Public Safety unit with rear cargo area for transporting various types of equipment.

DESCRIPTION: (The following should be interpreted as examples only, for the type of vehicle requested. It is not the intent of the Town of Flower Mound to exclude any vehicle which meets or exceeds the required specifications in this bid.)

Example:

Chevy Tahoe (police pursuit rated)

NOTE:

Bidder MUST indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

ATTENTION:

It is the intent of the Town of Flower Mound to satisfy the requirements set forth by the EPA (Environmental Protection Agency) whenever purchasing new vehicles and/or equipment.

Bidder / Flower Mound

Y/N	Y/N	
☒	☐	1. Unit bid is EPA LEV (Certified Low Emissions Vehicle).
☒	☐	2. Unit bid is an E-85 flex-fuel vehicle. (FFV not required for this application.)

DRIVE TRAIN**Bidder / Flower Mound**

Y/N Y/N

Y Y__ 1. Engine: Gasoline, minimum 3.5L or equal
 State engine size bid: V 8, 5.3L
 Flex-Fuel: ✓ Yes ___ No

Y Y__ 2. Automatic Transmission

Y Y__ 3. Fuel tank: min. 20 gal.

Y Y__ 4. Dual Heavy duty battery

Y Y__ 5. Power Anti-lock Braking System, 4-wheel Disc

Y Y__ 6. Rear wheel drive

TIRES AND WHEELS**Bidder / Flower Mound**

Y/N Y/N

Y Y__ 1. Tires: Radial highway, all season

Y Y__ 2. Full size spare tire with jack

Y Y__ 3. Matching full size spare tire/wheel

Y Y__ 4. Ice/Snow cables (1 set, for 2 tires) per the tire size bid

CAB & EQUIPMENT**Bidder / Flower Mound**

Y/N Y/N

Y Y__ 1. Power Steering

Y Y__ 2. Tinted glass – Front Driver/Passenger 55% Madico Onyx (rear factory darkness)

Y Y__ 3. Intermittent wipers

Y Y__ 4. Exterior Paint: **Black**

Y Y__ 5. Seats: Cloth Front lowback (bucket) seats, Rear Vinyl

- ☒ Y__ 6. Rear fold down seat, (preferred 60/40 split)
- ☒ Y__ 7. Air Conditioning
- ☒ Y__ 8. Radio: Standard AM / FM w/CD player
- ☒ Y__ 9. Rear Window Defroster
- ☒ Y__ 10. Interior cargo area.
 Preferred width: min. 74".
 State width of unit interior bid: 74"
 Preferred cargo volume: min. 27 cu.ft.
 State cargo volume of unit bid: 27
- ☒ Y__ 11. Rear window washer and wiper
- ☒ Y__ 12. Power windows (with inoperative rear window switches) 6N5
- ☒ Y__ 13. Power door locks (with rear door locks and handles inoperative) 6N6
- ☒ Y__ 14. Power Driver/Passenger Mirrors
- ☒ Y__ 15. Front and Rear: Full black rubber floor covering (no floormats).
- ☒ Y__ 16. Interior: Dark gray or equivalent dark interior
- ☒ Y__ 17. Keyless entry
- ☒ Y__ 18. six (6) sets of keys (Must be included at time of vehicle delivery) 5HP
- ☒ Y__ 19. All vehicles keyed alike (6E2 Key Common)
- ☒ Y__ 20. Rear lift hatch
- ☒ Y__ 21. 1 - Vehicle spotlight/post and door mount (LED), located on the driver side only.
- ☒ Y__ 22. Tow Hitch / Package
- ☒ Y__ 23. 6J7 Flasher System (Headlamp and Tailamp) 6J7
- ☒ Y__ 24. Bluetooth UE1

Y Y 25. Rear Grounding Studs UT7

OTHER EQUIPMENT

Bidder / Flower Mound

Y/N Y/N

Y Y 1. Running boards, full length

Y Y 2. Pursuit Package (Law Enforcement Emergency Vehicle Package)
to include but not limited to: engine and transmission cooling
package, increased electrical power and heavy duty suspension.)

Y Y 3. Vehicle State Inspection when delivered (2 year certificate)

TOTAL BID PRICE

(To include all listed equipment and installation)

\$ 66,100⁰⁰
\$33,050⁰⁰ EA

Warranty: Standard Manufacturers warranty. Please specify.

3y / 36K mile Bumper to Bumper
5y / 100K mile Drive Train

COMMENTS

Use this page to explain any items that you marked no on above:



DEFENDER SUPPLY

Date	10/25/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	23583

Description	Location	Qty.	Cost	Vehicle and Em...
Additions to Police Fleet - 2 Tahoe PPV				
Troy Products Dash Contour Console Includes 2" USB plate, Arm Rest, Dual Cup Holder & Mic Clip.		1	259.00	259.00
Faceplates: Watch Guard 4RE Cencom Motorola APX6500 Radio - 2 Piece				
Troy Internal Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Console, Side Mount Armrest		1	67.00	67.00
Troy Computer Mount, Side Clevis		1	315.00	315.00
Docking Station for Dell's Latitude 14 Rugged and Latitude 12 & 14 Rugged Extreme Notebooks (Basic Port Replication)		1	433.00	433.00
5700VS Series, Space Saver Plus Partition with VIPER Shield Integrated Level IIIA Ballistic Shield (Side Curtain Airbag Compatible) for 2015+ Tahoe		1	2,596.00	2,596.00
Pro-Gard Charcoal Grey ABS Standard Straight Back Transport Seat with Wire Mesh Screen and Outboard Seat Belts for 2015+ Chevrolet Tahoe		1	1,019.00	1,019.00
Selina window bars for a 2015+ Tahoe		1	144.00	144.00
Door Panel VS TPO Plastic Black Installs Over OEM Door Panels for a 2015+ Tahoe		1	151.00	151.00
Dual T-Rail Weapon Lock with Timer & Handcuff Adjustable Locks				349.00
Selina T-Rail Universal Lock EoTech Bracket		1	17.00	17.00
Installation of Above Equipment		1	720.00	720.00

Vehicle and Emergency Equipment Total

Quantity Ordered 2

Total Vehicle Order Cost

\$62,872.00

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Page 1

SIGNATURE



DEFENDER SUPPLY

Date	10/25/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	23583

Description	Location	Qty.	Cost	Vehicle and Em...
Whelen Legacy 54" light bar with take downs, alleys and RW/BAW front configuration and R/A/B/A rear configuration		1	1,710.00	1,710.00
Whelen Light Bar Strap Mount Kit for a 2015+ Chevrolet Tahoe		1	59.00	59.00
CANTROL WC CONTROL SYSTEM		1	1,097.00	1,097.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide		1	0.00	0.00
(No cost when ordered with Control/Carbide)				
QBDII Module for Chevy Tahoe		1	0.00	0.00
Whelen M4J Series Split Head Red/Blue	Push Bumper Front & Side	4	129.00	516.00
Forward Facing Steel Bracket for an Whelen M4 Light (each)		2	12.00	24.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Blue	Sideview Mirror	1	139.00	139.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting - Red		1	139.00	139.00
Whelen under the Side Mirror Mount Bracket for LINSV2* for 2015 - Chevrolet Tahoe 9C1 - (one pair)		1	19.00	19.00
Whelen Surface Mount LED Duo ION, Red/Blue	Each Running Board	2	129.00	258.00
Whelen Universal Mount LED Duo ION, Red/Blue	Rear Quarter Glass	2	131.00	262.00
ION REAR PILLAR WC DUO TAHOE, Red/Blue	Rear Pillar	1	912.00	912.00
Whelen Two Color Linear ION Red/Blue/White	Trailer Hitch Area	1	129.00	129.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		1	69.00	69.00
Whelen Universal Solid State Tail Light Flasher	For Rear Tail LED Ring	1	69.00	69.00
Whelen Low Frequency Howler Siren System programmed to run 60 seconds		1	443.00	443.00
Whelen Howler Bracket - 2017+ Tahoe		1	0.00	0.00
PLEASE INCLUDE REQUIRED PART #s WH-SAK63D AND WH-SAK63P				
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Tahoe, Driver Side *****MUST INCLUDE SAK63P IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen Behind the Grill Siren Speaker Bracket - 2017 Tahoe, Driver Side *****MUST INCLUDE SAK63D IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White	Rear Hatch & Prisoner	4	59.00	236.00

Vehicle and Emergency Equipment Total

Quantity Ordered

2

Total Vehicle Order Cost

\$62,872.00

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Page 2

SIGNATURE



DEFENDER SUPPLY

Date	10/25/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	23583

Description	Location	Qty.	Cost	Vehicle and Em...
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00
Installation of Above Equipment		1	2,160.00	2,160.00
Go Rhino Push Bumper, Textured, 2015+ Tahoe		1	289.00	289.00
Go Industries Rear Storage Box, Tahoe		1	1,445.00	1,445.00
Streamlight SL-20L LED Flashlight		1	102.00	102.00
Singer power cable for mobile charging unit.		1	9.00	9.00
Singer car charging unit		1	13.00	13.00
90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100,110 Series, DS-DELL-200,210,220,230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	132.00	132.00
Watch Guard 2016 Tahoe 4Re Mounting Kit		1	85.00	85.00
SafeStop for 2015+ Tahoe		1	118.00	118.00
Watch Guard 4RE w/ Wireless Download System, Single Hi-Fi mic system w/Zoom Camera. 5 YEAR WARRANTY		1	6,619.00	6,619.00
Stalker DSR 2X - "Ka" Band - Front & Rear Antenna Moving Radar Unit. with EXTENDED WARRANTY		1	3,549.00	3,549.00
Stalker Antenna Bracket for the Front Antenna for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	54.00	54.00
Stalker Counting Unit Mount for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	49.00	49.00
Federal Signal LED Opticom @ Emitter, Infrared System - External Use "Square Box Looking One"		1	1,218.00	1,218.00
Opticom Bracket for Front Push Bumper just like Fairview PD placing the Opticom up close to the top Horizontal Bar - Made by Defender Supply		1	39.00	39.00

Vehicle and Emergency Equipment Total

Quantity Ordered

2

Total Vehicle Order Cost

\$62,872.00

Page 3

SIGNATURE

Final sale amount may be subject to state and local sales tax. PLEASE NOTE: Once this estimate has been approved, either by signature on this form, written approval referencing the estimate number or the issuance of purchase order, any changes or cancellations of parts made by the customer are subject to a 25% restocking fee. Any additional customer-requested parts/services will be added to the total amount of the sale.



DEFENDER SUPPLY

Date	10/25/2018
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



Bill To
Town of Flower Mound 2121 Crosstimbers Rd Flower Mound, TX 75028

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	23583

Description	Location	Qty.	Cost	Vehicle and Em...
Design & Installation of Graphics for Customer's Department-Mike Glass		1	688.00	688.00
Shipping of Above Emergency Parts for Upfit		1	103.00	103.00
Misc. Shop Supplies		1	77.00	77.00
Defender Supply Wiring Harness, Power Distribution Block and Battery Management System				375.00
Installation of Above Equipment		1	1,440.00	1,440.00
Removal of Below Equipment from Existing Tahoe's		1	180.00	180.00
Cradlepoint COR IBR900 w/Antenna 170654. Panorama GPS-D 2148 kit, C23F-SM, AFM-835 (700-800) Whip				
Installation of Removed Equipment		1	360.00	360.00
Cradlepoint COR IBR900 w/Antenna 170654. Panorama GPS-D 2148 kit, C23F-SM, AFM-835 (700-800) Whip				

Vehicle and Emergency Equipment Total
\$31,436.00

Quantity Ordered

2

Total Vehicle Order Cost
\$62,872.00

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Page 4

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: October 23, 2018

ITEM: Equipment for Additions to the Police Fleet
(2) Police pkg. SUV, 4-door, 2 wheel drive

NOTE:

Bidder MUST indicate: 'Yes' unit bid meets or exceeds the minimum required specification, or 'No' unit bid does not meet or exceed the minimum required specification listed. Failure to do so could result in disqualification of bid.

EQUIPMENT OPTIONS:

Manufacturer brands and model numbers listed are to be interpreted as 'preferred'. Any equivalent bid must be an exact replacement for preferred Mfg. brand and model number.

*The following items will be included as Options. The listed Mfg. brand or a manufacture equivalent will be required. If an equivalent is named it must be approved by the Town of Flower Mound Chief of Police or his designee.

Interior*COST**
EACH

Bidder / Flower Mound

Y/N Y/N

<u>Y</u>	Y_	(2) Troy Standard Width Console 18" Part # CC-F-TMC-711AC	\$ <u>259⁰⁰</u>
<u>Y</u>	Y_	(2) Troy Products Internal Bev Holder #AC-INBHG	\$ <u>38⁰⁰</u>
<u>Y</u>	Y_	(2) Troy WatchGuard 4RE center console bracket	\$ <u>0 Included</u>
<u>Y</u>	Y_	(2) Troy console bracket for USB and 12v	\$ <u>42⁰⁰</u>
<u>Y</u>	Y_	(2) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$ <u>67⁰⁰</u>

✓	Y_	(2) Troy Computer Mount Side Clevis Part # CM-SDMT-SLS-HAV	\$ <u>315⁰⁰</u>
✓	Y_	(2) Havis Docking Station for Dell Rugged Part#DS-DELL-405	\$ <u>433⁰⁰</u>
✓	Y_	(2) Pro-Gard Viper Shield, Center sliding Poly Window Part # PVSSP5704T15A	\$ <u>2596⁰⁰</u>
✓	Y_	(2) Pro-Gard Rear Transport Seats, Grey w/ Steel Screen & mount Part # S5704T15A	\$ <u>1019</u>
✓	Y_	(2) Setina Window Barrier Part # WK0514TAH15	\$ <u>144⁰⁰</u>
✓	Y_	(2) Setina Rear Door Panels Cover Part# DK0100TAH15	\$ <u>151⁰⁰</u>
✓	Y_	(2) Pro-Gard Recessed Panel (Space Saver) Part# RP57T15	\$ <u>Ø Included</u>
✓	Y_	(2) Pro-Gard Extension Panels (Pair) Part# SP57BS15	\$ <u>Ø Included</u>
✓	Y_	(2) Pro-Gard Outboard Seat Belts	\$ <u>Ø Included</u>
✓	Y_	(2) Setina Partition Double Gun Mounting System (w/ optics ready bracket #PG7529) Part# GK10301SIUHKSVCAXL	\$ <u>366⁰⁰</u>

Total price for above "Interior" items:

\$ 5430⁰⁰

Total installation charges for above "Interior" items:

\$ 720⁰⁰

Lighting*Bidder / Flower Mound**

Y/N Y/N

COST
EACH

✓	Y_	(2) Whelen - Texas special 54" Legacy Duo Lightbar Red/White - Blue/White w/ TA	\$ <u>1769⁰⁰</u>
✓	Y_	(2) Whelen - CENCOM CONTROL 21 push button control head	\$ <u>1097⁰⁰</u>
✓	Y_	(2) Whelen Canport for 2015+ Tahoe	\$ <u>0 Included</u>
✓	Y_	(8) Whelen M4 Series Part# M4J - Red/Blue w/ clear lens	\$ <u>516⁰⁰</u>
✓	Y_	(4) mounting brackets for Whelen M4 (90* fwd)	\$ <u>24⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 (Red) Part# LINV2R (under mirror)	\$ <u>139⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 (Blue) Part# LINV2B (under mirror)	\$ <u>139⁰⁰</u>
✓	Y_	(2) Whelen LINSV2 Under Mirror Mount Part# LSVBKT45 - Comes as a pair	\$ <u>19⁰⁰</u>
✓	Y_	(4) Whelen ION DUO Red/Blue Surface Mount Part# I2SMJ black mounting flange (1 ea running board)	\$ <u>258⁰⁰</u>
✓	Y_	(4) Whelen ION DUO Red/Blue Universal Mount/Blk Part# I2J (Rear Quarter Glass)	\$ <u>262⁰⁰</u>
✓	Y_	(2) Whelen Rear Pillar ION Red/Blue DUO Part # (2- total / 1 each side)	\$ <u>912⁰⁰</u>
✓	Y_	(2) Whelen ION Trio RBW Universal Part# I3JC (LP)	\$ <u>129⁰⁰</u>
✓	Y_	(4) Whelen Headlight/Tailight Flasher Modules Part# SSFPOS16 (2015+ Tahoe)	\$ <u>138⁰⁰</u>

Y	Y_	(2) Whelen Howler Low Frequency Siren Part # HOWLER	\$ <u>489⁰⁰</u>
Y	Y_	(2) Whelen Howler Mounting Bracket (2015+ Tahoe) Part #HWLRB20	\$ <u>Ø Included</u>
Y	Y_	(8) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ <u>236⁰⁰</u>
Y	Y_	(2) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ <u>55⁰⁰</u>

Total cost for above "Lighting" items:

\$ 6182⁰⁰

Total installation charges for above "Lighting" items:

\$ 2160⁰⁰***Other Equipment****Bidder / Flower Mound**

Y/N Y/N

COST EACH

Y	Y_	(2) Go Rhino Push Bumper	\$ <u>289⁰⁰</u>
Y	Y_	(2) Go Industries 2 Drawer Rear Storage Part #50026	\$ <u>1445⁰⁰</u>
Y	Y_	(2) Streamlight SL-20L LED Flashlight 350 lumen alum. body w/dc charger / charge sleeve Part# STL-20602	\$ <u>102⁰⁰</u>
Y	Y_	(2) Streamlight DS Charge Cable (22051)	\$ <u>9⁰⁰</u>
Y	Y_	(2) Streamlight DS Charging Base (75100)	\$ <u>13⁰⁰</u>
Y	Y_	(2) Lind Power Suply for Dell Lat. 5404	\$ <u>132⁰⁰</u>
Y	Y_	(2) Top Hat Equipment Timer	\$ <u>Ø Included</u>
Y	Y_	(2) WatchGuard 2015+ Tahoe camera Bracket Part# WGP02225-102	\$ <u>85⁰⁰</u>

<u>Y</u>	Y__	(2) Pro-Gard Safe Stop	\$ <u>118⁰⁰</u>
__	Y__	(2) Motorola APX 6500 Digital Radio	\$ <u>No Bid</u>
__	Y__	(2) WatchGaurd 4RE Wireless Download System Single Hi-Fi mic system w/ Zoom Camera 5 year warranty	\$ <u>6619⁰⁰</u>
<u>Y</u>	Y__	(2) Stalker 2X Radar System w/ extended Warranty	\$ <u>3549⁰⁰</u>
<u>Y</u>	Y__	(2) Stalker Tahoe Antenna Mount 200-1088-00	\$ <u>54⁰⁰</u>
<u>Y</u>	Y__	(2) Stalker Tahoe Display Mount 200-1089-00	\$ <u>49⁰⁰</u>
<u>Y</u>	Y__	(2) Federal Signal 795H Opticom w/ bracket/mount	\$ <u>1257⁰⁰</u>
<u>Y</u>	Y__	(2) FMPD Graphics Kit w/ US/TX Flags	\$ <u>688⁰⁰</u>

Total cost for above "Other Equipment" items: \$ 14,409⁰⁰

Total installation charges for above "Other Equipment": \$ 1995⁰⁰

ATTENTION: **

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe) AND RE-INSTALLED/TRANSFERRED ONTO NEW TAHOE UNITS. ALL PRICING AND INSTALLATION CHARGES MUST BE INCLUDED IN THE OVERALL COST OF EACH UNIT.

****Transferred Items**

**REMOVE/RE-INSTALL
CHARGE**

Bidder / Flower Mound

Y/N Y/N

<u>Y</u>	Y__	(2) Cradlepoint COR IBR900 w/ antenna 170654-001	\$ <u>540⁰⁰</u>
		Panomara GPS-D 2148 kit , C23F-SM, AFM-835 (700-800 whip)	

Total Remove/Re-install charges for
above "Transferred Items":

\$ 540⁰⁰

ATTENTION: ***

THE FOLLOWING ITEMS WILL BE REMOVED FROM TOWN OF FLOWER MOUND DECOMMISSIONED VEHICLES (Chevy Tahoe) AND RETURNED/SHIPPED LOOSE BACK TO THE TOWN OF FLOWER MOUND FLEET SERVICE CENTER FACILITY AT 1101 DUNCAN LN., FLOWER MOUND, TX 75028 ON OR BEFORE DELIVERY OF THE NEW UNITS. NEW UNITS WILL BE DELIVERED TO THE FLEET SERVICE CENTER FACILITY AT 1101 DUNCAN LN., FLOWER MOUND, TX. 75028.

*****Decommissioned Items****Removal Charge****Bidder / Flower Mound**

Y/N Y/N

	Y
--	---

1. None

\$ ~~180⁰⁰~~ 0

Total removal charges for above "Decommissioned Items":

\$ ~~180⁰⁰~~ 0TOTAL Cost of Installation and Materials \$ 31,436⁰⁰**TOTAL BID PRICE**\$ 62,872⁰⁰

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

5 YEAR MANUFACTURER
SERVICE VEHICLE LIFE ON INSTALLATION & WORKMANSHIP.

COMMENTS

Use this page to explain any items that you marked no on above:



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: January 7, 2019

FROM: Brittnei Barnett, Grants & Financial Analyst

ITEM: Consider acceptance of grant funds for FD 218 Training, from the U.S. Department of Food and Drug Administration for the Retail Standards Grant Program sponsored by the Association of Food and Drug Officials.

BACKGROUND INFORMATION: The Town applied for and was awarded a grant in the amount of \$1,418.00 from the Association of Food and Drug Officials (AFDO) for the Retail Standards Grant Program. The program provides funds for the completion of projects and training to enhance conformance with the Voluntary National Retail Food Regulatory Program Standards (Retail Standards). The AFDO manages the grant but the funds originated from the U.S. Food and Drug Administration.

If approved, the grant will be used to cover the costs of an employee from Environmental Services to attend training classes related to food inspections.

This grant does not have a formal agreement the Mayor must sign. The Town received email notification that we received an award under the Retail Standards Grant Program, and an official award letter was made available through the program's online portal. This is a reimbursement grant, so the Town will receive the grant funds once the project's final report is completed (no more than 45 days after October 1, 2019).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$1,418.00

Proposed Expenditure:	Account Number(s):
\$1,418.00	Grant Fund

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

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

ATTACHMENTS:

1. Resolution

DRAFT MOTION: Move to approve as presented in the agenda caption.

RESOLUTION NO. _____

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

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FOR FD 218 TRAINING FROM THE U.S. DEPARTMENT OF FOOD AND DRUG ADMINISTRATION FOR THE RETAIL STANDARDS GRANT PROGRAM, SPONSORED BY THE ASSOCIATION OF FOOD AND DRUG OFFICIALS; APPROVING THE USE OF GRANT FUNDS TO COVER THE COSTS OF AN EMPLOYEE TO ATTEND TRAINING RELATED TO FOOD INSPECTIONS; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE RETAIL STANDARDS GRANT PROGRAM.

WHEREAS, the Town of Flower Mound applied for and has been awarded a grant in the amount of \$1,418.00 from the Department of Food and Drug Administration for the Retail Standards Grant Program, sponsored by the Association of Food and Drug Officials to provide funding for the completion of projects and training to enhance conformance with the Voluntary National Retail Food Regulatory Program Standards (Retail Standards); and,

WHEREAS, the Town Council of the Town of Flower Mound finds that it is in the best interest of the health, safety, and general welfare of the citizens of the Town to accept the awarded grant funds to cover the costs of an employee to attend training related to food inspections.

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

SECTION 1

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

SECTION 2

The Town of Flower Mound approves and accepts the awarded grant amount of \$1,418.00 from the Department of Food and Drug Administration for the Retail Standards Grant Program, sponsored by the Association of Food and Drug Officials.

SECTION 3

The grant funds are hereby authorized to be used to fund equipment and activities in accordance with the grant award and will be used only for the purposes for which they are intended under the program as outlined in the grant award document attached hereto as Exhibit "A."

SECTION 4

This Resolution shall become effective on and after its date of adoption.

RESOLUTION NO. _____

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, ON THIS THE _____ DAY OF _____, 2019.**

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

VOLUNTARY NATIONAL RETAIL FOOD
REGULATORY PROGRAM STANDARDS
(RETAIL STANDARDS) GRANT PROGRAM

Page 106 of 410

Exhibit A



December 3, 2018

Grant Number: G-T-1810-06638

Project Title: FD 218 Training

Award Value: \$1,418.00

Project Period: January 1, 2019 to October 1, 2019

Tom Vyles
Environmental Health Manager
Town of Flower Mound
2121 Cross Timbers
Flower Mound, Texas 75028

Dear Tom Vyles:

We have approved your application for FD 218 Training as part of the Retail Standards Grant Program, funded by the United States Food and Drug Administration (FDA). Approval is based on review of the application submitted by you on behalf of Town of Flower Mound to the Association of Food and Drug Officials (AFDO).

As part of your application your agency has made an assurance that it will comply with all applicable Federal statutes and regulations in effect during the grant period, including applicable parts of 45 CFR Parts 74 and 92. Acceptance of this award and/or any funds provided by the Retail Standards Grant Program acknowledges agreement with all of the terms and conditions in this award letter.

Your award is based on the above-title project application, submitted to and approved by AFDO, and is subject to the following terms and conditions:

- **The grantee must complete the full scope of work and all tasks outlined in the approved grant application by October 1, 2019 unless a written exception is granted by the AFDO Programmatic Point of Contact for this grant award.**
- **Any changes to the scope, tasks, deliverables, or expenses of this project must be approved in advance and in writing by the AFDO Programmatic Point of Contact prior to work being modified or completed.**
- The grantee must abide by the grant guidance for the program, available as a PDF file on the Retail Standards Grant Program portal at <http://afdo.org/retailstandards>. This portal is also the site where you can find additional information/updates regarding this grant program, and where you can log in for project status and submission of required reports.
- Per United States Department of Health and Human Services Grants Policy, expenses for food or beverage are generally not allowed unless it is part of a per diem allowance provided in conjunction with allowable travel.
- A Final Project Report must be submitted through the online grants portal no more than 45 days after October 1, 2019. As part of the final report, the grantee must provide a full accounting of all expenditures made with funds from this grant award, accompanied by the documentation specified in the reporting section of the grant guidance.
- As a reminder, recipients of funding through this program are required to assure that project activities achieve greater conformance with the FDA Voluntary National Retail Food Retail Program Standards, available at: http://afdo.org/fda_vnrfrps.

The amount of \$1,418.00 represents the full amount of funds to which you are entitled. Grant awards are made with the understanding that Retail Standards Grant Program staff may require clarification of information within your application, as necessary, during the application, project, or reporting periods. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities.

Please note, the Catalog of Federal Domestic Assistance (CFDA) number for this United States Food and Drug Administration grant, awarded to the Association of Food and Drug Officials (AFDO) on 8/11/2016, is 93.103. Your grant is considered a subaward under this AFDO grant.

If you have questions about this award, please contact your AFDO Programmatic Point of Contact. Additionally, the Retail Food Safety Specialist from your FDA Region is an integral part of your jurisdiction's successful completion of Retail Standards activities, and is available to assist with your funded project. Contact information for both individuals is listed below.

We appreciate your ongoing commitment to achieving greater conformance with the Voluntary National Retail Food Regulatory Program Standards.

Sincerely,



Steven Mandernach
Executive Director
Association of Food and Drug Officials
155 W. Market St.
3rd Floor
York, PA 17401

AFDO Programmatic Point of Contact:

Michael Turner
retailstandards@afdo.org
(850) 583-4593

Follow the link below to obtain contact information for the FDA Regional Food Specialist assigned to assist your jurisdiction:

<http://afdo.org/retailstandards/fdaregionalcontacts>

cc: Gerald Berg (gerald.berg@fda.hhs.gov)
Daniel Lukash (daniel.lukash@fda.hhs.gov)



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: January 7, 2019

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

ITEM: Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services associated with the ADA Transition Plan & Implementation project – 2019 Update, in the amount of \$100,000.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Under Title II of the Americans with Disabilities Act (ADA), municipalities with more than 50 employees are required to have an ADA Transition Plan. The ADA Transition Plan has the following basic requirements:

- Designate an ADA Coordinator
- Develop and post an ADA Policy Statement
- Grievance Procedures
- Self-Evaluation (Public Right of Way, Buildings, Parks, Programs, Design Criteria, Website etc.)
- Develop a Transition Plan

This project will continue the work done as part of the initial ADA Transition Plan that was adopted in November of 2015 and an update that concluded in 2018. One of the major aspects of the ADA Transition Plan is to complete the self-evaluation. The self-evaluation portion of the ADA Transition Plan will take several years to complete. This update will inventory the remaining facilities until new ones are opened, six additional parks and 15 linear miles of sidewalk segments. It will update the Town's Construction Standards as well. The ADA Transition Plan is a living document that lays out priorities for implementation of corrective actions with a yearly schedule that ultimately will bring all aspects of the Town into compliance with the ADA. The Town will continue to use summer interns to catalog residential streets. Approximately 80 miles of residential street sidewalks have already been cataloged by summer interns. Future interns will begin to add cost estimates to these catalogued sidewalks so they can be added to the overall Transition Plan for implementation.

FISCAL IMPACT: \$100,000.00

Proposed Revenue:	Account Number(s):
\$100,000.00	531-220-70050

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 in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
KIMLEY-HORN AND ASSOCAITES, INC.**

This contract is entered into on this 7th day of January 2019 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 **KIMLEY-HORN AND ASSOCAITES, INC.**, (“hereinafter referred to as “CONSULTANT”) whose address is 801 Cherry Street, Suite 1300, Fort Worth, TX 76102.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to the update of the Town’s ADA Self-Evaluation as part of the Town’s ADA Transition Plan; and

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

III.

Payment for Services

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

CONSULTANT will bill TOWN on a lump sum basis in accordance with 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 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:

Matthew J. Hotelling, P.E., PTOE, ADAC
Traffic Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6303 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:

Matthew J. Hotelling, P.E., PTOE, ADAC
Traffic Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6303 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:

Erin P. Eureka, P.E.
Kimley-Horn and Associates, Inc.
801 Cherry Street
Unit 11, Suite 1300
Fort Worth, Texas 76102
817-335-6511 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.

[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 Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Kimley-Horn and Associates, Inc.

By: Scott R. Arnold
 Name: Scott R. Arnold
 Title: Assistant Secretary

Date Signed: December 6, 2018

State of Texas §
 §
 County of Tarrant §

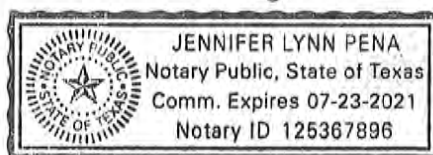
This instrument was acknowledged before me on the 6th day of December, 2018, by Scott R. Arnold in his capacity as Assistant Secretary of Kimley-Horn & Associates Inc. a Private Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Assistant Secretary.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 6th
 DAY OF Dec, 2018.

Jennifer Lynn Pena
 Notary Public, State of Texas

My Commission Expires:

7-23-21



ATTACHEMENT A

SCOPE OF SERVICES

PROJECT NAME: ADA Transition Plan Update - Phase 3

PROJECT UNDERSTANDING

The Consultant will prepare an update to the Town of Flower Mound's 2018 ADA Self-Evaluation and Transition Plan. The update will include an ADA compliance review of Town buildings and associated parking lots including paths of travel, parks and associated parking lots including paths of travel, park sidewalk and associated curb ramps, multi-use trails, pedestrian bridges, signalized intersections, and public rights-of-way sidewalks and associated curb ramps and railroad crossings. Possible solutions to bring any non-compliant elements that are not considered to be a de minimis barrier and are not "safe harbored" into compliance will be provided. The Town's ADA Transition Plan document will be updated to include formal documentation of tasks and associated findings outlined in this Scope of Services.

SCOPE OF PROFESSIONAL SERVICES

Task 1 – Project Management

- 1.1 The Consultant will maintain project records, budgets, and communications for the duration of the project. It is understood the project will have a 3-month duration.
- 1.2 The Consultant will prepare monthly progress reports for the duration of the project.

Task 2 – Self-Evaluation

- 2.1 Facilities Review. The Consultant will establish field teams which will conduct evaluations based on forms developed by the Consultant based on the 2010 ADA Standards, 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG), and applicable access-related state and local standards. All field data will be compatible with the Client's existing Geographic Information System (GIS).

2.1.1 Facilities Listing

2.1.1.1 Buildings and Parking Lots – The following buildings will be evaluated:

Location Name	Property Address
1. Fire Station #4	4601 Bridlewood Blvd.
2. Fire Station #5	800 Spinks Rd.
3. Flower Mound Senior Center	2701 W. Windsor Dr.
4. New Town Hall	2121 Cross Timbers Rd.
5. O & M Building	202 Spinks Rd.

Building evaluations are limited to all common-use spaces, including common-use spaces located in employee-only areas. Areas used only by employees as work areas will not be evaluated.

2.1.1.2 Building Sidewalks – Up to 1.25 linear miles of on-site building sidewalk (excludes perimeter sidewalk within the public right-of-way) and all associated curb ramps, ramps, stairs, and other paths of travel required to be ADA compliant will be evaluated.

2.1.1.3 Parks and Parking Lots – The following parks and associated amenities will be evaluated:

Location Name		Property Address
1.	Lakewood Park <i>Playground, picnic table, grill</i>	2601 Stillwater Ct.
2.	Northshore Park <i>Basketball court, playground, pavilion, grill, picnic tables, shaded picnic tables, parking</i>	
3.	Stone Creek Park <i>Basketball court, practice soccer field, playground, picnic tables, grills, pavilion, parking</i>	1400 Fuqua Dr.
4.	Tealwood Oaks Park <i>Playground, picnic tables, grills</i>	
5.	Peacock Park <i>Playground, picnic tables, grill, pavilion</i>	3000 Old Settlers Rd.
6.	Pecan Orchard Park <i>Playground, picnic tables</i>	
		4700 Mesquite St.

2.1.1.4 Park Sidewalks/Multi-Use Trails – Up to 3.25 linear miles of park sidewalk or multi-use trails will be evaluated. All curb ramps, ramps, stairs, and other paths of travel required to be ADA compliant along this sidewalk will be evaluated within the parks listed in **Task 2.1.1.3**.

2.1.1.5 Signalized Intersections – The signalized intersection of FM 2499 and College will be evaluated.

2.1.1.6 Sidewalk Corridors – Up to 15 linear miles of pedestrian path of travel along the corridors identified in **Exhibit A** will be evaluated. Missing sidewalk gaps will not count toward the total length.

2.1.1.7 Unsignalized Intersections and Driveways – Unsignalized intersections and driveways along the existing sidewalk in **Task 2.1.1.6** will be evaluated. The Consultant estimates this task will include the evaluation of up to 120 intersections and up to 372 curb ramps. Evaluation of additional curb ramps will be considered Additional Services.

2.2 Facility Reports. The Consultant will create a separate report for each facility type. Each facility report will identify compliance status of each facility with regards to both federal and state standards and include the following:

- Listing of facilities that are in compliance with current standards.
- Listing of facilities that are not in compliance with current ADA requirements.
- Possible solutions to resolve non-compliance issues for each facility.
- Prioritized list of improvements using criteria developed by the Consultant.
- "Cost report" that assigns conceptual budget estimates to each possible solution.
- Photolog summary for each facility (photos for sidewalks can be hyperlinked in GIS, but will not be provided on each facility report).
- Catalog of all field data compatible with the Client's existing GIS databases.

Task 3 – Transition Plan Update

The Consultant will coordinate with Client staff in updating the Transition Plan as follows:

3.1 Draft Transition Plan Update. Based on the Self-Evaluation, the Consultant will prepare a draft Transition Plan update for the Client. The plan update will include:

- Summary and detailed findings of Self-Evaluation;
- A phased schedule with cost estimates for the removal of facility barriers that cannot be resolved through relocation of services, the provision of auxiliary aids, or equivalent facilitation; and

The Consultant will provide electronic copies of the Draft Transition Plan in Microsoft Word and Adobe PDF formats to the Client.

3.2 Final Transition Plan. The Consultant will address one (1) round of comments from Client staff to prepare a Final ADA Self-Evaluation and Transition Plan update for the Client. The Consultant will provide the following deliverables to the Client:

- Electronic copies of the Final Transition Plan in Microsoft Word and Adobe PDF formats; and
- Two (2) printed copies of the Final Transition Plan. Two (2) electronic copies of the Appendices will be provided on flash drives. Printed copies of the Appendices will be considered Additional Services.

Task 4 – Meetings

4.1 Progress Meeting. The Consultant will prepare for and attend up to one (1) in-person progress meeting with Client staff to present the findings of the Self-Evaluation. The Consultant will produce meeting materials and handouts and prepare a summary of action items resulting from the meeting (2-hour meeting).

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement:

- Modifications to Phase 1 and Phase 2 data or reports;
- Evaluation and reporting of facilities not listed in **Task 2.1**;
- Evaluation of areas used only by employees as work areas; and
- Providing printed copies of Appendices.

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates.

Schedule: The Consultant will provide its services as expeditiously as practicable and work with the Client to develop a mutually agreeable schedule.

Deliverables: The Consultant will deliver the following materials to the Client:

- Electronic copies of the Draft Transition Plan in Microsoft Word and Adobe PDF formats;
- Electronic copies of the Final Transition Plan in Microsoft Word and Adobe PDF formats;
- Two (2) printed copies of the Final Transition Plan. Two (2) electronic copies of the Appendices will be provided on flash drives. Printed copies of the Appendices will be considered Additional Services.
- Field work data in GIS format, compatible with the Client's GIS system.

ATTACHEMENT B

COMPENSATION

The Consultant will provide the Scope of Professional Services for a lump sum fee of \$100,000.

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

Town of Flower Mound
ADA Transition Plan
Sidewalk Corridors

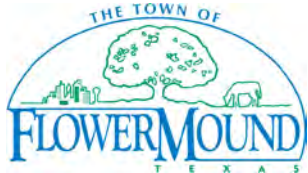


Exhibit A

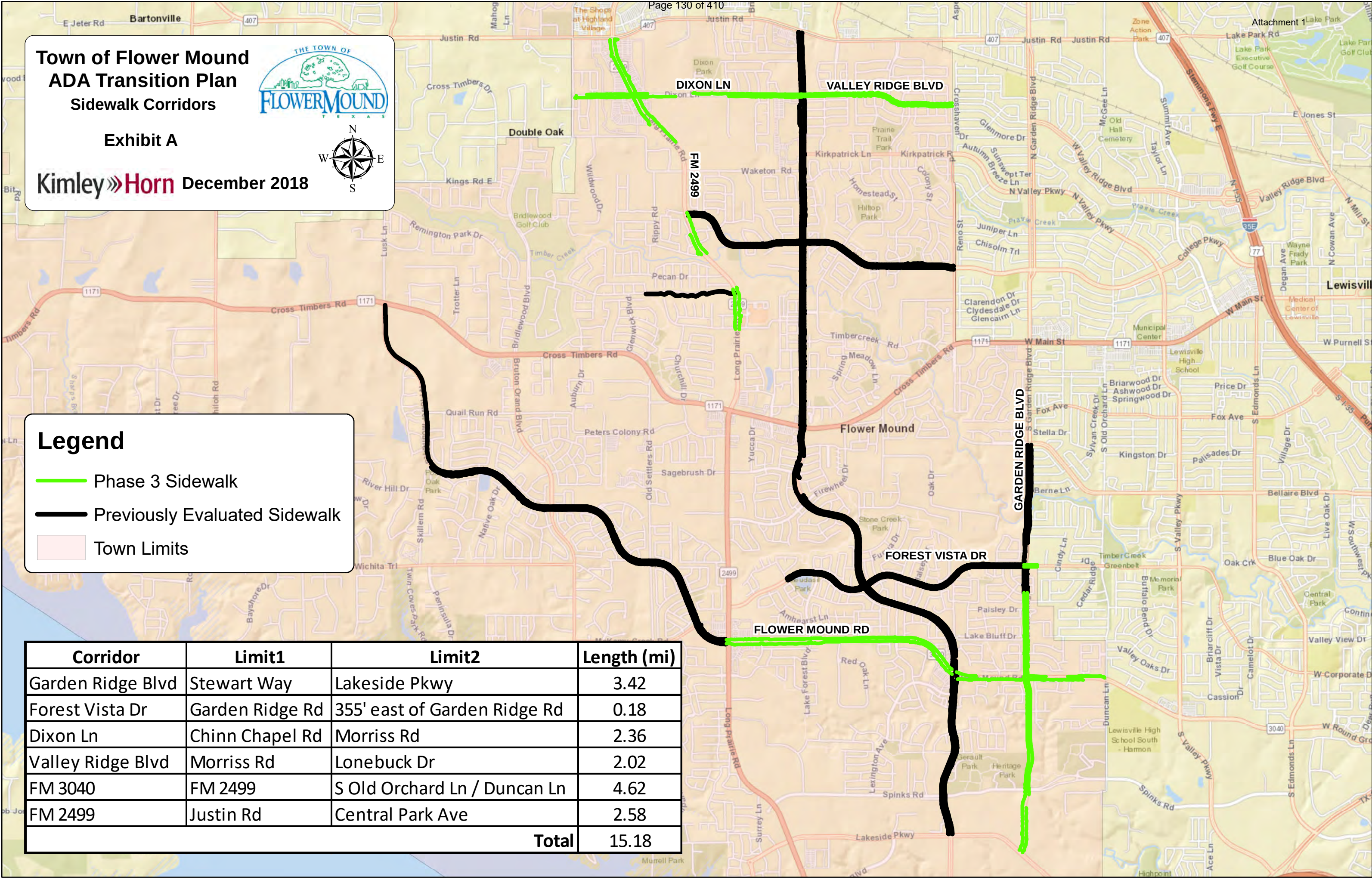
Kimley»Horn December 2018



Legend

- Phase 3 Sidewalk
- Previously Evaluated Sidewalk
- Town Limits

Corridor	Limit1	Limit2	Length (mi)
Garden Ridge Blvd	Stewart Way	Lakeside Pkwy	3.42
Forest Vista Dr	Garden Ridge Rd	355' east of Garden Ridge Rd	0.18
Dixon Ln	Chinn Chapel Rd	Morriss Rd	2.36
Valley Ridge Blvd	Morriss Rd	Lonebuck Dr	2.02
FM 3040	FM 2499	S Old Orchard Ln / Duncan Ln	4.62
FM 2499	Justin Rd	Central Park Ave	2.58
Total			15.18





TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: January 7, 2019

FROM: Tiffany Bruce, P.E., Executive Director of Public Works, Town Engineer

ITEM: Consider approval of Amendment No. 2 to the Fiscal Year 2018-2019 Capital Improvement Program.

BACKGROUND INFORMATION: The Fiscal Year (FY) 2018-2019 Capital Improvement Program (CIP) Amendment 1, was approved by Town Council on October 15, 2018. Amendment No. 2 is proposed to increase funding to the General Capital budget, and to the Utility Capital budget. The proposed CIP Amendment No. 2 for FY 2018-2019 would increase the currently adopted General Capital budget expenditures from \$25,502,000 to \$27,017,000, and the Utility Capital budgeted expenditures will increase expenditures from \$27,685,000 to \$28,335,000.

FISCAL IMPACT:

Proposed CIP:

FY 2018-2019:	General Capital Projects	\$27,017,000
	Utility Capital Projects	\$28,335,000

Five-Year CIP Plan:	General Capital Projects	\$204,272,085
	Utility Capital Projects	\$170,962,690

Proposed Funding: Upon approval of this item, transfers will be required to adjust the project funding as shown on the attached FY 2018-2019 CIP Amendment No. 2 Changes.

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

LEGAL REVIEW: N/A

ATTACHMENTS:

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

DRAFT MOTION: Move to approve as presented in the agenda caption.

Project Modification Listing
CIP Amendment 2Attachment 1
Jan 7, 2018

Streets

- o Bruton Orand at FM 1171 Right Turn Lane – New project to add a Northbound right turn lane at Bruton Orand and FM 1171, with \$100,000 of Project Savings in FY2018-19, and \$400,000 of Debt in FY 2019-20
- o Morriss Rd Improvements – Add \$350,000 of Impact fees for Valley Ridge Intersection Improvements
- o Roadway Amenities – Increase budget to Transfer \$115,000 from the Street Light Decision Package, into the Roadway Amenities CIP project

Facility

- o Fire Station No. 7 and Apparatus (Wichita Trail) - add \$950,000, to include \$900,000 for this FY's Ladder Truck decision package, and \$50,000 to cover increased construction costs

Parks

- o 2020-21 Playground Replacements (Bluebonnet, Colony, and Lakewood) - should read "Individual Park Improvements" (Bluebonnet, Colony, and Lakewood), as this project is not for new Playgrounds

Water

- o Fire Station No. 7 Utilities – New project, add \$300,000 , to cover costs associated with extended Storm Drainage requirements and Utility access to the property
- o Grady Court Water Line – move project forward to this FY, to work with our Grady Court Street Reconstruction project \$150,000
- o Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff) – Add new Project, which replaces and realigns a water line previously in numerous resident backyards, with Design in 2018-19 at \$200,000 of Project Savings, and Construction in 2019-20 with \$2,000,000 of Debt

Page 133 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

Attachment 2

STREET PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE							
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028		
Aberdeen Drive Phase I (2 Lanes FM 2499 to Lake Forest) **	\$ 1,650,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,650,000	\$ 1,300,000	0,2,5	\$ 350,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Aberdeen Drive Phase II (2 additional Lanes FM 2499 to 700 ft. North of Spinks) **	-	-	-	-	2,463,000	-	-	2,463,000	1,063,000	0,2,5	-		-	1,400,000	-	-	-	-	1,400,000	-
ADA Transition Plan and Implementation **	648,000	500,000	150,000	150,000	150,000	150,000	-	1,748,000	13,000	2	635,000		-	1,100,000	500,000	150,000	150,000	150,000	150,000	-
Bruton Orand at FM1171 Right Turn Lane (Northbound) - NEW	-	100,000	400,000	-	-	-	-	500,000	100,000	2	-		-	400,000	-	400,000	-	-	-	-
Churchill Drive (FM 2499 to Yucca) **	1,000,000	-	-	-	-	-	-	1,000,000	1,000,000	0,2,7	-		-	-	-	-	-	-	-	-
Cowboy Lane **	-	-	-	-	-	-	433,337	433,337	193,337	3	-		-	240,000	-	-	-	-	-	240,000
Denton Creek Boulevard Bridge (Graham Branch crossing)	310,000	6,590,000	-	-	-	-	-	6,900,000	1,150,000	0,1,2	-		-	5,750,000	5,750,000	-	-	-	-	-
Firewheel Drive (complete 4 lane gap, to 340 feet north of Garden Rd) **	555,000	-	-	-	-	-	-	555,000	555,000	0,2	-		-	-	-	-	-	-	-	-
FM 1171 at FM 2499 Eastbound Right Turn Lane **	885,000	-	-	-	-	-	-	885,000	785,000	2,7	100,000		-	-	-	-	-	-	-	-
FM 1171 at FM 2499 Westbound Right Turn Lane **	998,000	-	-	-	-	-	-	998,000	998,000	2,7	-		-	-	-	-	-	-	-	-
FM 1171 at River Walk Dr Intersection Improvements **	350,000	600,000	-	-	-	-	-	950,000	350,000	0,2,3,5	-		-	600,000	600,000	-	-	-	-	-
FM 2499 at FM 407 Intersection Improvements **	-	400,000	1,300,000	-	-	-	-	1,700,000	1,400,000	1,2	300,000		-	-	-	-	-	-	-	-
FM 2499 at Lakeside North Right Turn Lane **	100,000	200,000	-	-	-	-	-	300,000	200,000	0,2	100,000		-	-	-	-	-	-	-	-
FM 2499 at Waketon Intersection Improvements	-	360,000	1,240,000	-	-	-	-	1,600,000	1,000,000	2,7	-		-	600,000	-	600,000	-	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	8,200,000	-	-	-	-	-	-	8,200,000	7,000,000	1,2	1,200,000		-	-	-	-	-	-	-	-
Garden Ridge Through Lane (at FM 3040)	-	60,000	550,000		-	-	-	610,000	60,000	0,2	-		-	550,000	-	550,000		-	-	-
I 35W Interchange at Denton Creek	-	-	-	-	-	-	5,000,000	5,000,000	5,000,000	0,1,5	-		-	-	-	-	-	-	-	-
Impact Fee Update	-	-	120,000	-	-	-	-	120,000	120,000	0	-		-	-	-	-	-	-	-	-
Kirkpatrick Lane Phase III (South of FM 1171)	-	-	-	-	800,000	7,918,000	-	8,718,000	4,975,000	0,1,2	-		-	3,743,000	-	-	-	-	3,743,000	-
Lake Forest Boulevard Roadway Improvements	2,000,000	-	-	-	-	-	-	2,000,000	600,000	0,2	1,400,000		-	-	-	-	-	-	-	-
Lakeside Dual Left turn Lane at Gerault **	-	-	-	200,000	-	-	-	200,000	100,000	0,2,5	-		-	100,000	-		100,000	-	-	-
Lakeside Parkway Capacity Improvements **	-	-	-	540,000	6,840,000	-	-	7,380,000	7,380,000	0,1,2	-		-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	7,232,000	7,232,000	732,000	0,2	-		-	6,500,000	-	-	-	-	-	6,500,000
Morriss Road Improvements **	650,000	280,000	-	-	-	-	-	930,000	805,000	0,1,2,4	-		-	125,000	125,000	-	-	-	-	-
Morriss Road Improvements **	650,000	630,000	-	-	-	-	-	1,280,000	1,155,000	0,1,2,4	-		-	125,000	125,000	-	-	-	-	-
Peters Colony Roundabout **	-	200,000	500,000	-	-	-	-	700,000	200,000	2	-		-	500,000	-	-	500,000	-	-	-
Rippy Road (Waketon to FM 2499)**	800,000	350,000	2,650,000	-	-	-	-	3,800,000	2,115,000	2,7	-		-	1,685,000	-	1,685,000	-	-	-	-
Roadway Amenities	388,083	90,000	90,000	90,000	90,000	90,000	-	838,083	193,083	2,4	195,000		-	450,000	90,000	90,000	90,000	90,000	90,000	-
Roadway Amenities	388,083	205,000	90,000	90,000	90,000	90,000	-	953,083	308,083	2,4	195,000		-	450,000	90,000	90,000	90,000	90,000	90,000	-
Sidewalk Links **	961,000	150,000	-	-	-	-	-	1,111,000	1,111,000	2,4	-		-	-	-	-	-	-	-	-
Skillern Road (Flower Mound Rd to Riverhill) **	905,000	-	-	-	-	-	-	905,000	85,561	2,3	819,440		-	-	-	-	-	-	-	-
Stonecrest Road (500 ft. North of Canyon Falls Dr. to Town Limit) **	1,050,000	-	-	-	-	-	-	1,050,000	150,000	2,5	900,000		-	-	-		-	-	-	-
Transportation Model Update and LOS Mapping	-	75,000	-	-	-	-	-	75,000	75,000	2	-		-	-	-	-	-	-	-	-
Waketon Road **	5,500,000	460,000	-	-	-	-	-	5,960,000	4,670,000	2,3,5,7	830,000		-	460,000	460,000	-	-	-	-	-
Windsor Roundabout Connection	-	200,000	-	-	-	-	-	200,000	200,000	2,4	-		-	-	-	-	-	-	-	-
SUBTOTAL	\$ 26,950,083	\$ 10,515,000	\$ 6,600,000	\$ 980,000	\$ 10,343,000	\$ 8,158,000	\$ 12,665,337	\$ 76,211,420	\$ 45,578,981		\$ 6,829,440		\$ -	\$ 23,803,000	\$ 7,525,000	\$ 3,075,000	\$ 840,000	\$ 240,000	\$ 5,383,000	\$ 6,740,000
SUBTOTAL	\$ 26,950,083	\$ 11,080,000	\$ 7,000,000	\$ 980,000	\$ 10,343,000	\$ 8,158,000	\$ 12,665,337	\$ 77,176,420	\$ 46,143,981		\$ 6,829,440		\$ -	\$ 24,203,000	\$ 7,525,000	\$ 3,475,000	\$ 840,000	\$ 240,000	\$ 5,383,000	\$ 6,740,000

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

Page 134 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

Attachment 2

SIGNAL PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
College Parkway at Timber Creek	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 250,000	250,000	\$ 250,000	0,2,4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand at Kenwood	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Bruton Orand at Quail Run	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
FM 1171 at Canyon Falls Blvd	-	-	250,000	-	-	-	-	250,000	50,000	0,2	-	-	200,000	-	200,000	-	-	-
FM 2499 at College Parkway	340,000	-	-	-	-	-	-	340,000	340,000	0,2,7	-	-	-	-	-	-	-	-
FM 2499 at Silveron	240,000	-	-	-	-	-	-	240,000	240,000	0,2	-	-	-	-	-	-	-	-
FM 407 at Browning - Reconstruction	25,000	300,000	-	-	-	-	-	325,000	25,000	2,4	-	-	300,000	-	300,000	-	-	-
Garden Ridge at Forest Vista	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Garden Ridge at Kirkpatrick	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Lakeside at Silveron	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4,5	-	-	-	-	-	-	-	-
Morriss at Eaton	-	-	-	250,000	-	-	-	250,000	250,000	2,4	-	-	-	-	-	-	-	-
Peters Colony at Churchill	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Traffic Detection Rehabilitation	500,000	125,000	125,000	125,000	125,000	125,000	-	1,125,000	-	2	500,000	-	625,000	125,000	125,000	125,000	125,000	-
Traffic Signal Rehabilitation	-	-	-	-	-	-	500,000	500,000	-	2	-	-	500,000	-	-	-	-	500,000
U.S 377 at Canyon Falls Drive	275,000	-	-	-	-	-	-	275,000	275,000	0,2,4	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 1,380,000	\$ 425,000	\$ 375,000	\$ 375,000	\$ 125,000	\$ 125,000	\$ 2,250,000	\$ 5,055,000	\$ 2,930,000		\$ 500,000	\$ -	\$ 1,625,000	\$ 425,000	\$ 325,000	\$ 125,000	\$ 125,000	\$ 500,000

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

Page 135 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

STREET RECONSTRUCTION PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Flower Mound Road Reconstruction Phase II (Old Settlers to Bruton Orand) **	-	-	-	-	-	-	2,344,000	2,344,000	2,344,000	8	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase II (Morriss to Chancellor) **	-	335,000	2,400,000	-	-	-	-	2,735,000	2,735,000	8	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase III (Chancellor to Lake Shore) **	-	-	-	-	350,000	2,300,000	-	2,650,000	2,650,000	8	-	-	-	-	-	-	-	-
Grady Court Reconstruction (Homestead to Cul-de-sac)	-	675,000	-	-	-	-	-	675,000	675,000	8	-	-	-	-	-	-	-	-
Lopo Road Reconstruction (River oak to 330-ft West of Garden Ridge) **	-	-	950,000	-	-	-	-	950,000	950,000	8	-	-	-	-	-	-	-	-
Morriss Road Panel Replacement (FM 3040 to FM 1171) **	-	4,040,000	-	-	-	-	-	4,040,000	4,040,000	8	-	-	-	-	-	-	-	-
Old Gerault Road Reconstruction	-	370,000	-	-	-	-	1,200,000	1,570,000	1,570,000	8.2	-	-	-	-	-	-	-	-
Old Long Prairie Road Reconstruction **	1,100,000	-	-	-	-	-	-	1,100,000	1,100,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase II (5000 Timbercreek Rd. to Homestead St.) **	-	-	250,000	2,000,000	-	-	-	2,250,000	2,250,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase III (Homestead St. to Kirkpatrick Ln.) **	-	-	-	300,000	2,925,000	-	-	3,225,000	3,225,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase IV (Timber Creek Bridge to Eaton) **	-	-	-	-	-	-	3,600,000	3,600,000	3,600,000	8	-	-	-	-	-	-	-	-
West Windsor and Mulberry Connection **	100,000	-	-	-	-	-	-	100,000	100,000	8	-	-	-	-	-	-	-	-
Woodbine Street Reconstruction (Timber Creek to Hleden Ct.) **	1,350,000	-	-	-	-	-	-	1,350,000	1,350,000	8	-	-	-	-	-	-	-	-
Wood Creek Circle Reconstruction (Wood Creek Dr to end of Cul-de-Sac) **	-	-	400,000	-	-	-	-	400,000	400,000	8	-	-	-	-	-	-	-	-
Yucca Drive Reconstruction (Sagebrush to 700 ft South of FM 1171) **	1,300,000	-	-	-	-	-	-	1,300,000	1,300,000	8	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 3,850,000	\$ 5,420,000	\$ 4,000,000	\$ 2,300,000	\$ 3,275,000	\$ 2,300,000	\$ 7,144,000	\$ 28,289,000	\$ 28,289,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
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4. Decision Package
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9. SH 121 Regional Toll Revenue (RTR)

Page 136 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

FACILITY PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028										2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Fire and Police Training Center (West Flower Mound)	-	-	-	150,000	2,085,000	-	-	2,235,000	-	2	-	-	-	-	2,235,000	-	-	-	150,000	2,085,000	-	-
Fire Station No. 1 Facility Upgrades **	1,223,375	670,000	-	-	-	-	-	1,893,375	763,375	2.4	980,000	-	-	-	150,000	150,000	-	-	-	-	-	-
Fire Station No. 6 and Apparatus (West Flower Mound) **	-	-	-	300,000	6,500,000	-	-	6,800,000	-	2	-	-	-	-	6,800,000	-	-	-	300,000	6,500,000	-	-
Fire Station No. 7 and Apparatus (Wichita Trail) **	2,070,000	4,450,000	-	-	-	-	-	6,520,000		2	2,070,000	-	-	-	4,450,000	4,450,000	-	-	-	-	-	-
Fire Station No. 7 and Apparatus (Wichita Trail) **	2,070,000	5,400,000	-	-	-	-	-	7,470,000	950,000	2.4	2,070,000	-	-	-	4,450,000	4,450,000	-	-	-	-	-	-
Library Expansion**	12,400,000	-	-	-	-	-	-	12,400,000	-	2.7	12,400,000	-	-	-	-	-	-	-	-	-	-	-
Gibson-Grant Log Cabin Reconstruction	51,593	507,000	307,000	710,000	-	-	-	1,575,593	1,068,593	1.2	-	-	-	-	507,000	507,000	-	-	-	-	-	-
Mechanical Screen Wall (Police Dept.)	90,000	-	-	-	-	-	-	90,000	90,000	1.2	-	-	-	-	-	-	-	-	-	-	-	-
Police and Courts Facility Upgrades **	3,331,000	-	-	-	-	-	-	3,331,000	1,571,000	2.4	1,760,000	-	-	-	-	-	-	-	-	-	-	-
Storage Warehouse	650,000	1,100,000	-	-	-	-	-	1,750,000	1,100,000	2.4	650,000	-	-	-	-	-	-	-	-	-	-	-
Town Hall **	18,919,000	140,000	-	-	-	-	-	19,059,000	859,000	2.7	18,200,000	-	-	-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 38,734,968	\$ 6,867,000	\$ 307,000	\$ 1,160,000	\$ 8,585,000	\$ -	\$ -	\$ 55,653,968	\$ 5,451,968		\$ 36,060,000	\$ -	\$ -	\$ 14,142,000	\$ 5,107,000	\$ -	\$ 450,000	\$ 8,585,000	\$ -	\$ -	\$ -	\$ -
SUBTOTAL	\$ 38,734,968	\$ 7,817,000	\$ 307,000	\$ 1,160,000	\$ 8,585,000	\$ -	\$ -	\$ 56,603,968	\$ 6,401,968		\$ 36,060,000	\$ -	\$ -	\$ 14,142,000	\$ 5,107,000	\$ -	\$ 450,000	\$ 8,585,000	\$ -	\$ -	\$ -	\$ -

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
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9. SH 121 Regional Toll Revenue (RTR)

Page 137 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

Attachment 2

PARK PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
2018-19 Playground Replacements (Lakewood, Stone Creek, Thrush West, & Gerault parks) **	-	1,000,000	-	-	-	-	-	1,000,000	1,000,000	8	-	-	-	-	-	-	-	-
2019-20 Playground Replacements (Chinn Chapel, and Pecan Orchard) **	-	-	350,000	-	-	-	-	350,000	350,000	8	-	-	-	-	-	-	-	-
2020-21 Playground Replacements (Bluebonnet, Colony, and Lakewood) ** - OLD Title	-	-	-	425,000	-	-	-	425,000	425,000	8	-	-	-	-	-	-	-	-
Individual Park Improvements (Bluebonnet, Colony, and Lakewood) ** - NEW Title	-	-	-	425,000	-	-	-	425,000	425,000	8	-	-	-	-	-	-	-	-
2020-21 Playground Replacements (Grand, Cortadera, Wilkerson, Possum) **	-	-	-	1,000,000	-	-	-	1,000,000	1,000,000	8	-	-	-	-	-	-	-	-
2021-22 Playground Replacements (Peacock) **	-	-	-	-	250,000	-	-	250,000	250,000	8	-	-	-	-	-	-	-	-
Bakersfield Park Improvements Phase 1	-	-	-	-	1,100,000	-	-	1,100,000	1,100,000	8	-	-	-	-	-	-	-	-
Bakersfield Park Improvements Phase 2	-	-	-	-	-	1,200,000	-	1,200,000	1,200,000	8	-	-	-	-	-	-	-	-
Bakersfield Park Restroom & Concrete Walkway **	-	500,000	-	-	-	-	-	500,000	500,000	8	-	-	-	-	-	-	-	-
Bella Lago Park Master Plan	-	50,000	-	-	-	-	-	50,000	50,000	8	-	-	-	-	-	-	-	-
Canyon Falls Park Design	-	150,000	-	-	-	-	-	150,000	150,000	8	-	-	-	-	-	-	-	-
Canyon Falls Park Development	-	-	2,500,000	-	-	-	-	2,500,000	2,500,000	2.6	-	-	-	-	-	-	-	-
Chinn Chapel Lighting Improvements	-	-	-	-	-	-	250,000	250,000	250,000	8	-	-	-	-	-	-	-	-
Comunity Activity Center Improvements	257,000	-	-	-	-	-	-	257,000	-	2	257,000	-	-	-	-	-	-	-
Courtadera Park Improvements (Loop Trail, Irrigation, Fence & Basketball Court Improvements)	-	200,000	-	-	-	-	-	200,000	200,000	8	-	-	-	-	-	-	-	-
Dixon Park (add Pavilion and Amenities)	-	-	-	-	-	150,000	-	150,000	150,000	8	-	-	-	-	-	-	-	-
Dunham Ranch Master Plan	-	-	-	-	-	150,000	-	150,000	150,000	8	-	-	-	-	-	-	-	-
Equestrian (Trail Head & Trails)	-	-	-	-	-	-	900,000	900,000	900,000	8	-	-	-	-	-	-	-	-
Green Acres Memorial Farm	-	-	-	-	-	-	2,200,000	2,200,000	2,200,000	8	-	-	-	-	-	-	-	-
Gerault Park Update (Pavilion, Electrical, Grills & Trash)	-	-	-	-	-	250,000	-	250,000	250,000	8	-	-	-	-	-	-	-	-
Glenwick Park Upgrade (Lighting for Baseball/Tennis, Landscaping, and Irrigation)	-	-	-	-	200,000	-	-	200,000	200,000	8	-	-	-	-	-	-	-	-
Heritage Park (Lighting Improvements, Restroom at Dog Park, Upgrade Srufaces)	-	-	-	800,000	-	-	-	800,000	800,000	8	-	-	-	-	-	-	-	-
Heritage Park of Flower Mound Phase III	2,181,000	-	-	-	-	-	-	2,181,000	2,181,000	8	-	-	-	-	-	-	-	-
Heritage Park of Flower Mound Phase IV	2,400,000	-	-	-	-	-	-	2,400,000	2,400,000	8	-	-	-	-	-	-	-	-
Individual Park Improvements (Shadow Ridge, Grand, Culwell, and Paker Square) **	-	-	-	-	300,000	-	-	300,000	300,000	8	-	-	-	-	-	-	-	-
Lakewood Park - Pavilion	-	75,000	-	-	-	-	-	75,000	75,000	8	-	-	-	-	-	-	-	-
Leonard Johns Park Upgrade (Lighting for Tennis)**	-	-	-	-	185,000	-	-	185,000	185,000	8	-	-	-	-	-	-	-	-
Park and Trail Amenities	510,000	50,000	50,000	50,000	50,000	50,000	-	760,000	760,000	2.6,8	-	-	-	-	-	-	-	-
Peters Colony Memorial Park Master Plan	-	50,000	-	-	-	-	-	50,000	50,000	2.8	-	-	-	-	-	-	-	-
Pink Evening Primrose Trails (Section 1 & 3)	800,000	-	-	-	-	-	-	800,000	800,000	2.6	-	-	-	-	-	-	-	-
Rheudasil Park Improvements	200,000	200,000	1,600,000	-	-	-	-	2,000,000	2,000,000	2.8	-	-	-	-	-	-	-	-
Rheudasil, Wilkerson, & Cortadera Parks Pond Dredging and Bank Stabilization	3,429,696	-	-	-	-	-	-	3,429,696	1,379,696	8	2,050,000	-	-	-	-	-	-	-
Tealwood Oaks Park Upgrade (Lighting for Tennis)**	-	-	-	-	-	350,000	-	350,000	350,000	8	-	-	-	-	-	-	-	-
Tennis Center (Master Plan, Design, Construction)	-	-	-	-	-	-	5,560,000	5,560,000	5,560,000	8	-	-	-	-	-	-	-	-
Trail Connections (Bluebonnet,Indian Blanket, Pink Evening Primrose, Purple Coneflower, Texas Yellow Star, & White Lazy Daisy Trails)	-	-	-	-	-	-	4,700,000	4,700,000	4,700,000	8	-	-	-	-	-	-	-	-
Trails Master Plan	-	-	300,000	-	-	-	-	300,000	300,000	2.8	-	-	-	-	-	-	-	-
Wilkerson Park Upgrade (Lighting, Landscaping, and Irrigation)	-	-	-	-	175,000	-	-	175,000	175,000	2.8	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 9,777,696	\$ 2,275,000	\$ 4,800,000	\$ 2,275,000	\$ 2,260,000	\$ 2,150,000	\$ 13,610,000	\$ 37,147,696	\$ 34,840,696		\$ 2,307,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL GENERAL FUND	\$ 80,692,748	\$ 25,502,000	\$ 16,082,000	\$ 7,090,000	\$ 24,588,000	\$ 12,733,000	\$ 35,669,337	\$ 202,357,085	\$ 117,090,645	\$ 45,696,440	\$ -	\$ 39,570,000	\$ 13,057,000	\$ 3,400,000	\$ 1,415,000	\$ 8,950,000	\$ 5,508,000	\$ 7,240,000
GRAND TOTAL GENERAL FUND	\$ 80,692,748	\$ 27,017,000	\$ 16,482,000	\$ 7,090,000	\$ 24,588,000	\$ 12,733,000	\$ 35,669,337	\$ 204,272,085	\$ 118,605,645	\$ 45,696,440	\$ -	\$ 39,970,000	\$ 13,057,000	\$ 3,800,000	\$ 1,415,000	\$ 8,950,000	\$ 5,508,000	\$ 7,240,000

** Project Includes ADA Improvements

Other Sources

- 0. Impact Fees
- 1. Grant and Interlocal Funds
- 2. Other Sources (Proj. Sav.,Fund Bal.,Interest Inc.)
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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

WATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028							2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Aberdeen Water Line (FM 2499 to Lake Forest)	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000	\$ 190,000	0,2	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand Elevated Storage Tank Chloramine System	-	150,000	-	-	-	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Canyon Falls 20-Inch Water Line	2,000,000	-	660,000	-	-	-	-	2,660,000	400,000	0,2	1,700,000	-	560,000	-	560,000	-	-	-	-
Cowboy Lane Water Line	-	-	-	-	-	-	670,000	670,000	140,000	0,3	-	-	530,000	-	-	-	-	-	530,000
Denton Creek Boulevard 12-Inch Water Line	200,000	-	1,300,000	-	-	-	-	1,500,000	620,000	0,5	-	-	880,000	-	880,000	-	-	-	-
Denton Creek District - Water Reuse Master Plan	100,000	-	-	-	-	-	-	100,000	100,000	0,2	-	-	-	-	-	-	-	-	-
Denton Creek Reuse Pump Station and Ground Storage Tanks	-	-	-	-	-	-	7,600,000	7,600,000	-	0,2	-	-	7,600,000	-	-	-	-	-	7,600,000
Denton Creek Reuse Pipe Distribution Network	-	-	-	-	-	-	16,400,000	16,400,000	-	0,2	-	-	16,400,000	-	-	-	-	-	16,400,000
Denton Creek Spine Road 12-inch Water Line	100,000	200,000	2,100,000	-	-	-	-	2,400,000	100,000	0,2	-	-	2,300,000	200,000	2,100,000	-	-	-	-
Denton Creek District - Reuse Waterlines	100,000	100,000	225,000	975,000	-	-	-	1,400,000	1,400,000	0,2	-	-	-	-	-	-	-	-	-
Fire Station No. 7 Utilities - NEW	-	300,000	-	-	-	-	-	300,000	300,000	2	-	-	-	-	-	-	-	-	-
FM 1171 to Hwy. 377 Water Line Phase II	-	-	-	-	-	-	5,880,000	5,880,000	290,000	0,2	-	-	5,590,000	-	-	-	-	-	5,590,000
FM 1171 12-inch Water Line (Karnes Rd. to Churchill Dr.)	-	-	-	-	-	-	210,000	210,000	210,000	0,2	-	-	-	-	-	-	-	-	-
FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171)	600,000	2,600,000	-	-	-	-	-	3,200,000	2,300,000	0,2,7	-	-	900,000	900,000	-	-	-	-	-
Freeman 12-Inch Water Line (Water Tower to 1,600 Feet North)	-	50,000	-	-	-	-	-	50,000	50,000	2	-	-	-	-	-	-	-	-	-
Garden Ridge Blvd. Ph. II Water Line	-	-	950,000	-	-	-	-	950,000	390,000	0,2	-	-	560,000	-	-	560,000	-	-	-
Glenview 12 Inch Water Line (Patriot Way to Old Gerault Rd)	-	40,000	-	-	-	-	-	40,000	40,000	2	-	-	-	-	-	-	-	-	-
Grady Court Water Line	-	-	150,000	-	-	-	-	150,000	150,000	2	-	-	-	-	-	-	-	-	-
Grady Court Water Line	-	150,000	-	-	-	-	-	150,000	150,000	2	-	-	-	-	-	-	-	-	-
High Road Water Line Replacement Phase I	2,250,000	-	-	-	-	-	-	2,250,000	-	2	2,250,000	-	-	-	-	-	-	-	-
High Road Water Line Replacement Phase II	-	650,000	2,850,000	-	-	-	-	3,500,000	-	2	-	-	3,500,000	650,000	2,850,000	-	-	-	-
Highway 377/UPRR Water Line Phase II	137,620	-	-	-	-	-	2,310,000	2,447,620	87,620	0,2	50,000	-	2,310,000	-	-	-	-	-	2,310,000
Impact Fee Update	-	-	80,000	-	-	-	-	80,000	80,000	0,2	-	-	-	-	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase II (Valley Ridge - FM 1171)	700,000	700,000	-	-	-	-	-	1,400,000	700,000	0,2	-	-	700,000	700,000	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase III (South of FM1171)	-	-	-	-	-	-	320,000	320,000	320,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Bridge Gap)	135,000	-	-	-	-	-	-	135,000	135,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (FM 3040 to Spinks)	-	-	-	-	-	-	1,380,000	1,380,000	500,000	0,2	-	-	880,000	-	-	-	-	-	880,000
Lakeside Business District - Water Reuse Master Plan	120,000	10,000	-	-	-	-	-	130,000	130,000	0,2	-	-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	3,240,000	3,240,000	240,000	0,2	-	-	3,000,000	-	-	-	-	-	3,000,000
Morris Road 20-Inch Water Line (Forest Vista to Lake Bluff) - NEW	-	200,000	2,000,000	-	-	-	-	2,200,000	200,000	2	-	-	2,000,000	-	2,000,000	-	-	-	-
Morris Road Water Lines Phase I (Garden to Forest Vista)	100,000	900,000	-	-	-	-	-	1,000,000	100,000	2	-	-	900,000	900,000	-	-	-	-	-
Morris Road Water Lines Phase II (FM 1171 to Milford)	-	-	350,000	2,650,000	-	-	-	3,000,000	-	2	-	-	3,000,000	-	350,000	2,650,000	-	-	-
Morris Road Water Lines Phase III (FM 1171 to FM 407)	-	-	-	400,000	4,500,000	-	-	4,900,000	2,200,000	0,2,7	-	-	2,700,000	-	-	-	2,700,000	-	-
Pintail Pump Station (Auxiliary Power & Upgrades)	720,000	1,130,000	-	-	-	-	-	1,850,000	400,000	0,2,5	320,000	-	1,130,000	1,130,000	-	-	-	-	-
Pressure Reducing Valves	-	-	-	-	-	-	560,000	560,000	300,000	0,2	-	-	260,000	-	-	-	-	-	260,000
Red Bud Point Water Service Relocation	-	775,000	-	-	-	-	-	775,000	-	2	-	-	775,000	775,000	-	-	-	-	-
Rippy Road Water line Improvements (FM 2499-Waketon)	750,000	-	-	-	-	-	-	750,000	350,000	0,2	400,000	-	-	-	-	-	-	-	-
Scenic Drive Water Line (South of FM 1171 to River Hill Dr.)	-	-	-	-	-	-	1,490,000	1,490,000	490,000	0,2	-	-	1,000,000	-	-	-	-	-	1,000,000
Shady Point Acres Water Line Replacement	1,300,000	-	-	-	-	-	-	1,300,000	-	2	1,300,000	-	-	-	-	-	-	-	-
Stonecrest Pump Station Phase I (Auxiliary Power)	-	-	2,120,000	-	-	-	-	2,120,000	300,000	0,2	-	-	1,820,000	-	-	1,820,000	-	-	-
Stonecrest Pump Station Phase II	-	-	-	-	-	-	5,140,000	5,140,000	250,000	0,2	-	-	4,890,000	-	-	-	-	-	4,890,000
Stonecrest Pump Station Phase III	-	-	-	-	-	-	840,000	840,000	-	2	-	-	840,000	-	-	-	-	-	840,000
Stonehill Pump Station 10MG Ground Storage Tank Modification	-	-	350,000	-	-	-	-	350,000	-	1,2	50,000	-	300,000	-	300,000	-	-	-	-
Stonehill 10MG Ground Storage Tank Rehabilitation	40,000	600,000	-	-	-	-	-	640,000	40,000	2	-	-	600,000	600,000	-	-	-	-	-
Stonehill Pump Station Discharge Valve Replacement	-	-	60,000	500,000	-	-	-	560,000	60,000	2	-	-	500,000	-	500,000	-	-	-	-
Timber Creek 20-inch Water Line	-	-	-	-	-	-	370,000	370,000	250,000	2	-	-	120,000	-	-	-	-	-	120,000
Trailwood Terrace 12-inch Water Line	400,000	-	-	-	-	-	-	400,000	400,000	0,2	-	-	-	-	-	-	-	-	-
Utility Asset Management & Utility Replacement	300,000	300,000	300,000	300,000	300,000	300,000	-	1,800,000	-	2	300,000	-	1,500,000	300,000	300,000	300,000	300,000	300,000	-
Water Master Plan	-	-	150,000	-	-	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Water System Leak Detection & Repair	700,000	-	50,000	50,000	50,000	50,000	-	900,000	-	2	700,000	-	200,000	-	50,000	50,000	50,000	50,000	-
Water System Model Update	152,285	5,000	5,000	5,000	5,000	5,000	-	177,285	177,285	0,2	-	-	-	-	-	-	-	-	-
West Side Water Lines (East)	-	-	-	-	-	-	2,610,000	2,610,000	300,000	0,2	-	-	2,310,000	-	-	-	-	-	2,310,000
West Side Water Lines (South)	-	-	-	-	-	-	3,440,000	3,440,000	350,000	0,2	-	-	3,090,000	-	-	-	-	-	3,090,000
West Side Water Lines (West)	-	-	-	-	-	-	1,390,000	1,390,000	150,000	0,2	-	-	1,240,000	-	-	-	-	-	1,240,000
Western Operations and Maintenance Facility (Buildout)	-	-	-	-	100,000	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-
Woodbine Water Line Replacement	410,000	25,000	-	-	-	-	-	435,000	435,000	2	-	-	-	-	-	-	-	-	-
Yucca Drive Utilities (Sagebrush to 700 ft South of FM 1171)	870,000	-	-	-	-	-	-	870,000	220,000	2	650,000	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 12,484,905	\$ 8,235,000	\$ 11,700,000	\$ 4,880,000	\$ 4,955,000	\$ 355,000	\$ 53,850,000	\$ 96,459,905	\$ 15,744,905		\$ 7,830,000	\$ -	\$ 72,885,000	\$ 6,155,000	\$ 7,890,000	\$ 5,380,000	\$ 3,050,000	\$ 350,000	\$ 50,060,000
SUBTOTAL	\$ 12,484,905	\$ 8,885,000	\$ 13,550,000	\$ 4,880,000	\$ 4,955,000	\$ 355,000	\$ 53,850,000	\$ 98,959,905	\$ 16,244,905		\$ 7,830,000	\$ -	\$ 74,885,000	\$ 6,155,000	\$ 9,890,000	\$ 5,380,000	\$ 3,050,000	\$ 350,000	\$ 50,060,000

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

Page 139 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

STORMWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028										2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Bakers Branch Stabilization at Cedar Bluff (Strait Lane)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,000	\$ -	\$ 75,000	\$ 75,000	2	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bakers Branch Stabilization at 621 Somerset Drive	150,000	175,000	-	-	-	-	-	325,000	325,000	2	-		-		-		-	-	-	-	-	-
Bakers Branch Stabilization at 1600 & 1612 Strait Lane	-	-	-	-	200,000	-	-	200,000	200,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilization at 1104 & 1108 Big Canyon Drive	-	-	175,000	200,000	-	-	-	375,000	375,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilizaton at 1540 Echo Bluff	-	-	-	-	-	75,000	-	75,000	75,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilization at 3100 River Hill Court	100,000	-	-	-	-	-	-	100,000	100,000	2	-		-		-		-	-	-	-	-	-
East Waketon Road Drainage Improvements	50,000	470,000	890,000	1,670,000	-	-	-	3,080,000	520,000	1,2,7	-		-		2,560,000		-	890,000	1,670,000	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	500,000	-	-	-	-	-	-	500,000	500,000	1,3	-		-		-		-	-	-	-	-	-
McKamy Creek Stabilization & Drop Structure at 1900 Winding Creek Blvd	-	-	50,000	-	-	-	-	50,000	50,000	1,4	-		-		-		-	-	-	-	-	-
Pecan Acres Drainage Improvements	-	-	-	-	-	75,000	425,000	500,000	500,000	1,5	-		-		-		-	-	-	-	-	-
Timber Creek Stabilization at Timber Creek Rd (North & South Bridges)	-	-	-	-	-	-	400,000	400,000	400,000	1,6	-		-		-		-	-	-	-	-	-
SUBTOTAL	\$ 800,000	\$ 645,000	\$ 1,115,000	\$ 1,870,000	\$ 200,000	\$ 225,000	\$ 825,000	\$ 5,680,000	\$ 3,120,000		\$ -		\$ -		\$ 2,560,000		\$ -	\$ 890,000	\$ 1,670,000	\$ -	\$ -	\$ -

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

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

3. Escrow

4. Decision Package

5. Developer Agreement(s)

6. Park Development Fund

7. Tax Increment Reinvestment Zone (TIRZ)

8. Dedicated Sales Tax

9. SH 121 Regional Toll Revenue (RTR)

WASTEWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028							2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Bakers Branch Collector Phase II (Lexington to Gerault)	1,850,000	-	-	-	-	-	-	1,850,000	350,000	0.2	1,500,000	-	-	-	-	-	-	-	
Impact Fee Update	-	-	80,000	-	-	-	-	80,000	80,000	0.2	0	-	-	-	-	-	-	-	
Inflow-Infiltration/Evaluation and Repair	2,230,000	-	250,000	250,000	250,000	250,000	-	3,230,000	130,000	2	2,100,000	-	1,000,000	-	250,000	250,000	250,000	250,000	
Justin Road Lift Station Outfall (Justin Rd. to Cottage Ln.)	850,000	-	-	-	-	-	-	850,000	400,000	0.2	450,000	-	-	-	-	-	-	-	
Lift Station Improvements and Decommissioning	1,825,000	-	-	-	-	-	-	1,825,000	100,000	2	1,725,000	-	-	-	-	-	-	-	
Long Prairie Interceptor (North of Woodway Drive)	-	-	-	-	-	330,000	-	330,000	-	0.2	-	-	330,000	-	-	-	330,000	-	
Lower Timber Interceptor (Teakwood to Pintail Park)	-	-	810,000	-	-	-	-	810,000	-	0.2	-	-	810,000	-	810,000	-	-	-	
Oak Street Lift Station and Force Main Phase IV	-	-	1,500,000	-	-	-	-	1,500,000	150,000	0.2	-	-	1,350,000	-	-	1,350,000	-	-	
Oak Street Lift Station and Force Main Phase V	-	-	-	-	-	-	2,500,000	2,500,000	-	0.2	-	-	2,500,000	-	-	-	-	2,500,000	
Riverwalk Collector (Morriess Rd. to Windsor Dr.)	-	-	-	430,000	-	-	-	430,000	230,000	0.2	-	-	200,000	-	-	-	200,000	-	
Southside Force Main Extension	-	-	300,000	2,100,000	-	-	-	2,400,000	1,400,000	0.2	-	-	1,000,000	-	1,000,000	-	-	-	
Southside Gravity Improvements	-	-	-	-	-	-	3,900,000	3,900,000	1,000,000	0.2,3,5	-	-	2,900,000	-	-	-	-	2,900,000	
Southside Pump Upgrade	-	-	90,000	1,012,000	-	-	-	1,102,000	452,000	0.2	-	-	650,000	-	650,000	-	-	-	
Upper Timber Creek Interceptor (South of College Pkw.)	-	-	-	-	300,000	-	-	300,000	-	0.2	-	-	300,000	-	-	-	300,000	-	
Upper Timber Creek Interceptor Phase III (FM 1171 to Hidden Forest Drive)	960,000	1,700,000	-	-	-	-	-	2,660,000	410,000	0.2	550,000	-	1,700,000	1,700,000	-	-	-	-	
Upper Timber Creek Interceptor Phase IV (Hidden Forest Drive to Oak Street Lift Station)	350,000	3,350,000	-	-	-	-	-	3,700,000	-	2	350,000	-	3,350,000	3,350,000	-	-	-	-	
Wastewater Master Plan	-	-	150,000	-	-	-	-	150,000	150,000	0.2	-	-	-	-	-	-	-	-	
Wastewater System Model Update	205,785	5,000	5,000	5,000	5,000	5,000	-	230,785	230,785	0.2	-	-	-	-	-	-	-	-	
Wastewater Treatment Plant Capacity Study	75,000	-	-	-	-	-	-	75,000	75,000	0.2	-	-	-	-	-	-	-	-	
Wastewater Treatment Plant Expansion	-	-	-	-	-	-	150,000	150,000	150,000	0.2	-	-	-	-	-	-	-	-	
Wastewater Treatment Plant Final Clarification Rehabilitation	780,000	-	-	-	-	-	-	780,000	430,000	2	350,000	-	-	-	-	-	-	-	
Wastewater Treatment Plant Rehabilitation Phase IV (Dewatering, B&L)	5,540,000	-	-	-	-	-	-	5,540,000	780,000	2	4,760,000	-	-	-	-	-	-	-	
Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening)	800,000	11,000,000	-	-	-	-	-	11,800,000	-	2	800,000	-	11,000,000	11,000,000	-	-	-	-	
Wastewater Treatment Plant Rehabilitation Phase VI (Thermal Drying)	-	-	-	-	-	-	13,000,000	13,000,000	-	2	-	-	13,000,000	-	-	-	-	13,000,000	
Wastewater Treatment Plant Rehabilitation Phase VII (Phosphorus Removal)	-	-	-	-	-	-	1,000,000	1,000,000	-	2	-	-	1,000,000	-	-	-	-	1,000,000	
Wastewater Treatment Plant Ultraviolet System Update	250,000	2,750,000	-	-	-														

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

STREET PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028										2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Aberdeen Drive Phase I (2 Lanes FM 2499 to Lake Forest) **	\$ 1,650,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,650,000	\$ 1,300,000	0,2,5	\$ 350,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Aberdeen Drive Phase II (2 additional Lanes FM 2499 to 700 ft. North of Spinks) **	-	-	-	-	2,463,000	-	-	2,463,000	1,063,000	0,2,5	-		-	1,400,000	-	-	-	-	-	1,400,000	-	-
ADA Transition Plan and Implementation **	648,000	500,000	150,000	150,000	150,000	150,000	-	1,748,000	13,000	2	635,000		-	1,100,000	500,000	150,000	150,000	150,000	150,000	150,000	-	-
Bruton Orand at FM1171 Right Turn Lane (Northbound)	-	100,000	400,000	-	-	-	-	500,000	100,000	2	-		-	400,000	-	400,000	-	-	-	-	-	-
Churchill Drive (FM 2499 to Yucca) **	1,000,000	-	-	-	-	-	-	1,000,000	1,000,000	0,2,7	-		-	-	-	-	-	-	-	-	-	-
Cowboy Lane **	-	-	-	-	-	-	433,337	433,337	193,337	3	-		-	240,000	-	-	-	-	-	-	-	240,000
Denton Creek Boulevard Bridge (Graham Branch crossing)	310,000	6,590,000	-	-	-	-	-	6,900,000	1,150,000	0,1,2	-		-	5,750,000	5,750,000	-	-	-	-	-	-	-
Firewheel Drive (complete 4 lane gap, to 340 feet north of Garden Rd) **	555,000	-	-	-	-	-	-	555,000	555,000	0,2	-		-	-	-	-	-	-	-	-	-	-
FM 1171 at FM 2499 Eastbound Right Turn Lane **	885,000	-	-	-	-	-	-	885,000	785,000	2,7	100,000		-	-	-	-	-	-	-	-	-	-
FM 1171 at FM 2499 Westbound Right Turn Lane **	998,000	-	-	-	-	-	-	998,000	998,000	2,7	-		-	-	-	-	-	-	-	-	-	-
FM 1171 at River Walk Dr Intersection Improvements **	350,000	600,000	-	-	-	-	-	950,000	350,000	0,2,3,5	-		-	600,000	600,000	-	-	-	-	-	-	-
FM 2499 at FM 407 Intersection Improvements **	-	400,000	1,300,000	-	-	-	-	1,700,000	1,400,000	1,2	300,000		-	-	-	-	-	-	-	-	-	-
FM 2499 at Lakeside North Right Turn Lane **	100,000	200,000	-	-	-	-	-	300,000	200,000	0,2	100,000		-	-	-	-	-	-	-	-	-	-
FM 2499 at Waketon Intersection Improvements	-	360,000	1,240,000	-	-	-	-	1,600,000	1,000,000	2,7	-		-	600,000	-	600,000	-	-	-	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	8,200,000	-	-	-	-	-	-	8,200,000	7,000,000	1,2	1,200,000		-	-	-	-	-	-	-	-	-	-
Garden Ridge Through Lane (at FM 3040)	-	60,000	550,000	-	-	-	-	610,000	60,000	0,2	-		-	550,000	-	550,000	-	-	-	-	-	-
I 35W Interchange at Denton Creek	-	-	-	-	-	-	5,000,000	5,000,000	5,000,000	0,1,5	-		-	-	-	-	-	-	-	-	-	-
Impact Fee Update	-	-	120,000	-	-	-	-	120,000	120,000	0	-		-	-	-	-	-	-	-	-	-	-
Kirkpatrick Lane Phase III (South of FM 1171)	-	-	-	-	800,000	7,918,000	-	8,718,000	4,975,000	0,1,2	-		-	3,743,000	-	-	-	-	-	3,743,000	-	-
Lake Forest Boulevard Roadway Improvements	2,000,000	-	-	-	-	-	-	2,000,000	600,000	0,2	1,400,000		-	-	-	-	-	-	-	-	-	-
Lakeside Dual Left turn Lane at Gerault **	-	-	-	200,000	-	-	-	200,000	100,000	0,2,5	-		-	100,000	-	-	100,000	-	-	-	-	-
Lakeside Parkway Capacity Improvements **	-	-	-	540,000	6,840,000	-	-	7,380,000	7,380,000	0,1,2	-		-	-	-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	7,232,000	7,232,000	732,000	0,2	-		-	6,500,000	-	-	-	-	-	-	-	6,500,000
Morris Road Improvements **	650,000	630,000	-	-	-	-	-	1,280,000	1,155,000	0,1,2,4	-		-	125,000	125,000	-	-	-	-	-	-	-
Peters Colony Roundabout **	-	200,000	500,000	-	-	-	-	700,000	200,000	2	-		-	500,000	-	-	500,000	-	-	-	-	-
Rippy Road (Waketon to FM 2499)**	800,000	350,000	2,650,000	-	-	-	-	3,800,000	2,115,000	2,7	-		-	1,685,000	-	1,685,000	-	-	-	-	-	-
Roadway Amenities	388,083	205,000	90,000	90,000	90,000	90,000	-	953,083	308,083	2,4	195,000		-	450,000	90,000	90,000	90,000	90,000	90,000	90,000	-	-
Sidewalk Links **	961,000	150,000	-	-	-	-	-	1,111,000	1,111,000	2,4	-		-	-	-	-	-	-	-	-	-	-
Skillem Road (Flower Mound Rd to Riverhill) **	905,000	-	-	-	-	-	-	905,000	85,561	2,3	819,440		-	-	-	-	-	-	-	-	-	-
Stonecrest Road (500 ft. North of Canyon Falls Dr. to Town Limit) **	1,050,000	-	-	-	-	-	-	1,050,000	150,000	2,5	900,000		-	-	-	-	-	-	-	-	-	-
Transportation Model Update and LOS Mapping	-	75,000	-	-	-	-	-	75,000	75,000	2	-		-	-	-	-	-	-	-	-	-	-
Waketon Road **	5,500,000	460,000	-	-	-	-	-	5,960,000	4,670,000	2,3,5,7	830,000		-	460,000	460,000	-	-	-	-	-	-	-
Windsor Roundabout Connection	-	200,000	-	-	-	-	-	200,000	200,000	2,4	-		-	-	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 26,950,083	\$ 11,080,000	\$ 7,000,000	\$ 980,000	\$ 10,343,000	\$ 8,158,000	\$ 12,665,337	\$ 77,176,420	\$ 46,143,981		\$ 6,829,440		\$ -	\$ 24,203,000	\$ 7,525,000	\$ 3,475,000	\$ 840,000	\$ 240,000	\$ 5,383,000	\$ 6,740,000		

*General Obligation Bonds
** Project Includes ADA Improvements
Other Sources
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5. Developer Agreement(s)
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8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

Page 142 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

SIGNAL PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
College Parkway at Timber Creek	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 250,000	250,000	\$ 250,000	0,2,4	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand at Kenwood	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Bruton Orand at Quail Run	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
FM 1171 at Canyon Falls Blvd	-	-	250,000	-	-	-	-	250,000	50,000	0,2	-	-	200,000	-	200,000	-	-	-
FM 2499 at College Parkway	340,000	-	-	-	-	-	-	340,000	340,000	0,2,7	-	-	-	-	-	-	-	-
FM 2499 at Silveron	240,000	-	-	-	-	-	-	240,000	240,000	0,2	-	-	-	-	-	-	-	-
FM 407 at Browning - Reconstruction	25,000	300,000	-	-	-	-	-	325,000	25,000	2,4	-	-	300,000	-	300,000	-	-	-
Garden Ridge at Forest Vista	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Garden Ridge at Kirkpatrick	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Lakeside at Silveron	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4,5	-	-	-	-	-	-	-	-
Morriss at Eaton	-	-	-	250,000	-	-	-	250,000	250,000	2,4	-	-	-	-	-	-	-	-
Peters Colony at Churchill	-	-	-	-	-	-	250,000	250,000	250,000	0,2,4	-	-	-	-	-	-	-	-
Traffic Detection Rehabilitation	500,000	125,000	125,000	125,000	125,000	125,000	-	1,125,000	-	2	500,000	-	625,000	125,000	125,000	125,000	125,000	-
Traffic Signal Rehabilitation	-	-	-	-	-	-	500,000	500,000	-	2	-	-	500,000	-	-	-	-	500,000
U.S 377 at Canyon Falls Drive	275,000	-	-	-	-	-	-	275,000	275,000	0,2,4	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 1,380,000	\$ 425,000	\$ 375,000	\$ 375,000	\$ 125,000	\$ 125,000	\$ 2,250,000	\$ 5,055,000	\$ 2,930,000		\$ 500,000	\$ -	\$ 1,625,000	\$ 425,000	\$ 325,000	\$ 125,000	\$ 125,000	\$ 500,000

*General Obligation Bonds
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Other Sources
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7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

Page 143 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

STREET RECONSTRUCTION PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES	ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028						2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Flower Mound Road Reconstruction Phase II (Old Settlers to Bruton Orand) **	-	-	-	-	-	-	2,344,000	2,344,000	2,344,000	8	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase II (Morriss to Chancellor) **	-	335,000	2,400,000	-	-	-	-	2,735,000	2,735,000	8	-	-	-	-	-	-	-	-
Forest Vista Reconstruction Phase III (Chancellor to Lake Shore) **	-	-	-	-	350,000	2,300,000	-	2,650,000	2,650,000	8	-	-	-	-	-	-	-	-
Grady Court Reconstruction (Homestead to Cul-de-sac)	-	675,000	-	-	-	-	-	675,000	675,000	8	-	-	-	-	-	-	-	-
Lopo Road Reconstruction (River oak to 330-ft West of Garden Ridge) **	-	-	950,000	-	-	-	-	950,000	950,000	8	-	-	-	-	-	-	-	-
Morriss Road Panel Replacement (FM 3040 to FM 1171) **	-	4,040,000	-	-	-	-	-	4,040,000	4,040,000	8	-	-	-	-	-	-	-	-
Old Gerault Road Reconstruction	-	370,000	-	-	-	-	1,200,000	1,570,000	1,570,000	8.2	-	-	-	-	-	-	-	-
Old Long Prairie Road Reconstruction **	1,100,000	-	-	-	-	-	-	1,100,000	1,100,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase II (5000 Timbercreek Rd. to Homestead St.) **	-	-	250,000	2,000,000	-	-	-	2,250,000	2,250,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase III (Homestead St. to Kirkpatrick Ln.) **	-	-	-	300,000	2,925,000	-	-	3,225,000	3,225,000	8	-	-	-	-	-	-	-	-
Timber Creek Road Reconstruction Phase IV (Timber Creek Bridge to Eaton) **	-	-	-	-	-	-	3,600,000	3,600,000	3,600,000	8	-	-	-	-	-	-	-	-
West Windsor and Mulberry Connection **	100,000	-	-	-	-	-	-	100,000	100,000	8	-	-	-	-	-	-	-	-
Woodbine Street Reconstruction (Timber Creek to Hleden Ct.) **	1,350,000	-	-	-	-	-	-	1,350,000	1,350,000	8	-	-	-	-	-	-	-	-
Wood Creek Circle Reconstruction (Wood Creek Dr to end of Cul-de-Sac) **	-	-	400,000	-	-	-	-	400,000	400,000	8	-	-	-	-	-	-	-	-
Yucca Drive Reconstruction (Sagebrush to 700 ft South of FM 1171) **	1,300,000	-	-	-	-	-	-	1,300,000	1,300,000	8	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 3,850,000	\$ 5,420,000	\$ 4,000,000	\$ 2,300,000	\$ 3,275,000	\$ 2,300,000	\$ 7,144,000	\$ 28,289,000	\$ 28,289,000		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*General Obligation Bonds
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Other Sources
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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

FACILITY PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028							2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Fire and Police Training Center (West Flower Mound)	-	-	-	150,000	2,085,000	-	-	2,235,000	-	2	-	-	2,235,000	-	-	150,000	2,085,000	-	-
Fire Station No. 1 Facility Upgrades **	1,223,375	670,000	-	-	-	-	-	1,893,375	763,375	2.4	980,000	-	150,000	150,000	-	-	-	-	-
Fire Station No. 6 and Apparatus (West Flower Mound) **	-	-	-	300,000	6,500,000	-	-	6,800,000	-	2	-	-	6,800,000	-	-	300,000	6,500,000	-	-
Fire Station No. 7 and Apparatus (Wichita Trail) **	2,070,000	5,400,000	-	-	-	-	-	7,470,000	950,000	2.4	2,070,000	-	4,450,000	4,450,000	-	-	-	-	-
Library Expansion**	12,400,000	-	-	-	-	-	-	12,400,000	-	2.7	12,400,000	-	-	-	-	-	-	-	-
Gibson-Grant Log Cabin Reconstruction	51,593	507,000	307,000	710,000	-	-	-	1,575,593	1,068,593	1.2	-	-	507,000	507,000	-	-	-	-	-
Mechanical Screen Wall (Police Dept.)	90,000	-	-	-	-	-	-	90,000	90,000	1.2	-	-	-	-	-	-	-	-	-
Police and Courts Facility Upgrades **	3,331,000	-	-	-	-	-	-	3,331,000	1,571,000	2.4	1,760,000	-	-	-	-	-	-	-	-
Storage Warehouse	650,000	1,100,000	-	-	-	-	-	1,750,000	1,100,000	2.4	650,000	-	-	-	-	-	-	-	-
Town Hall **	18,919,000	140,000	-	-	-	-	-	19,059,000	859,000	2.7	18,200,000	-	-	-	-	-	-	-	-
SUBTOTAL	\$ 38,734,968	\$ 7,817,000	\$ 307,000	\$ 1,160,000	\$ 8,585,000	\$ -	\$ -	\$ 56,603,968	\$ 6,401,968		\$ 36,060,000	\$ -	\$ 14,142,000	\$ 5,107,000	\$ -	\$ 450,000	\$ 8,585,000	\$ -	\$ -

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5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

Page 145 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

PARK PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT GO's & CO's		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028										2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
2018-19 Playground Replacements (Lakewood, Stone Creek, Thrush West, & Gerault parks) **	-	1,000,000	-	-	-	-	-	1,000,000	1,000,000	8	-	-	-	-	-	-	-	-	-	-	-	-
2019-20 Playground Replacements (Chinn Chapel, and Pecan Orchard) **	-	-	350,000	-	-	-	-	350,000	350,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Individual Park Improvements (Bluebonnet, Colony, and Lakewood) **	-	-	-	425,000	-	-	-	425,000	425,000	8	-	-	-	-	-	-	-	-	-	-	-	-
2020-21 Playground Replacements (Grand, Cortadera, Wilkerson, Possum) **	-	-	-	1,000,000	-	-	-	1,000,000	1,000,000	8	-	-	-	-	-	-	-	-	-	-	-	-
2021-22 Playground Replacements (Peacock) **	-	-	-	-	250,000	-	-	250,000	250,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Bakersfield Park Improvements Phase I	-	-	-	-	1,100,000	-	-	1,100,000	1,100,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Bakersfield Park Improvements Phase 2	-	-	-	-	-	1,200,000	-	1,200,000	1,200,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Bakersfield Park Restroom & Concrete Walkway **	-	500,000	-	-	-	-	-	500,000	500,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Bella Lago Park Master Plan	-	50,000	-	-	-	-	-	50,000	50,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Canyon Falls Park Design	-	150,000	-	-	-	-	-	150,000	150,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Canyon Falls Park Development	-	-	2,500,000	-	-	-	-	2,500,000	2,500,000	2.6	-	-	-	-	-	-	-	-	-	-	-	-
Chinn Chapel Lighting Improvements	-	-	-	-	-	-	250,000	250,000	250,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Comunity Activity Center Improvements	257,000	-	-	-	-	-	-	257,000	-	2	257,000	-	-	-	-	-	-	-	-	-	-	-
Courtadera Park Improvements (Loop Trail, Irrigation, Fence & Basketball Court Improvements)	-	200,000	-	-	-	-	-	200,000	200,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Dixon Park (add Pavilion and Amenities)	-	-	-	-	-	150,000	-	150,000	150,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Dunham Ranch Master Plan	-	-	-	-	-	150,000	-	150,000	150,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Equestrian (Trail Head & Trails)	-	-	-	-	-	-	900,000	900,000	900,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Green Acres Memorial Farm	-	-	-	-	-	-	2,200,000	2,200,000	2,200,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Gerault Park Update (Pavilion, Electrical, Grills & Trash)	-	-	-	-	-	250,000	-	250,000	250,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Gleenwick Park Upgrade (Lighting for Baseball/Tennis, Landscaping, and Irrigation)	-	-	-	-	200,000	-	-	200,000	200,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Heritage Park (Lighting Improvements, Restroom at Dog Park, Upgrade Srufaces)	-	-	-	800,000	-	-	-	800,000	800,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Heritage Park of Flower Mound Phase III	2,181,000	-	-	-	-	-	-	2,181,000	2,181,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Heritage Park of Flower Mound Phase IV	2,400,000	-	-	-	-	-	-	2,400,000	2,400,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Individual Park Improvements (Shadow Ridge, Grand, Culwell, and Paker Square) **	-	-	-	-	300,000	-	-	300,000	300,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Lakewood Park - Pavilion	-	75,000	-	-	-	-	-	75,000	75,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Leonard Johns Park Upgrade (Lighting for Tennis)**	-	-	-	-	185,000	-	-	185,000	185,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Park and Trail Amenities	510,000	50,000	50,000	50,000	50,000	50,000	-	760,000	760,000	2.6,8	-	-	-	-	-	-	-	-	-	-	-	-
Peters Colony Memorial Park Master Plan	-	50,000	-	-	-	-	-	50,000	50,000	2.8	-	-	-	-	-	-	-	-	-	-	-	-
Pink Evening Primrose Trails (Section 1 & 3)	800,000	-	-	-	-	-	-	800,000	800,000	2.6	-	-	-	-	-	-	-	-	-	-	-	-
Rheudasil Park Improvements	200,000	200,000	1,600,000	-	-	-	-	2,000,000	2,000,000	2.8	-	-	-	-	-	-	-	-	-	-	-	-
Rheudasil, Wilkerson, & Cortadera Parks Pond Dredging and Bank Stabilization	3,429,696	-	-	-	-	-	-	3,429,696	1,379,696	8	2,050,000	-	-	-	-	-	-	-	-	-	-	-
Tealwood Oaks Park Upgrade (Lighting for Tennis)**	-	-	-	-	-	350,000	-	350,000	350,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Tennis Center (Master Plan, Design, Construction)	-	-	-	-	-	-	5,560,000	5,560,000	5,560,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Trail Connections (Bluebonnet,Indian Blanket, Pink Evening Primrose, Purple Coneflower, Texas Yellow Star, & White Lazy Daisy Trails)	-	-	-	-	-	-	4,700,000	4,700,000	4,700,000	8	-	-	-	-	-	-	-	-	-	-	-	-
Trails Master Plan	-	-	300,000	-	-	-	-	300,000	300,000	2.8	-	-	-	-	-	-	-	-	-	-	-	-
Wilkerson Park Upgrade (Lighting, Landscaping, and Irrigation)	-	-	-	-	175,000	-	-	175,000	175,000	2.8	-	-	-	-	-	-	-	-	-	-	-	-

SUBTOTAL	\$ 9,777,696	\$ 2,275,000	\$ 4,800,000	\$ 2,275,000	\$ 2,260,000	\$ 2,150,000	\$ 13,610,000	\$ 37,147,696	\$ 34,840,696		\$ 2,307,000		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL GENERAL FUND	\$ 80,692,748	\$ 27,017,000	\$ 16,482,000	\$ 7,090,000	\$ 24,588,000	\$ 12,733,000	\$ 35,669,337	\$ 204,272,085	\$ 118,605,645		\$ 45,696,440		\$ -		\$ 39,970,000		\$ 13,057,000	\$ 3,800,000	\$ 1,415,000	\$ 8,950,000	\$ 5,508,000	\$ 7,240,000

** Project Includes ADA Improvements

Other Sources

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TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

WATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT	AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028							2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Aberdeen Water Line (FM 2499 to Lake Forest)	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000	\$ 190,000	0,2	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bruton Orand Elevated Storage Tank Chloramine System	-	150,000	-	-	-	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Canyon Falls 20-Inch Water Line	2,000,000	-	660,000	-	-	-	-	2,660,000	400,000	0,2	1,700,000	-	560,000	-	560,000	-	-	-	-
Cowboy Lane Water Line	-	-	-	-	-	-	670,000	670,000	140,000	0,3	-	-	530,000	-	-	-	-	-	530,000
Denton Creek Boulevard 12-Inch Water Line	200,000	-	1,300,000	-	-	-	-	1,500,000	620,000	0,5	-	-	880,000	-	880,000	-	-	-	-
Denton Creek District - Water Reuse Master Plan	100,000	-	-	-	-	-	-	100,000	100,000	0,2	-	-	-	-	-	-	-	-	-
Denton Creek Reuse Pump Station and Ground Storage Tanks	-	-	-	-	-	-	7,600,000	7,600,000	-	0,2	-	-	7,600,000	-	-	-	-	-	7,600,000
Denton Creek Reuse Pipe Distribution Network	-	-	-	-	-	-	16,400,000	16,400,000	-	0,2	-	-	16,400,000	-	-	-	-	-	16,400,000
Denton Creek Spine Road 12-inch Water Line	100,000	200,000	2,100,000	-	-	-	-	2,400,000	100,000	0,2	-	-	2,300,000	200,000	2,100,000	-	-	-	-
Denton Creek District - Reuse Waterlines	100,000	100,000	225,000	975,000	-	-	-	1,400,000	1,400,000	0,2	-	-	-	-	-	-	-	-	-
Fire Station No. 7 Utilities	-	300,000	-	-	-	-	-	300,000	300,000	2	-	-	-	-	-	-	-	-	-
FM 1171 to Hwy. 377 Water Line Phase II	-	-	-	-	-	-	5,880,000	5,880,000	290,000	0,2	-	-	5,590,000	-	-	-	-	-	5,590,000
FM 1171 12-inch Water Line (Karnes Rd. to Churchill Dr.)	-	-	-	-	-	-	210,000	210,000	210,000	0,2	-	-	-	-	-	-	-	-	-
FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171)	600,000	2,600,000	-	-	-	-	-	3,200,000	2,300,000	0,2,7	-	-	900,000	900,000	-	-	-	-	-
Freeman 12-Inch Water Line (Water Tower to 1,600 Feet North)	-	50,000	-	-	-	-	-	50,000	50,000	2	-	-	-	-	-	-	-	-	-
Garden Ridge Blvd. Ph. II Water Line	-	-	950,000	-	-	-	-	950,000	390,000	0,2	-	-	560,000	-	-	560,000	-	-	-
Glenview 12 Inch Water Line (Patriot Way to Old Gerault Rd)	-	40,000	-	-	-	-	-	40,000	40,000	2	-	-	-	-	-	-	-	-	-
Grady Court Water Line	-	150,000	-	-	-	-	-	150,000	150,000	2	-	-	-	-	-	-	-	-	-
High Road Water Line Replacement Phase I	2,250,000	-	-	-	-	-	-	2,250,000	-	2	2,250,000	-	-	-	-	-	-	-	-
High Road Water Line Replacement Phase II	-	650,000	2,850,000	-	-	-	-	3,500,000	-	2	-	-	3,500,000	650,000	2,850,000	-	-	-	-
Highway 377/UPRR Water Line Phase II	137,620	-	-	-	-	-	2,310,000	2,447,620	87,620	0,2	50,000	-	2,310,000	-	-	-	-	-	2,310,000
Impact Fee Update	-	-	80,000	-	-	-	-	80,000	80,000	0,2	-	-	-	-	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase II (Valley Ridge - FM 1171)	700,000	700,000	-	-	-	-	-	1,400,000	700,000	0,2	-	-	700,000	700,000	-	-	-	-	-
Kirkpatrick Lane 12-Inch Water Line Phase III (South of FM1171)	-	-	-	-	-	-	320,000	320,000	320,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (Bridge Gap)	135,000	-	-	-	-	-	-	135,000	135,000	0,2	-	-	-	-	-	-	-	-	-
Lake Forest 12-inch Water Line (FM 3040 to Spinks)	-	-	-	-	-	-	1,380,000	1,380,000	500,000	0,2	-	-	880,000	-	-	-	-	-	880,000
Lakeside Business District - Water Reuse Master Plan	120,000	10,000	-	-	-	-	-	130,000	130,000	0,2	-	-	-	-	-	-	-	-	-
Lusk/Red Oak East-West Connector	-	-	-	-	-	-	3,240,000	3,240,000	240,000	0,2	-	-	3,000,000	-	-	-	-	-	3,000,000
Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff)	-	200,000	2,000,000	-	-	-	-	2,200,000	200,000	2	-	-	2,000,000	-	2,000,000	-	-	-	-
Morriss Road Water Lines Phase I (Garden to Forest Vista)	100,000	900,000	-	-	-	-	-	1,000,000	100,000	2	-	-	900,000	900,000	-	-	-	-	-
Morriss Road Water Lines Phase II (FM 1171 to Milford)	-	-	350,000	2,650,000	-	-	-	3,000,000	-	2	-	-	3,000,000	-	350,000	2,650,000	-	-	-
Morriss Road Water Lines Phase III (FM 1171 to FM 407)	-	-	-	400,000	4,500,000	-	-	4,900,000	2,200,000	0,2,7	-	-	2,700,000	-	-	-	2,700,000	-	-
Pintail Pump Station (Auxiliary Power & Upgrades)	720,000	1,130,000	-	-	-	-	-	1,850,000	400,000	0,2,5	320,000	-	1,130,000	1,130,000	-	-	-	-	-
Pressure Reducing Valves	-	-	-	-	-	-	560,000	560,000	300,000	0,2	-	-	260,000	-	-	-	-	-	260,000
Red Bud Point Water Service Relocation	-	775,000	-	-	-	-	-	775,000	-	2	-	-	775,000	775,000	-	-	-	-	-
Rippy Road Water line Improvements (FM 2499-Waketon)	750,000	-	-	-	-	-	-	750,000	350,000	0,2	400,000	-	-	-	-	-	-	-	-
Scenic Drive Water Line (South of FM 1171 to River Hill Dr.)	-	-	-	-	-	-	1,490,000	1,490,000	490,000	0,2	-	-	1,000,000	-	-	-	-	-	1,000,000
Shady Point Acres Water Line Replacement	1,300,000	-	-	-	-	-	-	1,300,000	-	2	1,300,000	-	-	-	-	-	-	-	-
Stonecrest Pump Station Phase I (Auxiliary Power)	-	-	2,120,000	-	-	-	-	2,120,000	300,000	0,2	-	-	1,820,000	-	-	1,820,000	-	-	-
Stonecrest Pump Station Phase II	-	-	-	-	-	-	5,140,000	5,140,000	250,000	0,2	-	-	4,890,000	-	-	-	-	-	4,890,000
Stonecrest Pump Station Phase III	-	-	-	-	-	-	840,000	840,000	-	2	-	-	840,000	-	-	-	-	-	840,000
Stonehill Pump Station 10MG Ground Storage Tank Modification	-	-	350,000	-	-	-	-	350,000	-	1,2	50,000	-	300,000	-	300,000	-	-	-	-
Stonehill 10MG Ground Storage Tank Rehabilitation	40,000	600,000	-	-	-	-	-	640,000	40,000	2	-	-	600,000	600,000	-	-	-	-	-
Stonehill Pump Station Discharge Valve Replacement	-	-	60,000	500,000	-	-	-	560,000	60,000	2	-	-	500,000	-	500,000	-	-	-	-
Timber Creek 20-inch Water Line	-	-	-	-	-	-	370,000	370,000	250,000	2	-	-	120,000	-	-	-	-	-	120,000
Trailwood Terrace 12-inch Water Line	400,000	-	-	-	-	-	-	400,000	400,000	0,2	-	-	-	-	-	-	-	-	-
Utility Asset Management & Utility Replacement	300,000	300,000	300,000	300,000	300,000	300,000	-	1,800,000	-	2	300,000	-	1,500,000	300,000	300,000	300,000	300,000	300,000	-
Water Master Plan	-	-	150,000	-	-	-	-	150,000	150,000	0,2	-	-	-	-	-	-	-	-	-
Water System Leak Detection & Repair	700,000	-	50,000	50,000	50,000	50,000	-	900,000	-	2	700,000	-	200,000	-	50,000	50,000	50,000	50,000	-
Water System Model Update	152,285	5,000	5,000	5,000	5,000	5,000	-	177,285	177,285	0,2	-	-	-	-	-	-	-	-	-
West Side Water Lines (East)	-	-	-	-	-	-	2,610,000	2,610,000	300,000	0,2	-	-	2,310,000	-	-	-	-	-	2,310,000
West Side Water Lines (South)	-	-	-	-	-	-	3,440,000	3,440,000	350,000	0,2	-	-	3,090,000	-	-	-	-	-	3,090,000
West Side Water Lines (West)	-	-	-	-	-	-	1,390,000	1,390,000	150,000	0,2	-	-	1,240,000	-	-	-	-	-	1,240,000
Western Operations and Maintenance Facility (Buildout)	-	-	-	-	100,000	-	-	100,000	100,000	2	-	-	-	-	-	-	-	-	-
Woodbine Water Line Replacement	410,000	25,000	-	-	-	-	-	435,000	435,000	2	-	-	-	-	-	-	-	-	-
Yucca Drive Utilities (Sagebrush to 700 ft South of FM 1171)	870,000	-	-	-	-	-	-	870,000	220,000	2	650,000	-	-	-	-	-	-	-	-

SUBTOTAL	\$ 12,484,905	\$ 8,885,000	\$ 13,550,000	\$ 4,880,000	\$ 4,955,000	\$ 355,000	\$ 53,850,000	\$ 98,959,905	\$ 16,244,905		\$ 7,830,000	\$ -	\$ 74,885,000	\$ 6,155,000	\$ 9,890,000	\$ 5,380,000	\$ 3,050,000	\$ 350,000	\$ 50,060,000
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** Project Includes ADA Improvements
Other Sources
0. Impact Fees
1. Grant and Interlocal Funds
2. Other Sources (Proj. Sav., Fund Bal., Interest Inc.)
3. Escrow
4. Decision Package
5. Developer Agreement(s)
6. Park Development Fund
7. Tax Increment Reinvestment Zone (TIRZ)
8. Dedicated Sales Tax
9. SH 121 Regional Toll Revenue (RTR)

Page 147 of 410

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

STORMWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's		NEW DEBT		DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028										2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Bakers Branch Stabilization at Cedar Bluff (Strait Lane)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,000	\$ -	\$ 75,000	\$ 75,000	2	\$ -		\$ -		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bakers Branch Stabilization at 621 Somerset Drive	150,000	175,000	-	-	-	-	-	325,000	325,000	2	-		-		-		-	-	-	-	-	-
Bakers Branch Stabilization at 1600 & 1612 Strait Lane	-	-	-	-	200,000	-	-	200,000	200,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilization at 1104 & 1108 Big Canyon Drive	-	-	175,000	200,000	-	-	-	375,000	375,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilizaton at 1540 Echo Bluff	-	-	-	-	-	75,000	-	75,000	75,000	2	-		-		-		-	-	-	-	-	-
Creek Bank Stabilization at 3100 River Hill Court	100,000	-	-	-	-	-	-	100,000	100,000	2	-		-		-		-	-	-	-	-	-
East Waketon Road Drainage Improvements	50,000	470,000	890,000	1,670,000	-	-	-	3,080,000	520,000	1,2,7	-		-		2,560,000		-	890,000	1,670,000	-	-	-
FM 2499 Roadway, Traffic Signal, and Drainage	500,000	-	-	-	-	-	-	500,000	500,000	1,3	-		-		-		-	-	-	-	-	-
McKamy Creek Stabilization & Drop Structure at 1900 Winding Creek Blvd	-	-	50,000	-	-	-	-	50,000	50,000	1,4	-		-		-		-	-	-	-	-	-
Pecan Acres Drainage Improvements	-	-	-	-	-	75,000	425,000	500,000	500,000	1,5	-		-		-		-	-	-	-	-	-
Timber Creek Stabilization at Timber Creek Rd (North & South Bridges)	-	-	-	-	-	-	400,000	400,000	400,000	1,6	-		-		-		-	-	-	-	-	-
SUBTOTAL	\$ 800,000	\$ 645,000	\$ 1,115,000	\$ 1,870,000	\$ 200,000	\$ 225,000	\$ 825,000	\$ 5,680,000	\$ 3,120,000		\$ -		\$ -		\$ 2,560,000		\$ -	\$ 890,000	\$ 1,670,000	\$ -	\$ -	\$ -

** Project Includes ADA Improvements

Other Sources

0. Impact Fees

1. Grant and Interlocal Funds

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

3. Escrow

4. Decision Package

5. Developer Agreement(s)

6. Park Development Fund

7. Tax Increment Reinvestment Zone (TIRZ)

8. Dedicated Sales Tax

9. SH 121 Regional Toll Revenue (RTR)

TOWN OF FLOWER MOUND
SUMMARY OF FIVE YEAR CIP PLAN
FY 2018-2019
1/7/2019
Amendment 2

WASTEWATER PROJECTS	PRIOR FISCAL YEARS	CONSTRUCTION SCHEDULE						TOTAL PROJECT COSTS	OTHER SOURCES		ISSUED DEBT		AUTHORIZED UNISSUED GO's	NEW DEBT	DEBT SCHEDULE					
		2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028								2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2028
Bakers Branch Collector Phase II (Lexington to Gerault)	1,850,000	-	-	-	-	-	-	1,850,000	350,000	0.2	1,500,000		-	-	-	-	-	-	-	-
Impact Fee Update	-	-	80,000	-	-	-	-	80,000	80,000	0.2	0		-	-	-	-	-	-	-	-
Inflow-Infiltration/Evaluation and Repair	2,230,000	-	250,000	250,000	250,000	250,000	-	3,230,000	130,000	2	2,100,000		-	1,000,000	-	250,000	250,000	250,000	250,000	-
Justin Road Lift Station Outfall (Justin Rd. to Cottage Ln.)	850,000	-	-	-	-	-	-	850,000	400,000	0.2	450,000		-	-	-	-	-	-	-	-
Lift Station Improvements and Decommissioning	1,825,000	-	-	-	-	-	-	1,825,000	100,000	2	1,725,000		-	-	-	-	-	-	-	-
Long Prairie Interceptor (North of Woodway Drive)	-	-	-	-	-	330,000	-	330,000	-	0.2	-		-	330,000	-	-	-	-	330,000	-
Lower Timber Interceptor (Teakwood to Pintail Park)	-	-	810,000	-	-	-	-	810,000	-	0.2	-		-	810,000	-	810,000	-	-	-	-
Oak Street Lift Station and Force Main Phase IV	-	-	1,500,000	-	-	-	-	1,500,000	150,000	0.2			-	1,350,000	-	-	1,350,000	-	-	-
Oak Street Lift Station and Force Main Phase V	-	-		-	-	-	2,500,000	2,500,000		0.2			-	2,500,000	-	-	-	-	-	2,500,000
Riverwalk Collector (Morriess Rd. to Windsor Dr.)	-	-	-	430,000	-	-	-	430,000	230,000	0.2	-		-	200,000	-	-	-	-	200,000	-
Southside Force Main Extension	-	-	300,000	2,100,000	-	-	-	2,400,000	1,400,000	0.2	-		-	1,000,000	-	1,000,000	-	-	-	-
Southside Gravity Improvements	-	-	-	-	-	-	3,900,000	3,900,000	1,000,000	0.2,3,5	-		-	2,900,000	-	-	-	-	-	2,900,000
Southside Pump Upgrade	-	-	90,000	1,012,000	-	-	-	1,102,000	452,000	0.2	-		-	650,000	-	650,000	-	-	-	-
Upper Timber Creek Interceptor (South of College Pkw.)	-	-	-	-	300,000	-	-	300,000		0.2	-		-	300,000	-	-	-	-	300,000	-
Upper Timber Creek Interceptor Phase III (FM 1171 to Hidden Forest Drive)	960,000	1,700,000	-	-	-	-	-	2,660,000	410,000	0.2	550,000		-	1,700,000	1,700,000	-	-	-	-	-
Upper Timber Creek Interceptor Phase IV (Hidden Forest Drive to Oak Street Lift Station)	350,000	3,350,000	-	-	-	-	-	3,700,000		2	350,000		-	3,350,000	3,350,000	-	-	-	-	-
Wastewater Master Plan	-	-	150,000	-	-	-	-	150,000	150,000	0.2	-		-	-	-	-	-	-	-	-
Wastewater System Model Update	205,785	5,000	5,000	5,000	5,000	5,000	-	230,785	230,785	0.2	-		-	-	-	-	-	-	-	-
Wastewater Treatment Plant Capacity Study	75,000	-	-	-	-	-	-	75,000	75,000	0.2	-		-	-	-	-	-	-	-	-
Wastewater Treatment Plant Expansion	-	-	-	-	-	-	150,000	150,000	150,000	0.2	-		-	-	-	-	-	-	-	-
Wastewater Treatment Plant Final Clarification Rehabilitation	780,000	-		-	-	-	-	780,000	430,000	2	350,000		-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase IV (Dewatering, B&L)	5,540,000	-	-	-	-	-	-	5,540,000	780,000	2	4,760,000		-	-	-	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening)	800,000	11,000,000	-	-	-	-	-	11,800,000	-	2	800,000		-	11,000,000	11,000,000	-	-	-	-	-
Wastewater Treatment Plant Rehabilitation Phase VI (Thermal Drying)	-	-	-	-	-	-	13,000,000	13,000,000	-	2	-		-	13,000,000	-	-	-	-	-	13,000,000
Wastewater Treatment Plant Rehabilitation Phase VII (Phosphorus Removal)	-	-	-	-	-	-	1,000,000	1,000,000	-	2	-		-	1,000,000	-	-	-	-	-	1,000,000
Wastewater Treatment Plant Ultraviolet System Update	250,000	2,750,000	-	-	-	-	-	3,000,000	250,000	2	-		-	2,750,000	2,750,000	-	-	-	-	-
Wellington Interceptor Phase IV Section I (Vail Lane to Oak Street Lift Station)	-	-	420,000	-	-	-	-	420,000	95,000	0.2	-		-	325,000	-	325,000	-	-	-	-
Wellington Interceptor Phase V (Ridgemere Dr. to Woodway Dr.)	-	-	-	-	720,000	-	-	720,000		0.2	-		-	720,000	-	-	-	-	720,000	-
Wellington Interceptor (Fieldcrest Rd. to FM 3040)	-	-	-	-	410,000	-	-	410,000		0.2	-		-	410,000	-	-	-	-	410,000	-
Wichita Trail Lift Station Improvements	-	-	-	-	780,000	-	-	780,000		0.2	-		-	780,000	-	-	-	-	780,000	-
Woodbine Street Sewer Line	800,000	-	-	-	-	-	-	800,000	200,000	2	600,000		-	-	-	-	-	-	-	-
SUBTOTAL	\$ 16,515,785	\$ 18,805,000	\$ 3,605,000	\$ 3,797,000	\$ 2,465,000	\$ 585,000	\$ 20,550,000	\$ 66,322,785	\$ 7,062,785		\$ 13,185,000	\$ -	\$ 46,075,000	\$ 18,800,000	\$ 3,035,000	\$ 1,600,000	\$ 250,000	\$ 2,990,000	\$ 19,400,000	
GRAND TOTAL UTILITY FUND	\$ 29,800,690	\$ 28,335,000	\$ 18,270,000	\$ 10,547,000	\$ 7,620,000	\$ 1,165,000	\$ 75,225,000	\$ 170,962,690	\$ 26,427,690		\$ 21,015,000	\$ -	\$ 123,520,000	\$ 24,955,000	\$ 13,815,000	\$ 8,650,000	\$ 3,300,000	\$ 3,340,000	\$ 69,460,000	

** Project Includes ADA Improvements

Other Sources

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



TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: January 7, 2019

FROM: Robert Pegg, Engineering Manager

ITEM: Consider approval of a Development Agreement with JBGL Chateau, LLC, for the construction of the Glenview 12-Inch Water Line, in association with the Villas of Southgate Phase 3 Development, in the amount of \$38,749.50; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Villas of Southgate Phase 3 is a residential development in Flower Mound. As part of the overall development, the developer agrees to construct a twelve (12) inch water line along Glenview Road from the Old Gerault Road, south to Patriot Drive. The water line is to be upsized from the minimum required 8-inch to the desired 12-inch pipe size. The developer will receive water impact fee credits for the Villas of Southgate, Phase 3 development, as a reimbursement for the construction costs related to increased upsize of the water line, from 8-inch to 12-inch. This agreement allows for the developer to install a Town Master Planned 12-inch water line as part of their project, and provides for the reimbursement of the additional costs through impact fee credits from the Town.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$38,749.50

Proposed Expenditure:	Account Number(s):
\$38,749.50	Impact Fee Credits

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

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

ATTACHMENTS:

1. Development Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

DEVELOPMENT AGREEMENT FOR THE VILLAS AT SOUTHGATE PHASE THREE

THIS DEVELOPMENT AGREEMENT FOR THE VILLAS AT SOUTHLAKE Phase Three ("Agreement") is made and entered into this ____ day of _____, 2019, by and between the Town of Flower Mound, Texas (the "Town"), and JBGL Chateau, LLC, a Texas limited liability company ("Developer").

WITNESSETH:

WHEREAS, the Villas at Southgate Phase Three Project ("Project") is a development encompassing approximately 17.175 acres in Flower Mound and described by metes and bounds on Exhibit "1" attached and incorporated herein for all purposes; and

WHEREAS, the Town and Developer wish to address various development issues related to the Project and to provide for the construction of utilities and related improvements, and to provide for impact fee credits by the Town of certain infrastructure 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 (1) infrastructure and related concerns associated with the Project due to its location; (2) the anticipated utilities and related improvements to be constructed at and near the Project necessitated by the development of the Project; and (3) 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 a development agreement.

NOW, THEREFORE, in consideration of the foregoing 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. Water Line.

A. Developer agrees to construct a twelve inch (12") water line ("Water Line") beginning at the intersection of Gerault and Old Gerault road and continuing south

along the east right-of-way line of Glenview Avenue to Patriot Way as more particularly shown on Exhibit "2." The Water Line is to be upsized from an eight inch (8") to a twelve inch (12") line with the Town to provide water impact fee credits to pay for the upsizing.

B. Prior to commencing construction, Developer shall submit construction plans for the Water Line to the Town for review and approval. Upon approval of the plans, the Town will issue Developer a notice to proceed. Developer (or its contractor) shall secure a maintenance bond in a form acceptable to the Town for a period of at least two (2) years from the date of the Town's acceptance of the Water Line.

3. Impact Fee Credits. The Town will grant Developer a water impact fee credit in the amount of \$38,749.50, to be credited by the Town against the water impact fees due for each lot within the Villas at Southgate Phase Three on a pro-rata basis.

4. Captions and Headings. The captions and headings of the sections of this Agreement are for convenience and reference only and shall not affect, modify or amplify the provisions of this Agreement, nor shall they be employed to interpret or aid in the construction of this Agreement.

5. 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 and Tarrant Counties, Texas. Venue for any action arising under this Agreement shall lie in Denton County, Texas.

6. Notices. Any notices required or permitted to be given hereunder shall be given by hand delivery or 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: JBGL Chateau, LLC
 2805 North Dallas Parkway, Suite 400
 Plano, Texas 75093
 Attn: Jed Dolson

With a copy to: c/o Green Brick Partners, Inc.
 2805 North Dallas Parkway, Suite 400
 Plano, Texas 75093
 Attn: Hilary Liston, Esq.

7. Attorneys' Fees. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs

and attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this Agreement and the parties agree that this Agreement is subject to Subchapter I of Chapter 271 of the Texas Local Government Code.

8. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

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 and Tarrant Counties Deed Records; Covenant Running with the Land. This Agreement or a memorandum thereof shall be filed in the deed records of Denton and Tarrant Counties, Texas. Upon any sale or other transfer of any ownership rights in the Property, Developer shall notify the Town in writing of such sale or transfer within thirty (30) days of such sale or transfer, provided, however, no notice shall be required for the sale of a lot for which a record plat has been approved and recorded in the deed records. 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 with the exceptions of the purchaser of a lot for which a record plat has been approved and recorded in the deed records and on which a residence has been constructed and common areas owned by a property owners' association (a "Fully Improved Lot").

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. Further, this Agreement is and shall be binding upon Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest in the Property now or in the future with the exception of the purchaser of a Fully Improved Lot.

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 ten (10) days after the written notice in the case of the default of a payment obligation, and in all other cases a reasonable time, to cure the alleged failure (such reasonable time determined based upon the nature of the alleged failure, but in no event less than ten (10) days after written notice of the alleged failure has been given).

14. Roughly Proportionate Determination under Texas Law and Federal 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 has carefully reviewed the development exactions (both construction and payment obligations) mandated by the Town associated with the Project and has been afforded the opportunity to consult with the Town and Developer's own professional consultants in order to ascertain whether Developer objects to same. In executing this Agreement, Developer hereby and in good faith agrees that the development exactions associated with the Project are roughly proportionate to the impact of the Project. In addition, Developer knows of no development exaction associated with the Project that would give rise to a claim relating to rough proportionality (procedural or substantive) arising out of 1) the Texas Constitution, §212.904 and Chapter 395 of the Texas Local Government Code and/or 2) the federal constitution, as mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny; and Developer further agrees that there exists an essential nexus between said development exactions and the Project.

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

- | | |
|-----------|---|
| Exhibit 1 | Metes and Bounds Description of the Project in the Town of Flower Mound; |
| Exhibit 2 | Map depicting construction of the construction of the twelve inch (12") Water Line. |

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: _____

Name: Steve Dixon
Mayor, Town of Flower Mound

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on this the ____ day of _____, 2019 by Steve Dixon, Mayor of the Town of Flower Mound, Texas, on behalf of the Town of Flower Mound, Texas.

Notary Public, State of Texas

DEVELOPER:

JBGL Chateau, LLC
a Texas limited liability company

By: _____
Name: _____
Authorized Signatory

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2018 by _____, Authorized Signatory of JBGL Chateau, LLC, a Texas limited liability company, on behalf of said company.

Notary Public, State of Texas

LEGAL DESCRIPTION
17.176 ACRES

BEING a tract of land located in the J. TURNER SURVEY, ABSTRACT NO. 1251, Town of Flower Mound, Denton and Tarrant Counties, Texas, and being a portion of tract of land conveyed to JBGL CHATEAU, LLC, according to deed recorded in Instrument D215271324, Official Public Records, Tarrant County, Texas, also filed in Document Number 2015-139080, Official Records, Denton County, Texas, and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with a yellow plastic cap found at the intersection of the west line of Gerault Road, a 120 foot right-of-way and south line of Old Gerault Road, a 50 foot right-of-way, and being the northwest corner of the remainder of a tract of land conveyed to FLCT, LTD., FLSC, LTD. and FLST, LTD., according to deed recorded in Document Number D207302377, Official Public Records, Tarrant County, Texas, also filed in Document Number 2007-102876, Official Records, Denton County, Texas, same being the northwest corner of Southgate Commercial, Northeast Tract addition, an addition to the Town of Flower Mound according to the plat recorded in Document Number 2018-52, Official Records, Denton County, Texas;

THENCE North 89° 17' 43" East, with the south line of said Old Gerault Road and the north line of the remainder of said FLCT, LTD., FLSC, LTD. and FLST, LTD. tract and the north line of said Southgate Commercial, Northeast Tract addition, a distance of 236.99 feet to 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the **POINT OF BEGINNING**;

THENCE North 89° 17' 43" East, with the south line of said Old Gerault Road and the north line of said JBGL CHATEAU, LLC, tract, passing as a distance of 25.20 feet a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found, and continuing with the north line of said JBGL CHATEAU, LLC, tract, for a total distance of 974.29 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

THENCE South 15° 52' 14" East, with the approximate center line of said Old Gerault Road and the easterly line of said JBGL CHATEAU, LLC, tract, a distance of 374.21 feet to a 1/2 inch iron rod found (bent) for corner;

THENCE South 00° 39' 18" East, continuing with the approximate center line of said Old Gerault Road and the easterly line of said JBGL CHATEAU, LLC, tract, a distance of 601.04 feet to a PK nail found for corner;

THENCE South 88° 29' 16" West, departing the approximate center line of said Old Gerault Road and with an easterly line of said JBGL CHATEAU, LLC, tract, a distance of 26.42 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner in the west line of said Old Gerault Road;

THENCE South 00° 23' 17" West, with the west line of said Old Gerault Road and the east line of said JBGL CHATEAU, LLC, tract, a distance of 55.84 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set in the north line of Patriot Way, a variable width right-of-way;

THENCE with the southerly line of said JBGL CHATEAU, LLC, tract and the north line of said Patriot Way, the following courses and distances:

South $89^{\circ} 26' 15''$ West, a distance of 20.22 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, said iron rod being the beginning of a curve to the right having a central angle of $30^{\circ} 33' 45''$, a radius of 255.00 feet, and a chord bearing and distance of North $75^{\circ} 16' 52''$ West, 134.41 feet;

With said curve to the right an arc length of 136.02 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $60^{\circ} 00' 00''$ West, a distance of 87.80 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, said iron rod being the beginning of a curve to the left having a central angle of $30^{\circ} 00' 00''$, a radius of 295.00 feet, and a chord bearing and distance of North $75^{\circ} 00' 00''$ West, 152.70 feet;

With said curve to the left an arc length of 154.46 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $90^{\circ} 00' 00''$ West, a distance of 160.59 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, said iron rod being the beginning of a curve to the right having a central angle of $90^{\circ} 00' 00''$, a radius of 25.00 feet, and a chord bearing and distance of North $45^{\circ} 00' 00''$ West, 35.36 feet;

With said curve to the right an arc length of 39.28 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $90^{\circ} 00' 00''$ West, a distance of 20.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, said iron rod being the beginning of a non-tangent curve to the right having a central angle of $61^{\circ} 55' 20''$, a radius of 25.00 feet, and a chord bearing and distance of South $30^{\circ} 57' 15''$ West, 25.72 feet;

With said non-tangent curve to the right, an arc length of 27.02 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, said iron rod being the beginning of a non-tangent curve to the left having a central angle of $45^{\circ} 58' 15''$, a radius of 25.00 feet, and a chord bearing and distance of North $22^{\circ} 59' 08''$ East, 19.52 feet;

THENCE departing the north line of said Patriot Way, and with the west line of said JBGL CHATEAU, LLC, tract, the following courses and distances:

With said non-tangent curve to the left, an arc length of 20.06 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $00^{\circ} 00' 00''$ East, a distance of 6.67 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the left having a central

angle of $32^{\circ} 12' 30''$, having a radius of 234.50 feet, and chord bearing and distance of North $16^{\circ} 06' 15''$ West, 130.09 feet;

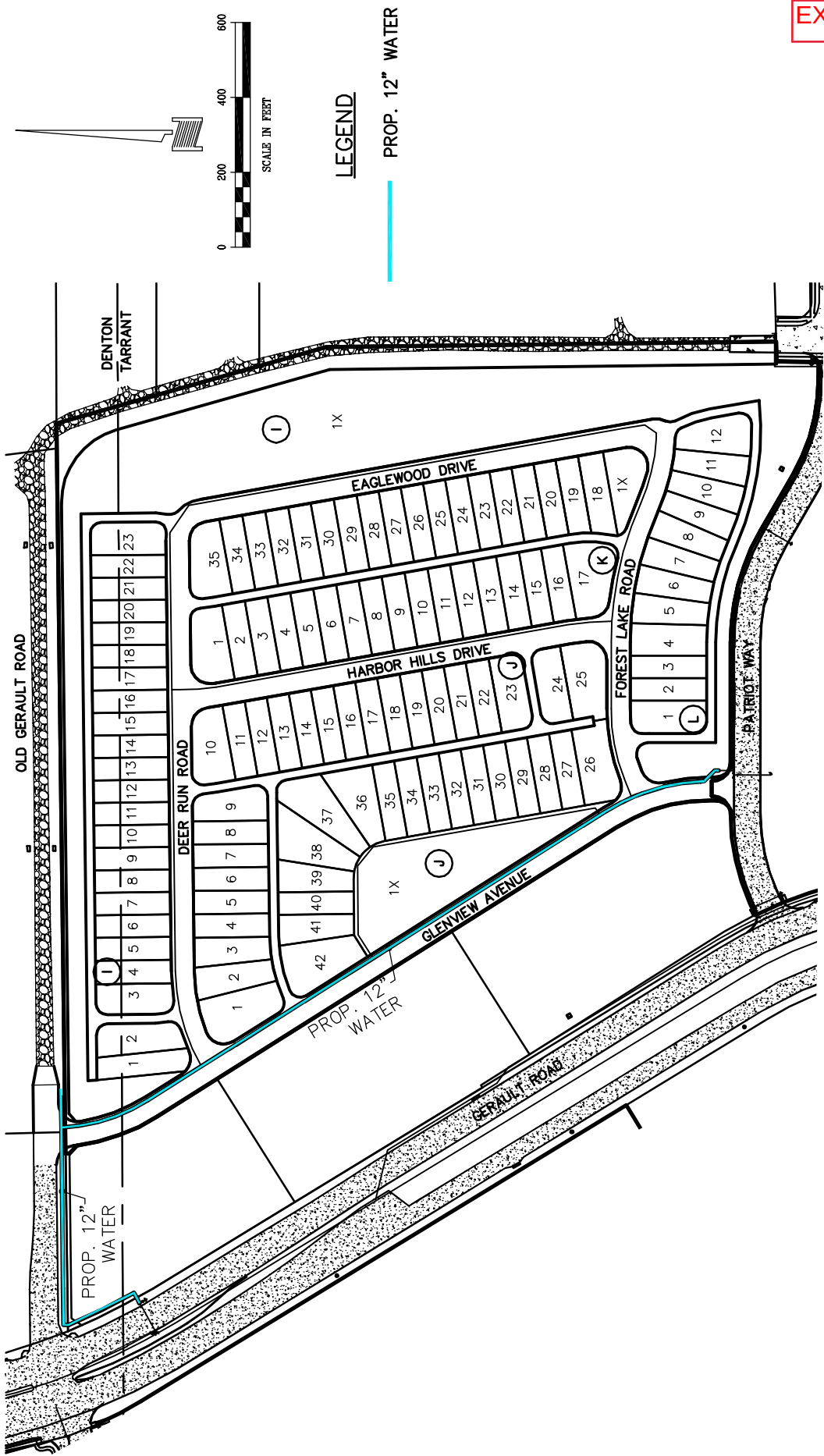
With said curve to the left, an arc length of 131.82 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $32^{\circ} 12' 30''$ West, a distance of 723.59 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the right having a central angle of $25^{\circ} 03' 47''$, a radius of 265.50 feet, and a chord bearing and distance of North $19^{\circ} 40' 37''$ West, 115.21 feet;

With said curve to the right, an arc length of 116.14 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $48^{\circ} 22' 24''$ West, a distance of 14.79 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North $00^{\circ} 42' 17''$ West, a distance of 5.00 feet to the **POINT OF BEGINNING** and containing 17.176 acres of land, more or less.





TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: January 7, 2019

FROM: Brian Waltenburg, P.E., Engineering Manager

ITEM: Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc. for the design phase services associated with the Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff) project in the amount of \$150,000.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff) project includes replacing and realigning an existing 20-inch C303 water line currently located in numerous resident backyards. The replacement of the line is required due to its poor condition and recent break history. The realignment route along the Morriss Road median was determined following a pre-design route analysis.

The replacement and realignment will include a 20-inch ductile iron water line, sliplining a portion of the existing 20-inch water line with an 8-inch line, and extending an existing 12-inch line along Forest Vista. The limits of the 20-inch water line installation are along Morriss Road, from north of Forest Vista Drive to Lake Bluff Drive. The 8-inch slipline will be located along Tudor Way, from Bershire Court to Flower Mound Road (FM 3040).

Due to the recent break history, this water line project is being added to the CIP as a standalone project, separate from the existing Morriss Road Water Line Phase I-III projects. Design will be completed in FY 2018/2019 and construction is planned for FY 2019/2020.

The scope of the Professional Services Agreement includes a topographic survey; preparation of design plans, technical specifications, and cost estimates, and bidding phase services.

FISCAL IMPACT: \$150,000.00

Proposed Revenue:	Account Number(s):
\$150,000.00	630-960-98849

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 in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
KIMLEY-HORN AND ASSOCIATES, INC.**

This contract is entered into on this 7th day of January, 2019, 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 **Kimley-Horn and Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 12750 Merit Drive, Suite 1000, Dallas, Texas 75251.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Morriss Road 20-Inch Water Line (Forest Vista Drive to Lake Bluff Drive) 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 Morriss Road 20-Inch Water Line (Forest Vista Drive to Lake Bluff Drive) project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

CONSULTANT will bill TOWN on a lump sum basis in accordance with 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.,
CIP Engineering Manager
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:

Kyle Sanderson, P.E.
Kimley-Horn and Associates, Inc.
12750 Merit Drive
Suite 1000
Dallas, Texas 75251
972-770-3033 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.

[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 Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
KIMLEY-HORN AND ASSOCIATES, INC.

By: [Signature]

Name: ERIC Z. SMITH

Title: ASSISTANT SECRETARY

Date Signed: 12/10/18

State of Texas §
 §
County of Dallas §

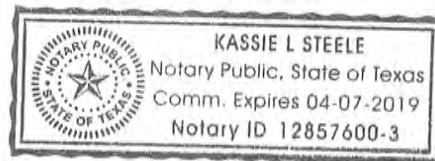
This instrument was acknowledged before me on the 10 day of December, 2018, by Eric Z. Smith in his capacity as Assistant Secretary of Kimley-Horn and Associates, a North Carolina Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Kimley-Horn and Associates

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 10th DAY OF December, 2018.

[Signature]
Notary Public, State of Texas

My Commission Expires:

4-7-19



ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: Morriss Road 20-Inch Water Line (Forest Vista Drive to Lake Bluff Drive)

PROJECT UNDERSTANDING

This project includes replacing an existing 20-inch C303 water line with a 20-inch ductile iron water line, sliplining a portion of the existing 20-inch water line with an 8-inch line, and extending an existing 12-inch line along Forest Vista. The limits of the 20-inch water line installation are along Morriss Road, from north of Forest Vista Drive to Lake Bluff Drive. The 8-inch slipline will be located along Tudor Way, from Bershire Court to Flower Mound Road (FM 3040). Reference the attached exhibit for project limits. It is assumed the proposed 20-inch water line will be located within the median of Morriss Road.

More specifically, the project is anticipated to include the following:

- Approximately 4,200 LF of 20-inch water line (Ductile iron material)
- Approximately 950 LF of 8-inch water line (Installed via slipline)
- Approximately 200 LF of 12-inch water line
- Bore/Tunnel under Forest Vista Drive
- Cathodic protection design for ductile iron pipe

SCOPE OF PROFESSIONAL SERVICES

TASK 1: GENERAL ITEMS AND MEETINGS

- A. Record Research - Work with Town staff to obtain all available record drawings for existing utilities along water line route. Coordinate with franchise utilities to obtain record drawings.
- B. Kick-off Meeting - Conduct kick-off meeting with the Town to confirm the goals, schedule, and deliverables for the project. Kickoff meeting will take place during monthly project status meeting.
- C. 50% Design Review Meeting – Conduct meeting with Town to review 50% plans.
- D. 95% Design Review Meeting - Conduct meeting with Town to review 95% plans.

TASK 2: FIELD SURVEY AND BASE MAPPING

It's assumed that the water line within Morriss Road will be located within the median. Detailed topographic survey is only being provided within the median, not within the entire right-of-way limits. Detailed topographic survey outside the median extents of Morriss Road will be considered an Additional Service.

Additionally, the 8" water line within Tudor Way is anticipated to be installed via sliplining and field survey is not anticipated along the entire route. Supplemental survey at select locations (to be identified during design) is included in the scope. If the line is required to be installed via open cut, additional survey will be required and will be considered an Additional Service.

- A. Perform field survey to identify and locate existing topographic elements within the alignment corridor including, but not limited to, the following:
 1. Property pins
 2. Existing pavement, curbs, sidewalks, barrier free ramps, etc.
 3. Lane striping
 4. Driveways
 5. Existing storm sewer inlets, manholes, junction boxes, outfalls, and erosion control
 6. Culverts (including flowline elevations) and bridges
 7. Guardrail
 8. Utility manholes, vaults, water valves, water meters, sprinkler heads, telephone poles, power poles, utility markers, other public utilities, and franchise utilities
 9. Traffic signal poles, cabinets, and other signal equipment
 10. Signs (excluding temporary signs)
 11. Buildings
 12. Retaining walls
 13. Fence limits and material types
 14. Trees greater than 6-inch
 15. Other applicable physical features that could impact design
- B. Walk the survey and review the final topographic drawing in digital format (including one foot contours and breaklines) showing the features located in the field as well as right-of-way strip map information. Document and incorporate minor changes into the base map. Minor changes are anticipated not to require additional survey ties. If field work by a survey crew is required it shall be considered an Additional Service.
- C. Incorporate underground franchise utilities, water, wastewater, and storm lines based on available record drawings.
- D. Prepare right of entry letters as required

TASK 3: 50% WATER LINE DESIGN

A. Design Tasks

1. Prepare plan view only drawings based on existing surface features and current design standards. Plan sheet will consist of a 22"x34" sheet at a scale of 1" = 40' horizontal. The following sheets are anticipated
 - a. Cover
 - b. General Notes
 - c. Sheet Index
 - d. Water Line Plan (6 sheets assumed)
 - e. Construction Details
 - f. Erosion Control Details
2. Evaluate feasibility of sliplining the existing 20-inch line within Tudor Way.
3. Evaluate connection configuration at intersection of Morriss Road and Forest Vista Drive.
4. Prepare opinion of probable construction cost based on preliminary design.
5. Submit to the Town 50% plan view only plans and OPCC for review and comment.

B. Design Deliverables

1. Three (3) copies of the 50% Construction Plans
2. Three (3) copies of the Opinion of Probable Construction Cost

C. Services provided by the Town

1. Review and comment on 50% plan view only plans and OPCC.

TASK 4: 95% WATER LINE DESIGN

A. Design Tasks

1. Prepare plan and profile sheets as necessary based on existing surface features and current design standards. Plan sheet will consist of a 22"x34" sheet at a scale of 1" = 40' horizontal and 1" = 4' vertical. The following sheets are anticipated
 - a. Cover
 - b. General Notes
 - c. Sheet Index
 - d. Water Line Plan and Profile (6 sheets assumed)
 - e. Construction Details
 - f. Connection Details
 - g. Erosion Control Details
 - h. Traffic Control Plan
 - i. Cathodic Protection Plans and Details
2. Prepare specifications which include technical specifications for materials and installation of the proposed facilities. The contract documents shall be

based upon Flower Mound Contract Documents. The NCTCOG Standard Specifications for Public Works Construction and the Town of Flower Mound's requirements for Public Works Construction will govern all other specifications.

3. Make revisions based on the Town's review of the 50% plans.
4. Prepare auger boring or tunnel details and specifications at Forest Vista roadway crossing.
5. Evaluate sequencing and shutdown requirements.
6. Prepare connection details associated with the connection to the existing 20" water line and 30-inch water line.
7. Prepare connection details associated reconnecting distribution lines to sliplined 8-inch water line.
8. Prepare opinion of probable construction cost based on preliminary design.
9. Submit to the Town 95% complete Contract Documents and OPCC for review and comments.

B. Design Deliverables

1. Three (3) copies of the 95% Contract Documents (Plans and Specifications)
2. Three (3) copies of the Opinion of Probable Construction Cost for 95% submittals.

C. Services provided by the Town

1. Review and comment on 95% plans, technical specifications and OPCC.

TASK 5: 100% WATER LINE DESIGN

A. Design Tasks

1. Make revisions based on the Town's review of the 95% submittal.
2. Prepare opinion of probable construction cost based on final design.
3. Submit to the Town 100% complete plans, specifications and OPCC
4. Submit final plans to appropriate regulatory agencies (TCEQ) for review and comments.

B. Design Deliverables

1. Three (3) copies of the 100% Contract Documents (Plans and Specifications)
2. Three (3) copies of the Opinion of Probable Construction Cost for 100% submittals.

TASK 6: TRAFFIC CONTROL DESIGN

A. This task includes preparing a detailed traffic control plan for anticipated construction activities associated with the following:

- a. Connecting to the existing 20-inch water line near the intersection of Morriss Road and Lake Bluff Drive.
- b. Extending the 12-inch water line along Forest Vista Drive

Traffic control shall be based on Town criteria and MUTCD requirements. Traffic control plan and details as required will be included in the Contract Documents. Up to three (3) traffic control phases are included. Any additional traffic control required will be the responsibility of the contractor to design and submit to the Town for review during construction and is not included in this scope of work.

TASK 7: CATHODIC PROTECTION DESIGN

- A. Cathodic Protection Design
 - 1. Evaluate existing soils and determine cathodic design requirements for ductile iron pipe.
 - 2. Prepare plans and specifications for cathodic protection design
- B. Design Deliverables
 - 1. PDF copies of the plans and specifications will be included in the 95% and 100% submittals.

TASK 8: BIDDING PHASE SERVICES

- A. Print and issue 4 sets of bidding documents and provide CD with PDFs. Additional sets of bidding documents shall be printed, only upon the Town's authorization, as Additional Professional Services. Bidding documents will be issued to potential bidders upon the payment of a non-refundable fee to cover the cost of printing those documents.
- B. Review Contractor questions and issue addenda as required.
- C. Prepare specification books for execution
- D. Deliverables
 - 1. Addenda as required
 - 2. Print and deliver to the Town up to 4 sets of bid documents
 - 3. Deliver 2 sets of specification books for execution
 - 4. CD with PDFs of bid documents
- E. Exclusions
 - 1. Conformance Drawings
 - 2. Record Drawings

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

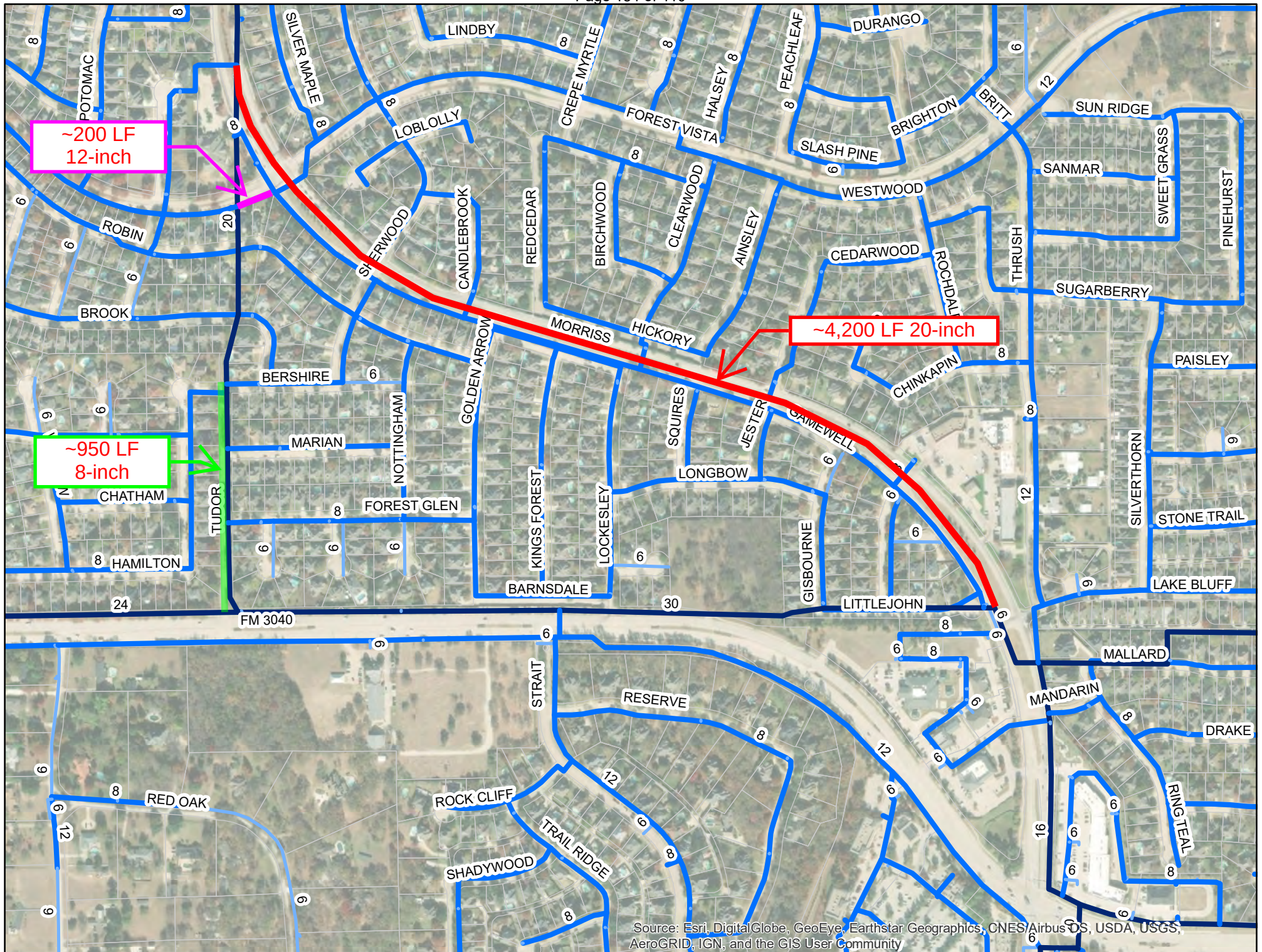
- Assisting Town or contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by the Consultant on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Sampling, testing, or analysis beyond that specifically included in the Scope of Services referenced herein above.
- Preparing applications and supporting documents for government grants, loans, or planning advances, and providing data for detailed applications.
- Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the Town.
- Providing professional services associated with the discovery of any hazardous waste or materials in the project route.
- Providing additional presentations to the Town Council.
- Providing construction staking, additional platting, or other surveying services not identified in the above Scope of Services.
- Providing additional printing for bidding document distribution.
- Providing additional documentation required by the Town's legal representative during condemnation proceedings.
- Providing any easement acquisition services.
- Preparing for and facilitating neighborhood meetings.
- Attending additional public meetings during the project.
- Providing professional services associated with the construction phase of the project.
- Attending a Pre Bid Meeting
- Preparing a Bid Tabulation or Recommendation Letter
- Reviewing Contractor's References
- Easement document preparation
- Perform Level A or Level B SUE.
- Perform geotechnical investigation.
- Provide record drawings.
- Any services not listed in the Scope of Services.

ATTACHMENT B**COMPENSATION**

The Consultant will provide the Scope of Services for a lump sum fee.

TASK 1 – General Items and Meetings	\$6,000
TASK 2 – Field Survey and Base Mapping	\$42,000
TASK 3 – 50% Water Line Design	\$37,500
TASK 4 – 95% Water Line Design	\$43,900
TASK 5 – 100% Water Line Design	\$4,500
TASK 6 – Traffic Control Design	\$3,500
TASK 7 – Cathodic Protection Design	\$9,100
TASK 8 – Bidding Phase Services	\$3,500
<u>TOTAL</u>	<u>\$150,000</u>

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





TOWN COUNCIL AGENDA ITEM NO. 13

CONSENT ITEM

DATE: January 7, 2019

FROM: Clay Riggs, PE, Assistant Director of Public Works

ITEM: Consider approval of a Professional Services Agreement with Halff Associates, Inc., to provide design phase services, for the East Waketon Road Drainage Improvements project, in the amount of \$212,790.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Waketon Road between FM 2499 and Townsend Drive has a history of flooding during larger storm events. The Waketon Road at Timber Creek Drainage Improvements project will provide approximately 1,500 linear feet of channel improvements from FM 2499 to Waketon Road and replaces the existing culverts under Waketon with 8-10'x4' culverts to alleviate closing Waketon Road during rain events. The project impacts approximately 8.25 acres of wetland habitat and 770 linear feet of waters of the US and will require 404 permitting through the US Army Corps of Engineers.

The improvements will be constructed in two phases. Phase 1 provides for the channel improvements and associated wetland mitigation. Phase 2 provides for the replacement of the Waketon culverts.

The scope of the professional services agreement includes the topographic survey, preparation of design plans, technical specifications, cost estimates, easement documents, US Army Corps of Engineers 404 permitting, and bidding phase services.

FISCAL IMPACT: \$212,790.00

Proposed Revenue:	Account Number(s):
\$212,790.00	308-103-98912

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 in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
HALFF AND ASSOCIATES, INC.**

This contract is entered into on this 7th day of January, 2019, 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 **Halff Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 4000 Fossil Creek Blvd, TX 76137.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, permitting, design and providing construction documents for the Waketon Road at Timber Creek Drainage 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 Waketon Road at Timber Creek Drainage 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 Two Hundred Twelve Thousand Seven Hundred Ninety and No/100 Dollars (\$212,790.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

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

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

Clay Riggs, PE, CFM
Assistant Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6411 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:

Clay Riggs, PE, CFM
Assistant Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6411 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:

Ben McGahey, PE
Director of Public Works, Fort Worth
Halff Associates, Inc.
4000 Fossil Creek Blvd.
Fort Worth, Texas 76137
817-764-7471 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.

[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 Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Halff Associates, Inc.

By: B. L. Megahey
 Name: BENJAMIN L. MEGAHEY
 Title: DIRECTOR OF PUBLIC WORKS

Date Signed: 12/11/2018

State of Texas §
 §
 County of Tarrant §

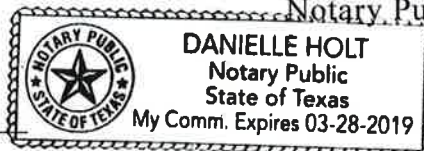
This instrument was acknowledged before me on the 11th day of December, 2018, by Benjamin Megahey in his capacity as Director of Public Works of Halff Associates, Inc., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Halff Associates, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th
 DAY OF December 2018.

Danielle Holt
 Notary Public, State of Texas

My Commission Expires:

March 28, 2019



ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: Waketon Road at Timber Creek Drainage Improvements

PROJECT UNDERSTANDING

The objective of this project is to design and construct the Alternative 4 drainage improvements recommended in Halff's Waketon Road at Timber Creek Tributary 16 Drainage Study completed in September 2017. Improvements include excavating a channel of approximately 1,500 linear feet from FM 2499 to Waketon Road, placing fill in the area between the channel and Waketon Road for potential development (approx. 8 acres), replacing the existing four (10'x4') culverts with eight (10'x4') culverts, and excavating approximately 720 linear feet of channel downstream of Waketon Road. These proposed improvements are intended to prevent water surface elevations (WSELs) under the 2-, 5-, and 10-year ultimate flows from overtopping Waketon Road.

This project will impact approximately 8.25 acres of wetland habitat and 770 linear feet of the waters of the US and will require 404 permitting.

The Town of Flower Mound intends to construct these improvements in two phases. Phase 1 includes all channel improvements and reclamation and Phase 2 includes replacing the box culverts across Waketon Road.

SCOPE OF PROFESSIONAL SERVICES

TASK 1: SECTION 404 INDIVIDUAL PERMIT

The U.S. Army Corps of Engineers (USACE), under Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and Section 404 of the Clean Water Act (Section 404) regulates the placement of fill in navigable waters and other waters of the United States, respectively. Regulated activities are authorized through the issuance of general or standard individual permits, each of which consist of the following common components: Pre-construction notification or permit application; delineation of waters of the United States; threatened and endangered species assessment; cultural resources assessment; and compensatory mitigation plan, if needed.

Projects that are permitted by a federal authority also require a determination of effect on threatened and endangered species and cultural resources; these are also presented as required tasks. Based on preliminary assessment of the project, it is assumed that an individual permit and mitigation are going to be required and are included in the scope of work.

A. Section 404 Standard Individual Permit Application: Activities that do not qualify for authorization under the nationwide permit program may qualify for authorization by standard individual permit (IP). This task will include preparation of all permit components as outlined in ENG Form 4345, outlined as follows:

- Name, address, and telephone numbers of the prospective permittee;
- Location of the proposed project;
- A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the activity, in acres, linear feet, or other appropriate unit of measure;
- Project schedule;
- Names and addresses of adjoining property owners;
- List of authorizations required by other federal, interstate, state, or local agencies for the work, including approvals or denials already received;
- Delineation of waters of the United States (see description);
- Section 404(b)(1) alternatives analysis (see description);
- Compensatory mitigation plan (see description);
- Threatened and endangered species assessment (see description);
- Cultural resources assessment (see description).

B. Jurisdictional Determination/Delineation: An on-the-ground jurisdictional determination will be performed to identify the limits of waters of the United States, including wetlands. The delineated limits will be staked in the field; Halff will employ the use of GPS surveying techniques to delineate the limits of potential waters of the United States and/or wetlands. Halff will complete necessary wetland data forms, consistent with the 1987 Wetland Delineation Manual and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0)," and take on-site photography for representative sites. A summary report will be prepared describing the methodology and results of the investigation, so that the report may satisfy the jurisdictional determination requirement for the anticipated permit.

C. Alternatives Analysis: This document presents an analysis of the potential alternatives considered and should demonstrate that the proposed project is the least environmentally damaging practicable alternative (LEDPA). This analysis of alternatives will be patterned after regulatory guidance from the Fort Worth District, USACE – Preparing an Alternatives Analysis under Section 404 of the Clean Water Act (November 2014). This document will utilize the drainage study to support the project need and discuss design alternatives.

- This task assumes at least two meetings at the USACE office with the project team to review and discuss the alternatives analysis.

D. **Compensatory Mitigation Plan:** Compensatory mitigation may be required to mitigate project impacts. Halff will conduct a functional assessment consistent with the USACE Fort Worth District assessment methods, which will be instrumental in developing the compensatory mitigation plan and determining the required mitigation credits that would need to be purchased. Because of the duration of the individual permit process, this task will require regular communications with potential mitigation banks to ensure that adequate credits are available. Upon completion of the permitting process, Halff will assist with bank purchase agreements and documenting purchase of credits with the USACE.

- This task assumes the preparation of both stream and wetland assessment data forms. If all mitigation can be achieved through a regional wetland bank (i.e. non-stream bank), then the debit ratio system may be used at a reduced fee.
- This task does not assume the preparation of a permittee responsible mitigation plan.

E. **Threatened and Endangered Species Assessment:** Halff will conduct a literature review of federal-listed threatened and endangered species for Denton County. This investigation will include a review of species information sheets to establish the likely range of these species. The investigation will also include a search request from the Texas Natural Diversity Database (TXNDD). The TXNDD data is to support determinations of potential species occurrence for the site and provide specific information where available. Supplemented by general observations during the jurisdictional determination task, the literature review and document search will conclude with a determination: a) whether preferred habitat or designated critical habitat for any listed species is likely to be present within the project area; b) whether any listed species is likely to occur; and c) whether the project will affect or has the potential to affect federal-listed species.

F. **Cultural Resources Assessment:** As the Town of Flower Mound is a political entity of the State of Texas, it is required to comply with the Antiquities Code of Texas. Upon notice-to-proceed, applications to conduct field work will be prepared and forwarded to the Town for review, and for signature as landowner and/or project sponsor. Upon issuance of the antiquities permit by the THC, the fieldwork can begin.

Prior to conducting field work, this task includes a cultural resources desktop review/archival research of the proposed project area including performing preliminary research into previously recorded archaeological or historical sites and previous cultural resources surveys in or adjacent to the area to determine the potential for encountering significant cultural resources within the project area. Resources reviewed will include the Texas Archeological Sites Atlas (TASA), the Texas Archaeological Research Laboratory (TARL); the General Land Office (GLO); the National Park Service's (NPS) online National Register Information System (NRIS); the Texas Historic Overlay (THO), as well as, historic and recent aerial photography and other relevant information. This review will be included in the final report and will be used in the consultation process with the THC during the permitting process.

In areas with potential for archeological materials, shovel tests will be excavated to 80 centimeters (cm) or the bottom of culturally sterile deposits, whichever is encountered first. In addition, the physical properties of each arbitrary level will be recorded. All tests will be recorded on maps and plotted using hand-help global positioning system (GPS) units. Investigators will document the results of each test on standardized shovel test forms.

As the project will require compliance with Section 106, an assessment of indirect effects will be required per the NHPA Section 106 regulations. Indirect effects for any above ground element to any standing structure of historic age will be considered within 300 feet of the project at each potential USACE jurisdictional crossing. Any structure encountered in these areas will be photographed and assessed for their potential eligibility for listing on the NRHP.

G. Section 401 Water Quality Certification: One of the requirements for obtaining a USACE Section 404 permit is certification from the Texas Commission on Environmental Quality (TCEQ) that the discharge to be permitted will comply with state water quality standards. Projects with a combination of impacts that exceed three acres of waters of the United States or 1,500 linear feet of stream are subject to an individual certification review by TCEQ. This is referred to as a Tier II Section 401 certification and is submitted as a separate report with the permit application.

- This scope assumes that the project will exceed this threshold.
- The Section 404 (b)(1) alternatives analysis will be completed first and used to prepare the Section 401 certification document.

TASK 2: GEOTECHNICAL ENGINEERING STUDY

Halff will retain the services of CMJ Engineering, Inc. to provide geotechnical engineering support. A geotechnical engineering report will be prepared to address general soil and groundwater conditions and recommendations for construction/requirements.

TASK 3: SUPPLEMENTAL DESIGN SURVEYS

Halff shall provide additional surveying services, which, in general, may be defined as normal services applicable to a project of this type. The following particulars apply.

- A. Vertical benchmarks shall be established such that all points of construction shall be within 500 feet of a benchmark. Benchmarks should not be subject to loss during construction. Fire hydrants and similar appurtenances are not to be used for benchmarks. The surveyor shall establish temporary benchmarks throughout the length of the project.
- B. Topographic features will be surveyed along with any other features needed for design, review, permitting, construction, and inspection of the project. Coverage will extend beyond the proposed improvements far enough to integrate the design with the adjacent properties. This scope of work includes a complete topographic survey approximately 1,000 LF downstream of Waketon Road. Areas between FM 2499 and Waketon Road were surveyed under a previous contract and will be utilized for this project.
- C. Existing property corners, iron pins, etc. shall be tied to establish existing property boundaries and rights-of-way. Prior to surveying on private property, the surveyor shall secure written permission from the property owners and/or tenant and shall provide the Town a copy of said written permission. Should only oral permission be granted, the surveyor shall document the permission granted by letter to the property owner/tenant, with a copy to the Town. If permission cannot be obtained, the Town may assist, or other arrangements will be worked out.

TASK 4: BOUNDARY SURVEY & EASEMENTS:

The Town is currently obtaining the necessary right-of-way and easements from the primary property owner affected, Kenneth G. Whyburn. Additionally, and if required, easement documents will be prepared for a maximum of one (1) permanent and one (1) temporary construction easement from a second property owner, Ivest Services, LLC., that could be affect by the project. Upon approval of channel and culvert alignments,

Halff shall survey, render field notes, and prepare individual exhibits for all easement parcels.

A. Individual Exhibits for each parcel shall be prepared to contain the following:

- Area required
- Parcel number
- Property owner name, mailing address, and volume and page of deed
- Existing easements
- Exhibits will be drawn to scale
- All of the above shall be placed on one page of 8-1/2" x 14" paper, labeled as Exhibit "B" and signed and sealed by a Texas Registered Professional Land Surveyor.

B. Legal descriptions for each parcel shall reference the volume, page, and owner of the parent tract and shall be incorporated into a standard Town of Flower Mound conveyance document as Exhibit "A". Individual parcels will be cross-referenced on the plans.

C. Submit easement documents to the Town and make necessary corrections.

D. Upon approval of the easements by the Town, and if required, Halff shall stake and flag the easement for inspection by the appraiser and property owner. The documents, including legal description, shall be furnished to the Town in Microsoft Word and PDF format.

TASK 5: HYDRAULIC ANALYSIS

Halff will model the proposed hydraulic conditions and evaluate the results. Specific tasks related to the hydraulic analysis include:

A. Determine existing 100-year flows at proposed culvert improvements at Waketon Road.

B. Evaluate hydraulic impacts of proposed culvert improvements at Waketon Road.

C. Evaluate proposed grading improvements along the channel.

D. Summarize tabular hydraulic model results.

E. This scope of work does not include preparation of a CLOMR or LOMR.

TASK 6: DESIGN PHASE SERVICES

A. Project Management and Coordination

Halff's project management activities shall include task leadership and direction, telephone and written communication, project update meetings, presentation of process and findings, and personnel and data management among other general project management activities. Specific project management and coordination tasks are detailed below:

- Conduct one (1) project kick-off meeting with the Town of Flower Mound to confirm and clarify project scope, schedule, Town objectives, and expected project delivery.
- Conduct one (1) pre-application meeting with the USACE to discuss permit application and alternatives.
- Communicate regularly with the Town regarding project progress.
- Attend project update meetings, as needed, with the Town's Project Manager.
- Attend review meetings with the Town at the end of each design phase.
- Ensure Quality Control/Quality Assurance (QA/QC) is practiced in performance of the work.

B. Data Collection and Field Reconnaissance

- Perform field assessment of the proposed corridor and prepare a photographic record of major features.
- Obtain master plans, record drawings and other records from the Town.

C. Preparation of Contract Documents

Halff shall develop construction plans for review, permitting, bidding, construction, inspection and record keeping. In general, construction plans shall be consistent with normal practice for projects of this nature. The construction plans will consist of sheets generally ordered as follows:

- Title Sheet – The title sheet shall include a location map. It shall also include a sheet index with drawings numbered consecutively and without subscripts. Additionally, the title sheet shall show the project name, project number, date, Town logo, Consultant's name, address, and telephone number and other items as may be specified.

- Project General Notes and Legend – These sheets will include a listing of abbreviations, legend, and general notes.
- Project Layout Sheet – The purpose of the project layout is to depict the project in a simplified view. Major items of work will be shown without excessive detail. This sheet(s) will include a listing of abbreviations, legend, general notes, and key map.
- Typical Sections – At a minimum, typical sections will be drawn showing the relationship of the existing creek and grading. Additionally, typical section(s) for the repair of Waketon Road will be provided. Typical sections will include right-of-way lines, fences, utilities, and all proposed improvements.
- Plan and Profile Sheets – Plan-profile sheets will be arranged from south to north and from west to east, with the north arrow up or to the right on the sheet. Plan-profile sheets will be drawn to scales of 1" = 20' h and 1" = 4' v. Stationing will be from south to north or west to east with the beginning station being set at approximately 1+00. Each plan-profile sheet will include no more than 500 feet of culvert or water line; thus, leaving ample margins both left and right. The plan and profile station will align vertically on the sheet with the proposed centerline drawn parallel to the profile grid. When there is a centerline curvature, the plan-profile should be drawn so that as much of the plan view is in alignment as possible. Plan-profile sheets shall depict all existing and proposed items pertinent to the project.
- Grading Plan Sheets – Halff will prepare grading plans for proposed channel improvements on sheets having a scale of 1" = 20'. One-foot contours and adequate spot elevations will be provided to allow a contractor to grade the site.
- Cross-Section Sheets – The cross-section sheets will show cross-section views of the channel and proposed and existing grades at various station locations along the length of the project.
- Detail Sheets – The Town's standard drawings will be used as a beginning point in developing standard details for this project. They will be reviewed and modified as necessary for this project. Where other agency standards are used, they shall be reduced as necessary to fit on the Town's standard sheet format with complete title block.
- Miscellaneous – Construction plans will address temporary and permanent erosion control, traffic control and demolition.
- Generic Sheet List – Following is a general list of plan sheets required for each construction package.
 - o Cover Sheet
 - o Sheet Index and Legend
 - o Project General Notes

- o Project Layout Sheets
 - o Channel Typical Sections
 - o Waketon Road Typical Section
 - o Demolition Plan
 - o Grading Plans
 - o Drainage Area Map
 - o Hydraulic Calculations
 - o Culvert Plan & Profile
 - o Culvert Details
 - o Headwall Details
 - o Special Headwall Details
 - o Waketon Road Paving & Grading Plan
 - o Paving Details
 - o Pavement Marking Plan
 - o Pavement Marking Details
 - o 16-Inch Water Line Plan & Profile
 - o Water Line Details
 - o Erosion Control Plans
 - o Erosion Control Details
 - o Traffic Control Plans
 - o Traffic Control Details
- Submittals – Plans shall be prepared and submitted at the 30%, 60% and 90% milestones, respectively. Final plans shall then be prepared and submitted at the 100% milestone. Also, Halff may submit plan sheets or working drawings to the Town for review and comment to reduce the number of revisions that otherwise would be required. During development of the plans, Halff shall attend meetings as needed. Halff shall, in company with the Town, perform at least one plans-in-hand review.
 - Design – The design of the project shall be in general accordance with the Town of Flower Mound ordinances, standard details, and good engineering practices. During the design phase, Halff shall contact various utility companies and obtain information relating to existing utility lines. The design should avoid major utility relocations, where practical. When required, proposed relocations or replacements will be shown in plan and profile.
 - Specifications – Halff shall prepare a project manual and technical specifications required for bidding and constructing the project. The project manual will be provided in the Town's standard format. Only specifications amending or supplementing North Central Texas Council of Governments (NCTCOG)

specifications need be furnished. Project manual, specifications, bid items and quantities shall be furnished on hard copy and by electronic file.

- Estimates – An opinion of probable construction cost (OPCC) will be developed at each milestone submittal.
- Prints – Electronic files in PDF format and up to five (5) sets of half-size (11"x17") plans will be submitted to the Town at each milestone.

TASK 7: BIDDING PHASE SERVICES

Bidding Phase: The project will be bid in two phases. Phase 1 will include the channelization and reclamation. Phase 2 will include the culvert and road repairs to Waketon Road.

- A. Bid Contract Documents and Specifications – Five (5) sets of final construction plans (11"x17") and specifications will be provided for bidding purposes.
- B. Issue Addenda – Prepare addendums for clarifications to the contract documents and answer Contractors' questions.
- C. Prebid Meeting – Attend and prepare for prebid meeting.
- D. Construction Contract Documents and Specifications – Prepare final construction contract documents for selected Contractor. Provide five (5) half-size (11"x17") sets of conformed plans, one (1) full-size (22"x34") set of conformed plans and a PDF file.

TASK 8: RECORD DRAWINGS

- A. Prepare record drawings from contractor's marks showing changes made during construction. Transfer contractor's marks to digital format. Halff will be provided the contractor's revisions and shall not be responsible for verifying their completeness or accuracy.
- B. Provide to the Town one (1) CD containing AutoCAD (*.DWG), PDF (entire set), and an individual TIFF files of each sheet.

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates. Additional services Halff can provide include, but are not limited to, the following:

- Construction staking
- Platting or other surveying services not identified in the above Scope of Services
- Easement acquisition services
- Subsurface utility engineering services (SUE)
- Attending public meetings
- Professional services associated with the construction phase of the project
- Attending the bid opening
- Preparation of bid tabulation or recommendation letter
- Reviewing contractor references
- Any services not listed in the Scope of Services

ATTACHMENT B
COMPENSATION

Halff Associates, Inc. will provide the Scope of Services for a lump sum fee.

TASK 1 – Section 404 Individual Permit	\$54,800
TASK 2 – Geotechnical Engineering Study	\$13,090
TASK 3 – Supplemental Design Surveys	\$8,300
TASK 4 – Boundary Survey and Easements (if required)	\$9,400
TASK 5 – Hydraulic Analysis	\$25,000
TASK 6 – Design Phase Services	\$92,800
TASK 7 – Bidding Phase Services (Phase I & II)	\$5,600
TASK 8 – Record Drawings (Phase I & II)	\$3,800
<u>TOTAL</u>	<u>\$212,790</u>

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



TOWN COUNCIL AGENDA ITEM NO. 14

CONSENT ITEM

DATE: January 7, 2019

FROM: Blake Hummel, Senior Project Engineer

ITEM: Consider approval of Change Order No. 1 amending the contract with Cam-Crete Contracting, Inc., for the construction of the Firewheel Drive project, to provide for an increase to the contract in the amount of \$16,864.50; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On June 18, 2018, Cam-Crete Contracting, Inc. was awarded the Firewheel Drive Roadway Improvements project, in the amount of \$393,734.00.

Change Order No. 1 allows payment to be made for the following Town requested improvements to the Firewheel Drive project:

1. Revising the concrete strength from 3600 psi to 4200 psi to be consistent with the Town Standards.
2. Temporary modification to the existing median nose on Firewheel Drive at Garden Road. The modification allows vehicles to make the right turn without clipping the curb. This item includes the restoration of the median nose.
3. Lowering of existing water services due to stabilized subgrade conflicts. This was not anticipated during design.

Change Order No. 1 increases the contract in the amount of \$16,864.50, for a revised contract amount of \$410,598.50.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$16,864.50

Proposed Expenditure:	Account Number(s):
\$16,864.50	550-117-78033

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 as presented in the agenda caption.

CHANGE ORDER No. 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound

Contractor: Cam-Crete Contracting, Inc.

Project: Firewheel Drive Roadway Improvements

CHANGE ORDER NO. 1

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

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

Item No.	Description	Unit	Add/ Deduct	Qty.	Unit Price	Extended Amount
CO1-17A	Concrete Pavement (8 IN) - CLASS C to F	SY	Add	2310	\$ 2.95	\$ 6,814.50
CO1-B	Install & Remove Temporary Detour and Install Back Concrete Median Nose	LS	Add	1	\$ 6,500.00	\$ 6,500.00
CO1-C	Temporary Traffic Buttons	LS	Add	1	\$ 1,050.00	\$ 1,050.00
CO1-D	Rearranging TCP for Temporary Detour	LS	Add	1	\$ 500.00	\$ 500.00
CO1-E	Lower 2" Waterline Services	LS	Add	1	\$ 2,000.00	\$ 2,000.00

SUBTOTAL**\$ 16,864.50****JUSTIFICATION**

Change Order No. 1 provides for the following.

Items CO1-17A,B,C,D & E allows for payment to be made for improvements related to the Firewheel Drive Roadway Improvements project. These improvements were requested by the Town; CO1-17A relates to the prepared plans had specified the incorrect concrete strength and the cost is the increase from 3600 PSI to 4200 PSI concrete, CO1-B,C & D relates to the initial preparation of the traffic control at the intersection of Garden Road and Firewheel Drive, the existing median nose on Firewheel extended too far into the intersection for traffic heading north on Garden Road turning east onto Firewheel and vehicles were not able to make the tighter radius turning movement, and CO1-E covered the additional work required to relocate the existing water meters that service the homes on the east side of Firewheel Drive.

REVISED CONTRACT AMOUNTS

Original Contract	\$ 393,734.00
Change Order #1	\$ 16,864.50
Revised Contract Price	\$ 410,598.50
Original Substantial Completion Days	180
Change Order No. 1 Additional Days	0
Revised Substantial Completion Days	180
Original Final Completion Days	210
Change Order No. 1 Additional Days	0
Revised Final Completion Days	210

Recommended for Approval		12/7/2018		12-7-18
	Blake Hummel, P.E. Senior Project Engineer	Date		Contractor VP
Approved	_____ Steve Dixon Mayor, Town of Flower Mound		_____ Contractor Title	



TOWN COUNCIL AGENDA ITEM NO. 15

CONSENT ITEM

DATE: January 7, 2019

FROM: Brian Waltenburg, P.E., Engineering Manager

ITEM: Consider approval of a Professional Services Agreement with Criado & Associates Inc., for the design phase services associated with the Grady Court Reconstruction project, in the amount of \$73,738.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The project consists of the reconstruction of Grady Court, from Homestead St. to the Cul-de-sac. The reconstruction will also include the replacement of the 8" water main, sidewalk, and ramps.

The scope of the Professional Services Agreement includes a topographic survey, preparation of design plans, technical specifications, cost estimates, and bidding phase services.

FISCAL IMPACT: \$73,738.00

Proposed Revenue:	Account Number(s):
\$73,738.00	316-560-78037

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 in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
CRIADO & ASSOCIATES, INC.**

This contract is entered into on this 7th day of January, 2019, 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 **Criado & Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 4100 Spring Valley Rd #1001, Dallas, TX 75244.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Grady Court Reconstruction 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 Grady Court Reconstruction 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 Seventy-Three Thousand Seven Hundred Thirty-Eight and No/100 Dollars (\$73,738.00). 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.,
Engineering Manager
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.,
Engineering Manager
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:

James Pruitt, PE
Senior Vice President
Criado & Associates
4100 Spring Valley Road, Suite 1001
Dallas, TX 75244
972-392-9092 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.

[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 Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Criado & Associates, Inc.

By: [Signature]

Name: JAMES PRUITT

Title: SR VICE PRESIDENT

Date Signed: Dec 7, 2018

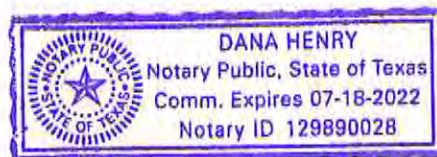
State of Texas §
 §
 County of Dallas §

This instrument was acknowledged before me on the 7th day of December, 2018, by James Pruitt in his capacity as Sr. Vice President of Criado & Associates, 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 Sr. Vice President.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 7th DAY OF December, 2018.

[Signature: Dana Henry]
 Notary Public, State of Texas

My Commission Expires:
7/18/2022



CRIADO

CIVIL ENGINEERING | LAND SURVEYING | SUBSURFACE UTILITY ENGINEERING | CE&I

December 7, 2018

Mr. Brian Waltenburg, P.E.,
CIP Engineering Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Re: Civil Engineering Fee Proposal for the reconstruction of Grady Court from Homestead Street south to the end (Approximately 740 LF).

Dear Mr. Waltenburg:

Criado & Associates, Inc. (CRIADO) is pleased to be of service to the Town of Flower Mound, by providing the design and bid documents for paving and drainage improvements along Grady Court. This is to be reconstructed as a 2-lane 24-foot wide local residential street section from Homestead Street south to the cul-de-sac (Approximately 740 LF).

CRIADO shall perform services for the project in accordance with the Scope of Work contained in **Exhibit A**, attached. We propose the lump sum amounts in the Fee Schedule (**Exhibit B**):

Task 0 – Project Management & Coordination	\$ 2,196.00
Task 1 – Topographic Survey for Design	\$ 4,956.00
Task 2 – Preliminary Design:	\$ 38,009.00
Task 3 – Final Design:	\$ 20,962.00
Task 4 - Bid Phase Services:	\$ 1,546.00
Task 5 – Construction Administration	\$ 2,086.00
Task 6 – Special Services	\$ 2,983.00
Task 7 – Reimbursables	\$ 1,000.00
Total Fee	\$ 73,738.00

Final plans and specifications shall be submitted no later than 5 months after a "Notice to Proceed" has been provided exclusive of Town review periods.

We appreciate the opportunity to be of service to the Town of Flower Mound. We trust that our association on this project will be mutually beneficial and continue to serve as the foundation for a long-term relationship. If you have any questions please do not hesitate to call me at 972-392-9092.

Sincerely,
Criado & Associates, Inc.


James Pruitt, P.E.
Senior Vice President

EXHIBIT A
SCOPE OF SERVICES

GRADY COURT
TOWN OF FLOWER MOUND, TEXAS

0.0 GENERAL

0.1 Project Description

The services to be provided for this project include the preliminary and final design, development of construction plans, specifications, and estimates for the construction of Grady Court from Homestead Street to the end (Approximately 740 lf) in the Town of Flower Mound, Denton County, Texas.

All work will be performed within the existing right of way. Plans will be prepared using conventional ground topographic surveying tied to the Town of Flower Mound Geodetic Control Network to produce 1" = 20' scale construction documents.

0.2 Project Phasing

This project shall be divided into five phases:

- Topographic Survey for Design
- Preliminary Design Phase
- Final Design Phase
- Bid Phase Services
- Construction Phase Services

0.3 Design Standards

Design and preparation of construction drawings and technical specifications required for the project shall be in accordance with the following standards.

- a. Town of Flower Mound Design Standards
- b. NCTCOG Construction Specifications and Details
- c. AASHTO Design Criteria
- d. TDLR Architectural Barriers Act / Texas Accessibility Standards
- e. TxDOT Design and Construction Standards

1.0 TOPOGRAPHIC SURVEY FOR DESIGN

Obtain topographic survey data within the limits of the right-of-way of Grady Court including visible utility appurtenances and utility manhole flowlines. The topographic survey will include capturing all trees and visible improvements along the alignment necessary for design. The survey will include the combined performance of research, field work, analysis, computation, and documentation necessary to provide detailed topographic (3-dimensional) mapping of a project site. A design survey may include, but need not be limited to, cross-sections or data to create cross-sections and Digital Terrain Models (DTM), horizontal and vertical location of utilities and improvements, detailing of bridges and other structures, review of right-of-way maps, and establishing control points.

2.0 PRELIMINARY DESIGN

2.1 Data Collection

Obtain and review available reports, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other features within the project area from the Town of Flower Mound. Contact private utilities along the project for information on existing and proposed facilities.

2.2 Design Meeting

Meet with the Town of Flower Mound staff to review and discuss the primary design criteria, operational concerns, traffic information and other preliminary data. Prepare a record of the preliminary design meeting and distribute it to all attendees.

2.3 Preliminary Design

- a. Work with affected utilities such as water, gas, telephone, cable TV, and electric to obtain accurate information for horizontal and vertical data for their facilities.
- b. Distribute the plans to local utility companies to obtain information regarding impacts to their facilities.
- c. Prepare the following sheets at the engineering scale indicated:
 - Cover sheet.
 - Quantity sheet.
 - General notes sheet.
 - Typical sections and detail sheets.
 - Project Layout, Alignment, and ROW Map Sheets.
 - Removal sheet. Scale 1" = 20'.
 - Construction phasing and temporary traffic control sheets. Scale 1"= 40'.
 - Paving plan & profile sheet for street improvements. Scale 1"= 20' vertical and 1"= 2' horizontal.
 - Cross sections for street improvements.
 - Drainage Area Map, Calculations and Storm Plan & Profile Sheets.
 - Water Line plan sheet. Scale 1"= 20'
 - Erosion control plan sheets. Scale 1'=40'.
 - Plan & profile sheet for water improvements. Scale 1"= 20'.

2.4 Preliminary Cost Estimate

Prepare a preliminary estimate of construction quantities and develop preliminary statement of probable construction cost.

2.5 Construction Specifications

Prepare construction specifications for Grady Court.

2.6 Preliminary Submittal

Submit three (3) sets of 65% preliminary plans, outline of specifications, and preliminary estimates to the Town for review.

2.7 Town Review Meeting

Meet with the Town of Flower Mound to discuss preliminary plans, outline of specifications, estimates, and drainage requirements.

3.0 FINAL DESIGN

3.1 Address Town Comments

Revise preliminary plans incorporating comments from the Town of Flower Mound.

3.2 Franchise Utility Coordination

Incorporate comments from the utility companies.

3.3 Right of Way Parcel / Easement Preparation – Not in Contract

3.4 Prepare Final Plans

Prepare final plans for the proposed improvements, including paving plans, details, notes and related information required for bidding.

3.5 Final Construction Cost Estimate

Prepare a final estimate of construction quantities and develop final statement of probable construction cost.

3.6 Construction Specifications

Finalize the technical special provisions. Prepare additional technical specifications, if necessary, for the proposed improvements to supplement the North Central Texas Council of Governments Specifications for Public Works Construction, Town of Flower Mound standards, and other applicable standard specifications.

3.7 Contract Bid Documents

Assist the Town in preparing final bid documents using existing Town of Flower Mound standard documents as directed by the Town staff. Bid documents shall include bid proposal forms, construction plans, specifications, and other documents required by the Town of Flower Mound.

3.8 Review Submittals and Meetings

Provide 95% and 100% draft plan submittals (3 sets each submittal) and meet with the Town of Flower Mound staff during final design to review progress, discuss design issues, obtain additional design information, review plans and specifications, and coordinate final details. Prepare a record of all review meetings and distribute it to attendees.

3.9 Final Review Submittal

Submit three sets of prints, contract documents, and bid proposal forms prepared by the Engineer to the Town of Flower Mound.

4.0 BID PHASE SERVICES

4.1 Advertising and Pre-bid Meeting – Not in Contract

Assist Town staff in advertising for bids.

4.2 Plan Distribution

Furnish five (5) sets of plans and specifications for bidding.

4.3 Addenda

Prepare addendum required to modify the requirements of the project during bidding, respond to requests for clarification, and issue instructions to bidders as directed by the Town of Flower Mound.

4.4 Receive Bids – Not in Contract

Assist the Town of Flower Mound in receiving and opening bids for construction of the project.

4.5 Bid Tabulation – Not in Contract

Prepare a tabulation of bids for the project and verify the bid amounts. Evaluate the lowest and second lowest bidder, including obtaining information on past work history and physical resources.

4.6 Recommendation for Award – Not in Contract

Prepare a recommendation for award of contract or other action and notify bidders of the action taken by the Town of Flower Mound.

4.7 Prepare Final Specifications – Not in Contract

5.0 CONTRACT ADMINISTRATION

5.1 Pre-construction Meeting – Not in Contract

5.2 Site Visits – Not in Contract

5.3 Shop Drawing Review – Not in Contract

5.4 Request for Information – Not in Contract

5.5 Final Inspection – Not in Contract

5.6 Prepare Record Drawings

Utilizing Contractor construction record information, prepare and provide a CD containing Record Drawing in digital format (PDF and CAD).

6.0 SPECIAL SERVICES

6.1 Pavement Design – Geotechnical – Not in Contract

6.2 Levels 'A' & 'B' SUE – Not in Contract

6.3 Levels 'C' & 'D' SUE

6.4 TDLR Submittals & Review

Submit final plans and specifications to TDLR for all pedestrian improvements in excess of \$50,000. To be billed as a direct reimbursable expense at actual cost x 1.1.

7.0 EXCLUSIONS

The intent of the scope is to include only the services specifically listed above and none others. Services specifically excluded from this Scope of Services include, but are not necessarily limited to the following:

- Computer modeling and routing of wastewater flows.
- Title searches.
- Fees for permits and advertising.
- Traffic engineering report or studies.
- Floodplain reclamation plans.
- Full time inspection.
- Designs for trench safety.
- Retaining walls, etc., not included in proposal.
- Revisions to plans as a result of revisions after completion of original final design (unless to correct error on plans).
- Consulting services by others not included in proposal.
- Quality control and testing services during construction.
- Prints furnished after acceptance of the required sets for construction in accordance with this Agreement.
- Environmental Services / Archeological Research.
- Prepare to serve or serve as an expert witness on behalf of the Town in connection with any public hearings or legal proceedings.
- Sanitary sewer system improvements.

- Review monthly requests for payment from the contractor and prepare a recommendation for action by the Town of Flower Mound.
- Review the contractor's monthly progress reports and provide review comments to the Town of Flower Mound.
- This project includes the design of on-site facilities only. Design of any off-site road, utility or drainage facility extensions which may be required to serve the project is not included in the engineer's scope
- Street lighting and electrical design and layout.
- Landscape and Irrigation Design.
- Subsurface Utility Engineering Quality Level (QL) A.
- Right-of –Way Determination or Acquisition Services.
- Environmental site assessments.
- Wastewater capacity analysis, flow study, or condition analysis.

EXHIBIT B

**TOWN OF FLOWER MOUND
GRADY COURT
(APPROX. 740 LF)**

TASK/DESCRIPTION	TOTAL FEE FOR TASK
BASIC SERVICES (TASKS 0 - 3)	
TASK 0 - PROJECT MANAGEMENT & COORDINATION	\$2,196
TASK 1 - TOPOGRAPHIC SURVEY FOR DESIGN	\$4,956
TASK 2 - PRELIMINARY DESIGN (ROADWAY, DRAINAGE, SIGNAGE & PVMT MKGS, TCP)	\$38,009
TASK 3 - FINAL DESIGN (ROADWAY, DRAINAGE, SIGNAGE & PVMT MKGS, TCP)	\$20,962
SUB-TOTAL - BASIC SERVICES FEE	\$66,123
SPECIAL SERVICES (TASKS 4 - 7)	
TASK 4 - BID PHASE SERVICES	\$1,546
TASK 5 - CONSTRUCTION ADMINISTRATION	\$2,086
TASK 6 - SPECIAL SERVICES	\$2,983
TASK 7 - REIMBURSABLES	\$1,000
SUB-TOTAL - SPECIAL SERVICES FEE	\$7,615
TOTAL FEE	\$73,738



TOWN COUNCIL AGENDA ITEM NO. 16

CONSENT ITEM

DATE: January 7, 2019

FROM: Brian Waltenburg, P.E., Engineering Manager

ITEM: Consider approval of a Professional Services Agreement with Pacheco Koch, LLC., for the design phase services associated with the Forest Vista Reconstruction Phase II project, in the amount of \$160,487.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The project consists of the reconstruction of Forest Vista Drive, a 4-lane divided roadway, between Chancellor Drive and Morriss Road. The reconstruction will also include improvements to storm water inlets, and a 12" water main connection. The reconstruction will also include the replacement of the 8" water main, sidewalk, and ramps.

The scope of the Professional Services Agreement includes a topographic survey, subsurface utility engineering, and property owner coordination assistance, preparation of design plans, technical specifications, cost estimates, and bidding phase services.

FISCAL IMPACT: \$160,487.00

Proposed Revenue:	Account Number(s):
\$160,487.00	316-560-78036

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 in preparation of this Professional Services Agreement.

ATTACHMENTS:

1. Professional Services Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
PACHECO KOCH CONSULTING ENGINEERS, INC.**

This contract is entered into on this 7th day of January, 2019, 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 **Pacheco Koch Consulting Engineers, Inc.** (“hereinafter referred to as “CONSULTANT”) whose address is 6100 Western Place, Suite 1001, Fort Worth, Texas 76107

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Forest Vista Reconstruction Phase II (Morris to Chancellor) 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 Forest Vista Reconstruction Phase II (Morris to Chancellor) project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed One Hundred Sixty Thousand Four Hundred Eighty-Seven and No/100 Dollars (\$160,487.00). 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.,
CIP Engineering Manager
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:

Brian D. O'Neill, P.E., CFM Principal
Pacheco Koch Consulting Engineers, Inc.
6100 Western Place, Suite 1001
Fort Worth, Texas 76107
817-412-7155 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.

[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 Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

**CONSULTANT:
PACHECO KOCH CONSULTING
ENGINEERS, INC.**

By:  

Name: Mark A. Pacheco, P.E., R.P.L.S.

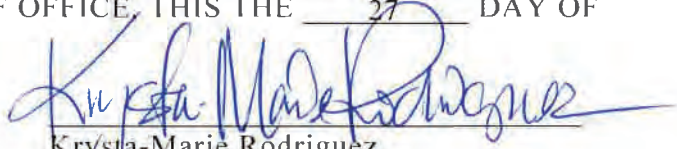
Title: President

Date Signed: 11/27/2018

State of Texas §
 §
County of Dallas §

This instrument was acknowledged before me on the 27 day of November, 2018, by Mark A. Pacheco in his capacity as President of **Pacheco Koch Consulting Engineers, 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 **Pacheco Koch Consulting Engineers, Inc.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27 DAY OF NOVEMBER, 2018,



Krysta-Marie Rodriguez
Notary Public, State of Texas

My Commission Expires:

October 19, 2019

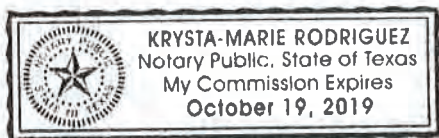


EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.,
(CONSULTANT) for Consulting
Services

EXHIBIT 'A' – SCOPE OF WORK

FOREST VISTA DRIVE PAVING IMPROVEMENTS PHASE II (CHANCELLOR DRIVE TO MORRISS ROAD)

PROJECT DESCRIPTION:

The project consists of the reconstruction of the 4-lane divided roadway along Forest Vista Drive between Chancellor Drive and Morriss Road. The reconstruction will also include reconstruction of the 12" water main along with inlet tops. The project will also include with the necessary sidewalk, ramp, striping, signing, traffic control, and other details. (PROJECT)

BASIC SERVICES:

A. Project Management, Coordination & Permitting

1. Manage the Team:

- Lead, manage and direct design team activities
- Ensure quality control is practiced in performance of the work
- Communicate internally among team members
- Allocate team resources

2. Communications and Reporting:

- Attend a pre-design project kickoff meeting with OWNER staff to confirm and clarify scope, understand OWNER objectives, and ensure economical and functional designs that meet OWNER requirements.
- Conduct review meetings with the OWNER at the end of each design phase.
- Prepare and submit monthly invoices in the format acceptable to the OWNER.
- Prepare and submit monthly progress reports.
- Prepare and submit baseline Project Schedule initially and Project Schedule updates.

3. Utility Clearance:

- The CONSULTANT will consult with the OWNER, public utilities, private utilities and government agencies to determine the approximate location of above and underground utilities, and other facilities (current and future) that have an impact or influence on the project. CONSULTANT will design OWNER facilities to avoid or minimize conflicts with existing utilities, and consider known potential future utilities in designs. CONSULTANT will provide

EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.,
(CONSULTANT) for Consulting
Services

plans to and coordinate with utility owner(s) related to the relocation efforts of franchise utilities that remain in conflict with the proposed construction.

- CONSULTANT will coordinate with Oncor on illumination, it is assumed Oncor will design and construct these improvements. CONSULTANT will prepare plan sheet showing conduit and illumination locations.

B. Conceptual Design (30% Submittal)

The Conceptual Design shall be submitted to OWNER per the approved Project Schedule. The purpose of the conceptual design is for the CONSULTANT to

- Study the project,
- Identify and develop alternatives,
- Present (through the defined deliverables) these alternatives to the OWNER,
- Recommend the alternatives that successfully address the design problem, and
- Obtain the OWNER's endorsement of the selected concept.

CONSULTANT will develop the conceptual design of the infrastructure as follows.

1. Data Collection

- In addition to data obtained from the OWNER, CONSULTANT will research proposed improvements in conjunction with any other planned future improvements known by the OWNER that may influence the project.
- The CONSULTANT will also identify and seek to obtain data for existing conditions that may impact the project including but not limited to; utilities, agencies (TxDOT and USCOE), OWNER Master Plans, and property ownership as available from the Tax Assessor's office.
- The data collection efforts will also include conducting special coordination meetings with affected property owners and businesses as necessary to develop the design.

2. The Conceptual Design Package shall include the following:

- Conceptual (30%) plans to include:
 - Roadway plan and profile sheets
Scale 1" = 20' Horizontal; 1" = 2' Vertical
 - Cross Section Sheets
Scale 1" = 10' Horizontal; 1" = 2' Vertical
 - Drainage plan and profile sheets
Scale 1" = 20' Horizontal; 1" = 2' Vertical
 - Water plan and profile sheets

EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.,
(CONSULTANT) for Consulting
Services

Scale 1" = 40' Horizontal; 1" = 4' Vertical

- Drainage Area Map

Scale 1" = 50' Horizontal (with inserts for large drainage basins)

- Proposed phasing scheme of any construction that is included in this project documented in narrative form.
- Documentation of key design decisions.
- Conceptual opinion of probable construction cost with a 20% contingency.

C. Preliminary Design (60% Submittal)

1. Prepare preliminary construction plans that will include the following sheets at the engineering scale indicated:

- Cover Sheet
- General Notes
- Quantity Sheet
- Project Layout & Control Sheet
- Roadway plan and profile sheets.
Scale 1" = 20' Horizontal; 1" = 2' Vertical
- Drainage plan and profile sheets.
Scale 1" = 20' Horizontal; 1" = 2' Vertical
- Water plan and profile sheets
Scale 1" = 40' Horizontal; 1" = 4' Vertical
- Erosion Control Plans
- Traffic Control Plan Sheet(s)
- Pavement Markings Sheet(s)
- Conduit and Illumination Location Plan Sheet
- Detail sheets

Information required can be combined on sheets if the information can be clearly shown and is approved by OWNER's project manager.

Construction plan sheets identified above may require additional sheets, which would be mutually agreed upon prior to addition.

2. Assemble OWNER's standard construction contract documents and modify special technical specifications, if needed, for the project (if any).
3. Prepare an estimate of construction quantities and develop the preliminary opinion of probable construction costs with a 15% contingency.
4. Submit four (4) half sized 11"x17" of preliminary 60% plans, four (4) sets of preliminary construction contract documents, PDF of plans/contract documents, special conditions (if any) and preliminary opinion of probable construction costs to the OWNER for review.

EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.,
(CONSULTANT) for Consulting
Services

D. Final Design (90% & 100% Submittals)

1. Revise preliminary plans incorporating comments from the OWNER.
2. Submit four (4) half sized 11"x17" sets of 90% plans, four (4) set of 90% construction contract documents, PDF of plans/contract documents, and 90% opinion of probable construction costs for OWNER review.
3. Incorporate final OWNER review comments into the plans and construction contract documents to finalize construction plans for proposed improvements.
4. Finalize construction contract documents including OWNER standard specifications, special technical specifications and special conditions (if any).
5. Estimate of final construction quantities and final opinions of construction cost with a 10% contingency.
6. Submit four (4) sealed (100%) half size 11"x17" sets of final plans and construction documents for OWNER use and five (5) half size 11"x17" sets of final plans and construction contract documents for bidding along with sealed PDF copy of plans & contract documents.

E. Project Completion

1. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s) and OWNER's project representative. Submit one (1) set of the record drawings (with "record drawing stamp" bearing the signature of the Engineer and the date) to the OWNER on a CD-ROM disk or flash drive containing scanned half size 11"x17" black and white PDF images, TIFF images and AutoCAD files.

F. Direct Expenses

1. Included in this item are usual and customary expenses normally incurred during performance of the services described. These expenses could include courier delivery charges, copies of existing engineering plans and/or maps, printing and reproduction (either in-house or by reproduction company) and mileage.

EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
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Services

SPECIAL SERVICES:

A. Field Survey

1. Establish Survey Control

Establish survey control along each street or intersecting streets as necessary. These control points will be established based on and tied to established Town horizontal and vertical control points. The horizontal control for each street in the PROJECT will be established on the State Plane Coordinate System (NAD'83 Surface Coordinates) from OWNER monumentation. Control points will be established using 5/8" iron rods, 18" long. These control points will be established using GPS and conventional surveying methods.

2. Benchmark Loop

A benchmark circuit will be established, based on the vertical control points provided. These benchmarks will be located outside of the construction limits and put in such a place so that they may be easily found for future use. Benchmarks will be located at about 1,000' intervals and will be referenced. Benchmarks shall be looped in accordance with good surveying practice prior to field surveys. All control leveling work will be performed using appropriate modified second order procedures with closed loops into the PROJECT vertical control.

3. Existing Streets, Driveways and Right-of-Way

Existing streets, driveways and right-of-way will be profiled and cross-sectioned at 50' intervals and to points at least 20' outside of the Right-of-Way line. Low points, high points and other unique features will be tied. Pavement surfacing type(s) will be determined by visual inspection only. Intersecting streets and extensions beyond the limits of the roadway being designed will be profiled and cross-sectioned to a point at least 150' beyond the roadway being designed.

4. Existing Drainage Channels and Drainage Area Verification

Existing drainage channels and swales will be profiled and cross sectioned within the immediate vicinity of the PROJECT, 100' upstream and downstream. Low points, high points and any other unique features will be tied. Additional surveying may be necessary to verify the limits of drainage areas and channel transitions.

5. Existing Underground and/or Overhead Utilities

EXHIBIT A to Agreement between the
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(CONSULTANT) for Consulting
Services

Utility owner's will be contacted, on an as-needed basis, and requested to assist in locating existing utilities identified for the PROJECT. Above ground features of existing utilities within the proposed Right-of-Way and 20' adjacent thereto for the limits of the PROJECT will be field located, including elevations of sanitary and storm sewer manhole flowlines and water/gas valve stems. Manholes upstream and downstream of the PROJECT limits will be tied when needed to determine pipeline locations and elevations within the PROJECT. The location of utilities between above ground features will be determined from visual inspection, utility records, and/or from locations determined by the respective utility companies. The utilities will be tied to the PROJECT control points and depths determined in sufficient detail to identify potential conflicts with proposed construction. The excavation and other costs required to expose or probe the underground utilities will be the responsibility of others.

6. Right-of-Way

Right-of-Way lines along the PROJECT will be located. This information will be included on the PROJECT's plan sheets.

7. Existing Storm Sewers and Culverts

The size of existing culverts will be measured and tied along with existing headwalls, channels and aprons. The size, length, and flowline elevation of existing storm sewers will be surveyed. Drainage areas contributing to the PROJECT or conveying water from the PROJECT will be determined through field investigations and available GIS topographic mapping.

8. Temporary Signs, Traffic Control, Flags, Safety Equipment, Etc.

The Surveyor will exercise care in completing this surveying assignment by using traffic control devices, flags and safety equipment when necessary.

B. Subsurface Utility Engineering:

As described in the ASCE 38-02, four levels have been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:

- Quality Level D (QL"D") – Information derived from existing utility records;

EXHIBIT A to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.,
(CONSULTANT) for Consulting
Services

- Quality Level C (QL"C") – QL"D" information supplemented with information obtained by surveying visible above-ground utility features such as valves, hydrants, meters, manhole covers, etc.
- Quality Level B (QL"B") – Two-dimensional (x, y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating" this quality level provides the horizontal position of subsurface utilities within approximately one foot. One Call will be used for designation.
- Quality Level A (QL"A") – Three dimensional (x, y, z) utility information obtained utilizing non-destructive vacuum excavation equipment to expose utilities at critical points which are then tied down by surveying. Also known as "locating", this quality level provides precise horizontal and vertical positioning of utilities within approximately 0.05 feet.

CONSULTANT will provide Subsurface Utility Engineering (S.U.E.) Services through the use of a qualified sub-consultant. Levels A S.U.E., as determined by the CONSULTANT, will be performed to ASCE standard guidelines (ASCE 38-02). The deliverables for this project will be electronic files only in AutoCAD format. All Right-of-Entry Coordination is to be provided by OWNER. Non-Routing Traffic Control Measures are not included in the scope of services.

Services not included in this contract:

- *Construction observation or inspection services*
- *Bidding or Construction Phase services*
- *As-built surveys of constructed improvements*
- *Public hearings or Town Council/Commission meetings*
- *Geotechnical engineering*
- *Utility coordination meeting(s) to start relocation process with affected franchise utilities.*
- *Reset property corner monumentation disturbed or removed during or after construction*
- *LOMR Preparation*
- *Traffic Signal Design*
- *Illumination Design*
- *Required application and permitting fees (LOMR) or special insurance premiums are not included*
- *Phase II Environmental Site Assessments*
- *Storm Water Pollution Prevention Permit (SWPPP) – Erosion Control Plans are included.*
- *Tree mitigation plan or calculations of protected tree inches requiring mitigation.*

END OF EXHIBIT 'A'

EXHIBIT B to Agreement between the
Town of Flower Mound, Texas
(OWNER) and Pacheco Koch
Consulting Engineers, Inc.
(CONSULTANT) for Consulting
Services

EXHIBIT 'B' – COMPENSATION AND METHOD OF PAYMENT

FOREST VISTA DRIVE PAVING IMPROVEMENTS PHASE II (CHANCELLOR DRIVE TO MORRIS ROAD)

COMPENSATION:

For all professional services included in EXHIBIT 'A', Scope of Services, the CONSULTANT shall be compensated a lump sum fee of \$ 160,487.00 as summarized below. The total lump sum fee shall be considered full compensation for the services described in EXHIBIT A, including all labor materials, supplies, and equipment necessary to deliver the services.

Basic Services

A.	Project Management, Coordination & Permitting	\$ 13,195.00
B.	Conceptual Design (30% Submittal)	18,250.00
C.	Preliminary Design (60% Submittal)	53,925.00
D.	Final Design (90% & 100% Submittals)	34,890.00
E.	Project Completion	2,205.00
F.	Direct Expense (Not to Exceed)	<u>822.00</u>
		\$ 123,287.00

Special Services

A.	Field Survey	24,000.00
B.	Subsurface Utility Engineering (SUE)	<u>13,200.00</u>
		\$ 37,200.00

TOTAL **\$ 160,487.00**

METHOD OF PAYMENT:

The CONSULTANT shall be paid monthly payments as described in the AGREEMENT. The cumulative sum of such monthly partial fee payments shall not exceed the total current project budget including all approved Amendments. Each invoice shall be verified as to its accuracy and compliance with the terms of this Agreement by an officer of the CONSULTANT.

Monthly statements for reimbursable services performed by sub consultants will be based upon the actual cost to the CONSULTANT plus ten percent (10%). Direct expenses for services such as printing, express mail, fees, mileage and other direct expenses that are incurred during the progress of the project will be billed at 1.1 times the CONSULTANT'S cost.

END OF EXHIBIT 'B'



TOWN COUNCIL AGENDA ITEM NO. 17

CONSENT ITEM

DATE: January 7, 2019

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of the purchase and installation of the 2018-19 Playground Replacements project, for Stone Creek Park Playground, from Webuildfun, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$199,767.84.

BACKGROUND INFORMATION: After recommendation from the Parks Board, for Park and Recreation needs for the Capital Improvement Program projects, the Community Development Corporation and Town Council approved various playground upgrades for the Fiscal Year 2018-2019, Stone Creek Park playground is one of the playgrounds funded.

FISCAL IMPACT: \$199,767.84

Proposed Revenue:	Account Number(s):
\$199,767.84	317-110-90819-6210

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Stone Creek Park Buyboard Proposal

DRAFT MOTION: Move to approve as presented in the agenda caption.

Customer Information:

Town of Flower Mound

Attn: Kari Biddix, Kari.Biddix@flower-mound.com

Re: Stone Creek Park

Date: 12/18/18

Est. Delivery:

7-12 weeks

BuyBoard #512-16

Consultant:

Tracy Shore

POs payable to webuildfun

ITEM	QTY	DESCRIPTION	EACH	TOTAL
------	-----	-------------	------	-------

Playground Option 1

Price assumes all site work, drainage away from play area, & border to be provided by "other" at no cost to webuildfun

EXCAVATE		Demo existing equipment and excavate existing surfacing up to 10" and haul off		\$6,800.00
43416469242	1	Miracle equipment per design 61_43416469242 dated 11/14/18		\$104,305.01
DISC	15%	Discount on Miracle equipment (BuyBoard)		-\$15,645.75
SHIP		Freight on Miracle equipment		\$3,866.00
UPC		UPC equipment		\$6,364.37
DISC	5%	Discount on UPC equipment		-\$318.22
SHIP		Freight on UPC equipment		\$2,796.00
INSTALL		Installation		\$34,200.81
EWF	4827	Install Syntipede Plat 321 turf with silica sand infill, cushion for designated fall heights, and drainage pipe within play area.		\$60,420.65
DISC	5%	Discount on synthetic turf		-\$3,021.03
Total				\$199,767.84



webuildfun, inc. warrants the labor for replacement parts for 1 year, if webuildfun, inc provided the original installation

In the event rock is encountered, additional charges may be assessed.

It is the responsibility of the owner to obtain permits (unless specified above).

It is the responsibility of the owner to locate all underground utility lines. Webuildfun will assist with this by requesting a line locate from Dig Tess, at the owner's request.

Webuildfun, inc. will make every reasonable effort to respect all marked utility lines, and will repair damage webuildfun, inc. causes to marked utilities. Webuildfun, inc. will not be responsible for damage to unmarked utilities.

Prices are guaranteed for 180 days from date listed on quote.



TOWN COUNCIL AGENDA ITEM NO. 18

CONSENT ITEM

DATE: January 7, 2019
FROM: Chuck Jennings, Director of Parks and Recreation
ITEM: Consider approval of renaming Leonard Johns Community Park to Helen and Leonard Johns Community Park.

BACKGROUND INFORMATION: The naming or renaming of Town parks is the responsibility of the Parks Board. The process for determination of a name for recommendation to the Town Council is specified in Town Ordinance Sec. 54-1. The 31.15 acre park was acquired in 1985 as Community Center Park and was renamed in 1990 after Leonard Johns who served as Chairman of the Parks Board and as a Town Council member. At the October 1, 2018, regular meeting, Angie Cox requested that the Board consider renaming the park to include Leonard's wife Helen in the name.

Ms. Johns was an active member in Flower Mound and was well known for helping start the Women of Flower Mound back in 1975. Additionally, she helped start the Easter Sunrise Service at the Mound, assisted with the Sweet Flower Mound historical book, participated in the presentation for a new library in February of 2000, and has volunteered numerous hours with Keep Flower Mound Beautiful.

At the November 1, 2018, Parks Board regular meeting, the Chair appointed a committee that was tasked with considering the request and developing a recommendation for the Board to consider. The committee consisted of board members Gloria Jones, Andrew Cummings, and Dale Olsen. The committee met on November 28, 2018, at the O&M Building to discuss the request. After carefully considering all of the information provided, the committee recommended the Board consider renaming the park to Helen and Leonard Johns Community Park.

The item was brought to the [December 6, 2018](#), Parks Board meeting for discussion and consideration. The Board was in agreement that Mrs. Johns should be added to the park's name, but had a lengthy discussion about whether or not her husband's name should be listed first. The Board ultimately decided to recommend approval as presented in the caption and let the Town Council decide if the name needed to be adjusted.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks Board recommended approval of the renaming request by a vote of 6 to 0 at its December 6, 2018, regular meeting.

ALTERNATIVES/OPTIONS: The Town Council can decide to deny the request, modify the proposed park name, or send the item back to the Parks Board for additional options.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Recommendation letter from Angie Cox

DRAFT MOTION: Move to approve as presented in the agenda caption.

Attachment 1

November 26, 2018

To Whom It May Concern;

I apologize I cannot be there in person tonight but wanted to send this letter regarding your consideration for a park name change from Leonard Johns Park to Helen and Leonard Johns Park. Both Helen and Leonard were very active members in Flower Mound.

Helen helped start the Easter Sunrise Service on the Mound in conjunction with the Mound Association. She assisted with the book Sweet Flower Mound Land by conducting many interviews and recordings for the historical book. She participated in the presentation for the new Flower Mound Library in February 2000. She also volunteered for many clean ups with Keep Flower Mound Beautiful.

She is well known for her involvement and starting the Women of Flower Mound back in 1975. The Women of Flower Mound is a strong organization that does many activities with the Town and helps provide scholarships for graduating seniors.

You can see that Helen was very active and involved in her community and would be so deserving and fitting for the Town to have both Leonard and Helen recognized at the Park together. Helen has a bench there that was recently purchased by the Women of Flower Mound and Keep Flower Mound Beautiful to memorialize Helen and her contribution to the Town of Flower Mound.

Thank you for your consideration.

Sincerely;

Angie Cox

Resident

7616 Emerson Lane

Flower Mound TX 75022



TOWN COUNCIL AGENDA ITEM NO. 19

REGULAR ITEM

DATE: January 7, 2019

FROM: David Bauer, Construction Manager

ITEM: Consider approval of a Construction Agreement with Schmoldt Construction Inc., for the Fire Station No. 7 project, in the amount of \$4,495,650.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Fire Station No. 7 is a 9,300 square-foot structure, which incorporates a safe room, now required by the new international building code. The safe room is designed to withstand wind speeds of up to 250 miles per hour.

The Town issued Solicitation No. 2019-4-B Competitive Sealed Proposals (CSP) for the construction of Fire Station No 7. Five firms submitted proposals for consideration. An Evaluation Committee comprised of the Executive Director of Public Works, two Fire Chiefs, Facilities Director, BRW Architects Director and a Capital Projects Construction Manager reviewed the proposals and scored each submission based on the published evaluation criteria. The top three scored firms, were interviewed by the Evaluation Committee. Schmoldt Construction Inc. was selected as the most qualified firm.

HISTORY: The Town issued Solicitation No. 2018-6-B Statement of Qualifications (SOQ) for Design of Fire Station No 7 and on February 5, 2018 Council approved Brown Reynolds Watford Architects (BRW) as the most qualified firm to design this facility.

During a regular session on May 3, 1993, the Town Council approved the preliminary plat of the River Oaks Estates Addition, subject to several terms and conditions of the developer, Herman Smith, to include: Dedication to the Town of a one-acre site with frontage on Skillern Road for the construction of a fire substation, as the current (1985) Master Plan provides for such a substation site in the general vicinity of the intersection of Wichita Trail and Skillern Road.

On December 11, 2000, a Special Warranty Deed was granted to the Town of Flower Mound that included Lot 40, Block F as described and depicted on the final plat of the River Oaks Estates Addition in the Town of Flower Mound. This conveyance was made by the Grantor to the Town for the sole purpose of the Town's construction and operation of a fire substation with emergency medical services and to be used for no other purposes.

Following a June, 2000 Insurance Services Office (ISO) evaluation, the site on Skillern was confirmed as a preferred site for a future fire station. In 2017, an additional regrading of the Town's fire protection reconfirmed an ongoing gap in coverage and service delivery. The recognized response time standard is to be able to arrive on scene and begin operations 4-6 minutes from the time of the alarm. Flower Mound Fire and Emergency Services response time studies confirm that the organization is unable to meet this standard without the requested station 7.

Award consists of the Base Bid (\$4,303,950.00), Alternate 1A (add \$95,000.00), Alternate 1B (add \$95,000.00), Alternate 1E (Deduct \$800.00), and Alternate 2 (add \$2,500.00), for a total Award of \$4,495,650.00.

FISCAL IMPACT: \$4,495,650.00

Proposed Expenditure:	Account Number(s):
\$ 145,284.25	505-111-50082-6010
\$ 4,350,365.75	533-111-50082-6010

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

LEGAL REVIEW: The Town's standard construction contract agreement was approved by Jeremy Page with Taylor, Olson, Adkins, Sralla, & Elam L.L.P.

ATTACHMENTS:

1. Proposers Bid Tabulation
2. Construction Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.



Purchasing & General Services Proposal Tabulation - Internal Use Only

CSP No: 2019-4-B Construction of Fire Station No. 7																		
CSP Opening: 11/27/18 at 11:00 AM																		
Proposers	Base Proposal		Alt. 1A - Add		Alt. 1B - Add		Alt. 1C - Add		Alt. 1D - Add		Alt. 2 - Add		Alt. 3 - Add		Alt. 4 - Add		Alt. 1E - Deduct	
308 Construction, LLC	\$	4,696,650.00	\$	77,500.00	\$	77,500.00	\$	82,600.00	\$	82,600.00	\$	16,812.00	\$	24,000.00	\$	28,000.00	\$	(\$3,200.00)
AUI Partners, LLC	\$	4,574,426.00	\$	77,400.00	\$	77,400.00	\$	10,715.00	\$	10,715.00	\$	2,000.00	\$	30,000.00	\$	13,000.00	\$	(\$1,800.00)
Mart, Inc	\$	4,481,560.00	\$	66,500.00	\$	66,500.00	\$	66,500.00	\$	66,500.00	\$	8,000.00	\$	12,000.00	\$	18,000.00	\$	(\$2,000.00)
Schmoldt Construction	\$	4,303,950.00	\$	95,000.00	\$	95,000.00	\$	110,000.00	\$	110,000.00	\$	2,500.00	\$	27,000.00	\$	18,000.00	\$	(\$800.00)
Steele & Freeman, Inc	\$	4,774,671.00	\$	106,000.00	\$	106,000.00	\$	118,000.00	\$	108,000.00	\$	4,100.00	\$	16,000.00	\$	33,900.00	\$	(\$400.00)

Proposers	Total with Alts	
308 Construction, LLC	\$	5,085,662.00
AUI Partners, LLC	\$	4,795,656.00
Mart, Inc	\$	4,785,560.00
Schmoldt Construction	\$	4,761,450.00
Steele & Freeman, Inc	\$	5,266,671.00



AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Seventh day of January in the year Two thousand nineteen.
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

The Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

and the Contractor:
(Name, legal status, address and other information)

Schmoldt Construction Inc.
7720 Schmoldt Way
Celina, TX 75009

for the following Project:
(Name, location and detailed description)

Fire Station No. 7
2777 Skillern Road
Flower Mound, TX 75028

The Architect:
(Name, legal status, address and other information)

Brown Reynolds Watford Architects, Inc.
3535 Travis Street, Suite 250
Dallas, TX 75204

The Owner and Contractor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☒ 1-07-2019 The date of this Agreement.

☐ TBD A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

The notice to proceed will be issued as of a mutually acceptable date within 15 calendar days of contract approval by Town Council.

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Init.

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User Notes:

(942887284)

[] Not later than ~~(—)~~ Thirty (30) calendar days from the date of commencement of the Work.

[] By the following date: Not Applicable.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Complete project scope

Substantial Completion Date

Not more than 310 calendar days after the notice to proceed date, plus any time added by subsequent change orders.

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~(\$—)~~ Four Million, Four Hundred Ninety Five, Six Hundred Fifty Dollars (\$4,495,650.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<u>Alt 1A add</u>	<u>\$95,000.00</u>
<u>Alt 1B add</u>	<u>\$95,000.00</u>
<u>Alt 1E deduct</u>	<u>\$ -(800.00)</u>
<u>Alt 2 add</u>	<u>\$ 2,500.00</u>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
<u>Alternate 3: Timber Trellis and Sunshades</u>	<u>\$27,000.00</u>	<u>Alternates 3 and/or 4 may be added by change order if executed within <insert number of days Schmoltdt agreed to hold their pricing> days after Notice to Proceed.</u>
<u>Alternate 4: HVLS Fans</u>	<u>\$18,000.00</u>	

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
<u>Owner's Contingency Allowance</u>	<u>\$204,950.00</u>

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
<u>Deduct for site fill material provided by Owner in lieu of by Contractor</u>	<u>100 Cyd</u>	<u>-\$500 .00</u>

Init.

<u>Deduct for site select fill material provided by Owner in lieu of by Contractor</u>	<u>100 Cyd</u>	<u>-(\$800.00)</u>
<u>Additional electrical power outlet on nearby circuit</u>	<u>Each</u>	<u>\$150.00</u>
<u>Additional dedicated circuit power outlet</u>	<u>Each</u>	<u>\$300.00</u>

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

For each calendar day that any work shall remain uncompleted after the time specified in the contract, or the increased time granted by the Owner, or as equitably increased by additional work or materials ordered after the contract is signed, a sum of liquidated damages in the amount of \$750.00 per calendar day shall be deducted from the monies due to the Contractor. The sum of money thus deducted for such delay, failure or noncompletion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable liquidated damages, per calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work. The said amounts are fixed and agreed upon by and between Owner and Contractor because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner in such event would sustain; and said amounts are agreed to be the amount of damages which the Owner would sustain and which shall be retained from the monies due, or that may become due, the Contractor under this contract; and if said monies be insufficient to cover the amount owing, then the Contractor or his surety shall pay any additional amounts due.

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

Not Applicable.

ARTICLE 5 PAYMENTS**§ 5.1 Progress Payments**

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the The Town needs to insert your typical requirements in this paragraph. day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the twenty-fifth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than (—)thirty (30) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

Init.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

10%

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

General conditions, bonds, and insurance.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

Town should insert any requirements you have for reduction of retainage here.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Insert Town's requirements if different from above.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(*Insert rate of interest agreed upon, if any.*)

Town to insert agreed rate, if different from as stated above. %

ARTICLE 6 DISPUTE RESOLUTION**§ 6.1 Initial Decision Maker**

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(*If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.*)

Not Applicable.

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(*Check the appropriate box.*)

- ☐ ~~Arbitration pursuant to Section 15.4 of AIA Document A201–2017~~
- ☒ Litigation in a court of competent jurisdiction, Denton County, Denton, TX.
- ☐ ~~Other (*Specify*)~~

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(*Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.*)

Init.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

David Bauer, Construction Manager
2121 Cross Timbers Road
Flower Mound, TX 75028
972 874-6308

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

Cary Schmoldt, President
Schmoldt Construction, Inc.
7720 Schmoldt Way
Celina, Texas 75009
972 382-8499

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

Not Applicable.

.5 Drawings

Number	Title	Date
	<u>Town of Flower Mound</u> <u>Fire Station No. 7</u>	<u>October 17, 2018</u>

.6 Specifications

Section	Title	Date	Pages
<u>Complete Project Manual, as issued</u>	<u>Town of Flower Mound</u> <u>Fire Station No. 7</u>	<u>Oct. 17, 2018</u>	<u>All pages of</u> <u>Volumes 1 and</u> <u>2.</u>

.7 Addenda, if any:

Number	Date	Pages
<u>Addendum No. 1</u>	<u>October 30, 2018</u>	<u>4 (plus attachments)</u>
<u>Addendum No. 2</u>	<u>November 9, 2018</u>	<u>9 (plus attachments)</u>
<u>Addendum No. 3</u>	<u>November 12, 2018</u>	<u>2 (plus attachments)</u>

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ N/A AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ N/A The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☒ X Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<u>Refer to the 2 documents –</u> <u>Supplemental Conditions for</u> <u>AIA101 and 201.</u>			

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Refer to the 2 documents – Supplemental Conditions for AIA101 and 201.

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

The Honorable Mayor Steve Dixon
The Town of Flower Mound

(Printed name and title)

CONTRACTOR *(Signature)*

Cary Schmoldt, President
Schmoldt Construction, Inc.

(Printed name and title)



AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Fire Station No. 7
2777 Skillern Road
Flower Mound, TX 75028

THE OWNER:

(Name, legal status and address)

The Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

THE ARCHITECT:

(Name, legal status and address)

Brown Reynolds Watford Architects, Inc.
3535 Travis Street, Suite 250
Dallas, TX 75204

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	OWNER
3	CONTRACTOR
4	ARCHITECT
5	SUBCONTRACTORS
6	CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
7	CHANGES IN THE WORK
8	TIME
9	PAYMENTS AND COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS
14	TERMINATION OR SUSPENSION OF THE CONTRACT
15	CLAIMS AND DISPUTES

Init.

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User Notes:

(1849963588)

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, **12.3****Access to Work****3.16**, 6.2.1, **12.1**

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.3.2, 14.1, 15.1.2, **15.2**

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, **15.1.5****Additional Inspections and Testing**9.4.2, 9.8.3, **12.2.1**, **13.4****Additional Time, Claims for**3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6****Administration of the Contract**3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances**3.8****Applications for Payment**4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10

Approvals

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9,

3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration8.3.1, 15.3.2, **15.4****ARCHITECT****4**

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, **12.1**, **12.2.1**,
13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, **15.2.1**

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,
4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,
9.5.4, 9.6.4, 15.1.4, **15.2**

Architect's Additional Services and Expenses

2.5, **12.2.1**, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, **15.2**, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, **12.1.2**, **12.2.1**

Architect's Copyright

1.1.7, **1.5**

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.4.2, **15.2**

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, **13.4**

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, **13.4.2**

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, **1.5**, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,
3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,
3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, **15.2**

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, **11.3**

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, **13.4**

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, **10.3.3**

Award of Separate Contracts

6.1.1, 6.1.2

**Award of Subcontracts and Other Contracts for
Portions of the Work****5.2****Basic Definitions****1.1**

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,
15.2.6.1, 15.3.1, 15.3.2, 15.3.3, **15.4.1**

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, **9.10.3****Bonds, Performance, and Payment**7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, **11.1.3**, **11.5****Building Information Models Use and Reliance****1.8**

Building Permit

3.7.1

Capitalization**1.3**

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval
13.4.4

Certificates of Insurance
9.10.2

Change Orders

1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2

Change Orders, Definition of

7.2.1**CHANGES IN THE WORK**

2.2.2, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5

Claims, Definition of

15.1.1

Claims, Notice of
1.6.2, 15.1.3

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**

Claims for Additional Time

3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**

Concealed or Unknown Conditions, Claims for

3.7.4

Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7

Claims Subject to Arbitration
15.4.1

Cleaning Up**3.15, 6.3**

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**

Commencement of the Work, Definition of

8.1.2**Communications**

3.9.1, **4.2.4**

Completion, Conditions Relating to

3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2

COMPLETION, PAYMENTS AND**9**

Completion, Substantial

3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Compliance with Laws

2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2

Consolidation or Joinder**15.4.4****CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1

Construction Schedules, Contractor's

3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance**15.1.4**

Contract, Definition of

1.1.2**CONTRACT, TERMINATION OR SUSPENSION OF THE**

5.4.1.1, 5.4.2, 11.5, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating to

3.7.1, 3.10, 5.2, 6.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3

Contract Documents, Definition of

1.1.1**Contract Sum**

2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, **9.1**, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5**, **15.2.5**

Contract Sum, Definition of

9.1

Contract Time

1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5

Contract Time, Definition of

8.1.1**CONTRACTOR****3**

Contractor, Definition of

3.1, 6.1.2**Contractor's Construction and Submittal Schedules**

3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees

2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance**11.1**

Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Contractor's Relationship with Subcontractors

1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4

Contractor's Relationship with the Architect

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1

Contractor's Representations

3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents

3.2

Contractor's Right to Stop the Work

2.2.2, 9.7

Contractor's Right to Terminate the Contract

14.1

Contractor's Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction

Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4

Coordination and Correlation

1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications

1.5, 2.3.6, 3.11

Copyrights

1.5, **3.17**

Correction of Work

2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1

Correlation and Intent of the Contract Documents 1.2**Cost, Definition of****7.3.4**

Costs

2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7

Damages for Delay

6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

Date of Commencement of the Work, Definition of 8.1.2**Date of Substantial Completion, Definition of 8.1.3****Day, Definition of****8.1.4**

Decisions of the Architect

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of

2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1

Delays and Extensions of Time

3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**, 10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5

Digital Data Use and Transmission**1.7**

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site**3.11****Drawings, Definition of****1.1.5**

Drawings and Specifications, Use and Ownership of

3.11

Effective Date of Insurance

8.2.2

Emergencies

10.4, 14.1.1.2, **15.1.5**

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1

Equipment, Labor, or Materials

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work

1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
10.4, 14.3, 15.1.6, **15.2.5**

Failure of Payment

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Faulty Work

(See Defective or Nonconforming Work)

Final Completion and Final Payment

4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,

9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision

15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5, **11**

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

11.2

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,

9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,

15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of

12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,

4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,

11.3, 12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,

5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, **10.3**

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,

10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

MISCELLANEOUS PROVISIONS**13****Modifications, Definition of****1.1.1**

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2

Mutual Responsibility**6.2****Nonconforming Work, Acceptance of**9.6.6, 9.9.3, **12.3**Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2**Notice****1.6**, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2, 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance

11.1.4, 11.2.3

Notice of Claims1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections

13.4.1, 13.4.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1

OWNER**2****Owner, Definition of****2.1.1****Owner, Evidence of Financial Arrangements****2.2**, 13.2.2, 14.1.1.4**Owner, Information and Services Required of the**2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Insurance**11.2**

Owner's Relationship with Subcontractors

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work**2.5**, 14.2.2**Owner's Right to Clean Up****6.3****Owner's Right to Perform Construction and to Award Separate Contracts****6.1****Owner's Right to Stop the Work****2.4**

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

Ownership and Use of Drawings, Specifications and Other Instruments of Service1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3**Partial Occupancy or Use**9.6.6, **9.9****Patching, Cutting and****3.14**, 6.2.5

Patents

3.17

Payment, Applications for4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3**Payment, Certificates for**4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4**Payment, Failure of**9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3**Payment Bond, Performance Bond and**7.3.4.4, 9.6.7, 9.10.3, **11.1.2****Payments, Progress**9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4**PAYMENTS AND COMPLETION****9**

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond7.3.4.4, 9.6.7, 9.10.3, **11.1.2****Permits, Fees, Notices and Compliance with Laws**2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2**PERSONS AND PROPERTY, PROTECTION OF****10**

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of**3.12.2****Product Data and Samples, Shop Drawings**3.11, **3.12**, 4.2.7**Progress and Completion**4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4**Progress Payments**9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Init.

Project, Definition of**1.1.4****Project Representatives****4.2.10****Property Insurance****10.2.5, 11.2****Proposal Requirements****1.1.1****PROTECTION OF PERSONS AND PROPERTY
10****Regulations and Laws**

1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1,
10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work

4.2.6, 12.2.1**Releases and Waivers of Liens****9.3.1, 9.10.2****Representations**

3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

**Review of Contract Documents and Field
Conditions by Contractor****3.2, 3.12.7, 6.1.3****Review of Contractor's Submittals by Owner and
Architect**

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

**Review of Shop Drawings, Product Data and Samples
by Contractor****3.12****Rights and Remedies**

1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1,
6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2,
12.2.4, 13.3, 14, 15.4

Royalties, Patents and Copyrights**3.17****Rules and Notices for Arbitration****15.4.1****Safety of Persons and Property****10.2, 10.4****Safety Precautions and Programs**

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of**3.12.3****Samples, Shop Drawings, Product Data and**

3.11, 3.12, 4.2.7

Samples at the Site, Documents and**3.11****Schedule of Values****9.2, 9.3.1****Schedules, Construction**

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Separate Contractors, Definition of**6.1.1****Shop Drawings, Definition of****3.12.1****Shop Drawings, Product Data and Samples**

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Special Inspections and Testing

4.2.6, 12.2.1, 13.4

Specifications, Definition of**1.1.6****Specifications**

1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14

Statute of Limitations

15.1.2, 15.4.1.1

Stopping the Work

2.2.2, 2.4, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of**5.1.1****SUBCONTRACTORS****5****Subcontractors, Work by**

1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2,
9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8,
9.9.1, 9.10.2, 9.10.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3

Substances, Hazardous**10.3****Substantial Completion**

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2,
15.1.2

Substantial Completion, Definition of**9.8.1****Substitution of Subcontractors**

5.2.3, 5.2.4

Substitution of Architect

2.3.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of**5.1.2**

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3,

7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers

1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6,

9.10.5, 14.2.1

Surety

5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2,

15.2.7

Surety, Consent of

9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, **14.2**, 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 10.3.2, 12.2.1, **13.4**

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7,

10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2,

5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1,

9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2,

15.1.3, 15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, **15.1.7**

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, **15.1.7**

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, **11.3**

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2,

15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,

13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely

upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT**§ 4.1 General**

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or

expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**§ 12.1 Uncovering of Work**

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work**§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during

that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;

- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

**AMENDMENTS TO STANDARD FORM OF
AGREEMENT BETWEEN OWNER AND CONTRACTOR
(Where the Basis of Payment is a Stipulated Sum)**

AIA DOCUMENT A101™ – 2017

Owner: Town of Flower Mound, Texas

Project: Fire Station 7 Construction

WHEREAS, the Town of Flower Mound, Texas (hereinafter referred to as “Owner” or “Town”) and Schmoltdt Construction Inc. (hereinafter referred to as “Contractor”) desire to enter into an Agreement under which Contractor will perform services relating to the above-named project on behalf of Owner;

WHEREAS, Owner and Contractor have agreed to enter into AIA Document A101-2017, Standard Form of Agreement Between Owner and Contractor, as the basic form for that Agreement; and

WHEREAS, certain terms and conditions of that Agreement need to be modified to comply with applicable laws and policies affecting Owner and Contractor in the construction of these projects, Owner and Contractor hereby agree to the following amendments to the Agreement:

ARTICLE 1: THE CONTRACT DOCUMENTS

1. The existing Section shall be labeled §1.1, and the following additional Sections 1.2 and 1.3 shall be added as follows:

§ 1.2 In the event of conflict, terms and conditions contained in this Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended.

§ 1.3 The Town Council of the Town, by majority vote, is the only representative of the Owner, having the power to enter into a contract, to approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum, or to agree to an extension to the date of Substantial or Final Completion. The Town Council designates the authorized representatives identified in Section 8.2 to act on its behalf in other respects.

ARTICLE 2: THE WORK OF THIS CONTRACT

ARTICLE 3: DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

ARTICLE 4: CONTRACT SUM

2. Section 4.5 shall be added as follows:

§ 4.5 LIQUIDATED DAMAGES

§ 4.5.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial Completion and Final Completion of the Project and that Owner shall sustain actual and direct damages as a result of Contractor's failure, neglect, or refusal to achieve said deadlines. Such actual and direct damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Contractor to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Contractor if such delay occurs. Said sum shall be considered as liquidated damages only, said damages being caused by additional compensation to personnel, for loss of interest on money, and other miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to substantially complete the Work within the designated period, or as they may be extended in writing, shall be construed as a breach of this Agreement. It is expressly agreed that these provisions for liquidated damages is a part of the consideration inducing the Owner to execute this Agreement.

§ 4.5.2 Contractor and Owner agree that the amount of liquidated damages for each calendar day Substantial Completion is delayed beyond the date set for Substantial Completion shall be the sum of \$_____ per day. Owner may deduct that amount from any Payment made to Contractor after the date set for Substantial Completion, or, if sufficient funds are not available, then Contractor shall pay Owner the amounts specified per day for each and every calendar day the breach continues after the deadline for Substantial Completion of the Work.

§ 4.5.3 Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Final Completion. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

ARTICLE 5: PAYMENTS

3. Section 5.1.6.2 shall be amended by adding the following new subsections .6 and .7:

- .6 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts, and fees due Contractor at any time; and
- .7 If Contractor fails or refuses to complete the Work, or has unsettled claims with Owner, any final payment to Contractor shall be subject to deduction for such

amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.

4. Add the following language at the end of the existing Section 5.1.7.1:

“If the retainage is over 5%, then the retainage shall be deposited in an interest-bearing account and the interest earned on the retainage shall be paid to the Contractor upon completion of the Project, pursuant to Texas Government Code Section 2252.032.”

5. Insert the following into Section 5.1.7.2:

“Reduction in retainage shall be at the sole discretion of the Owner.”

6. Insert the following into Section 5.3:

“At the rate established by Texas Government Code Chapter 2251.”

ARTICLE 6: DISPUTE RESOLUTION

7. In Section 6.2, check the box for “Litigation in a court of competent jurisdiction” as the selected method of binding dispute resolution.

ARTICLE 7: TERMINATION OR SUSPENSION

8. Delete Section 7.1.1 in its entirety.

ARTICLE 8: MISCELLANEOUS PROVISIONS

9. Delete Section 8.6 in its entirety.

10. Section 8.7 shall be amended to add the following new paragraphs:

§8.7 Other provisions:

§8.7.1 The Agreement shall be governed by the laws of the State of Texas, and mandatory and exclusive venue for any dispute shall be in state district court in the county in which the Owner’s main administrative office is located.

§8.7.2 As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§8.7.3 Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof or of the Contract Documents, there shall be no mandatory arbitration for any dispute arising hereunder.

§8.7.4 Prior to performing the Work, the Contractor shall provide all insurance policies and endorsements, and separate performance, payment, and maintenance bonds in accordance with AIA Document A201-2017, as amended.

§8.7.5 The Contractor may not assign its responsibilities, duties, obligations, and rights under this Agreement, without the express written consent of the Owner. This does not prevent Contractor from engaging subcontractors to perform various phases of the Project, but Contractor shall be fully responsible to Owner for the work, actions, and omissions of all such subcontractors.

§8.7.6 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§8.7.7 Execution of this Agreement shall constitute approval and acceptance of all terms, covenants, and conditions as modified and contained in the Contract Documents.

§8.7.8 This Agreement and the Contractor are subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§8.7.9 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements hereof to be performed by the other party hereto shall not be construed to be waiver of any subsequent breach thereof or of any other covenant, condition, or agreement herein contained.

§8.7.10 Contractor stipulates that Owner 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, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§8.7.11 Bond Requirements. Prior to initiating any construction, Contractor shall provide the Town with one original and one quality copy of the following construction bonds:

- .1 Performance Bond. A good and sufficient Performance Bond in compliance with Texas Government Code Section 2253.025 in an amount equal to one hundred percent (100%) of the Contract Sum, guaranteeing the full and faithful execution of the work and performance of this Contract and for the protection of the Town against any improper construction of the work or the use of inferior materials.

- .2 Payment Bond. A good and sufficient Payment Bond in compliance with Texas Government Code Section 2253.025 in an amount equal to one hundred percent (100%) of the Contract Sum, guaranteeing payment for all labor, materials and equipment used in the construction of the project.

§8.7.12 Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall have identification of the construction worker by number or other identifying medium in a typeface large enough to be seen from a reasonable distance.

§8.7.13 Neither Contractor nor any of the Contractor's subcontractors shall utilize undocumented construction workers in the execution of the work under this Contract.

§8.7.14 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in the General Conditions of the Contract for Construction, AIA Document A201-2017, as amended by the parties.

ARTICLE 9: ENUMERATION OF CONTRACT DOCUMENTS

11. Delete subsection 9.1.4, regarding AIA Document E203-2013.

12. Section 9.2 shall be added as follows:

"§ 9.2 In the event of conflict, terms and conditions contained in this Agreement, as amended, shall take precedence over terms and conditions contained in the General Conditions, as amended, and the terms and conditions in the General Conditions, as amended, shall take precedence over all other terms and conditions contained in the other Contract Documents."

EXECUTED this _____ day of _____, 2019.

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

**AMENDMENTS TO STANDARD FORM OF
AGREEMENT BETWEEN OWNER AND CONTRACTOR
(Where the Basis of Payment is a Stipulated Sum)**

AIA DOCUMENT A101™ – 2017 Exhibit A

Owner: Town of Flower Mound, Texas

Project: Fire Station 7 Construction

WHEREAS, the Town of Flower Mound, Texas (hereinafter referred to as “Owner” or “Town”) and Schmoltdt Construction Inc. (hereinafter referred to as “Contractor”) desire to enter into an Agreement under which Contractor will perform services relating to the above-named project on behalf of Owner;

WHEREAS, Owner and Contractor have agreed to enter into AIA Document A101-2017, Standard Form of Agreement Between Owner and Contractor, as the basic form for that Agreement which includes the AIA Document A101-2017 Exhibit A, Insurance and Bonds; and

WHEREAS, certain terms and conditions of the AIA Document A101-2017 Exhibit A, Insurance and Bonds, need to be modified to comply with applicable laws and policies affecting Owner and Contractor in the construction of the project, Owner and Contractor hereby agree to the following amendments to the AIA Document A101-2017 Exhibit A, Insurance and Bonds:

ARTICLE A.1: GENERAL

ARTICLE A.2: OWNER’S INSURANCE

1. Section A.2.1 shall be amended in its entirety to read as follows:

§ A.2.1 General

The Contractor shall secure the insurance and provide evidence of the coverage as provided under this Article A.2 in accordance with Section A.3.3.2.1 and shall provide a copy of the property insurance policy or policies as provided under Section A.2.3. The copy of the policy or policies shall contain all applicable conditions, definition, exclusions, and endorsements.

2. Section A.2.2 shall be amended in its entirety to read as follows:

§ A.2.2 Liability Insurance

The Owner may purchase and maintain general liability insurance at its sole discretion.

3. Section A.2.3.1 shall be amended in its entirety to read as follows:

§ A.2.3.1 Pursuant to Section A.3.3.2.1, the Contractor shall purchase and maintain, from

an insurance company or insurance companies lawfully authorized to issue risk insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy for and sufficient to cover the total value of the entire Project on a replacement cost basis. The property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained as provided in Section A.2.3.1.3. The property insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. The property insurance shall include the interests of the mortgagees as loss payees.

4. Section A.2.3.1.3 shall be amended in its entirety to read as follows:

§ A.2.3.1.3 Upon Substantial Completion, the Contractor shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until the expiration of ten (10) years following the date of Substantial Completion or the applicable Statute of Repose, whichever is longer.

5. Section A.2.3.1.4 shall be amended in its entirety to read as follows:

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Contractor shall be responsible for all loss not covered because of such deductibles or retentions.

ARTICLE A.3: CONTRACTOR'S INSURANCE AND BONDS

1. The last sentence of Section A.3.2.1 shall be amended to read as follows:

§ A.3.2.1 ... The Contractor shall maintain the required insurance until the expiration of ten (10) years following the date of Substantial Completion or the applicable Statute of Repose, whichever is longer.

2. Section A.3.2.8 shall not be deleted and shall be amended to read as follows:

§ A.3.2.8 The Contractor shall procure Professional Liability insurance covering performance of any professional services related to this Project, with policy limits of not less than _____ (\$ _____) per claim and _____ (\$ _____) in the aggregate.

3. The last sentence of Section A.3.3.1 shall be amended to read as follows:

§ A.3.3.1 ... The Contractor shall maintain the required insurance until the expiration of ten (10) years following the date of Substantial Completion or the applicable Statute of Repose, whichever is longer.

4. In Section A.3.3.2, select the box for Section A.3.3.2.1 and amend Section A.3.3.2.1 to read as follows:

§ A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3 which relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.3. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions.

5. In Section A.3.3.2, select the box for Section A.3.3.2.3, "Asbestos Abatement Liability Insurance" and modify Section A.3.3.2.3 to read as follows:

§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than _____ (\$ _____) per claim and _____ (\$ _____) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of any asbestos-containing materials.

6. In Section A.3.3.2, select the box for Section A.3.3.2.4.

7. In Section A.3.3.2, select the box for Section A.3.3.2.5.

8. The heading for Section A.3.4 will read as follows:

§A.3.4 Performance Bond, Payment Bond, and Maintenance Bond

8. Section A.3.4 insert the following language in the box next to "Payment Bond":

A good and sufficient Payment Bond in compliance with Texas Government Code Section 2253.025 in an amount equal to one hundred percent (100%) of the Contract Sum, guaranteeing payment for all labor, materials and equipment used in the construction of the project.

9. Section A.3.4 insert the following language in the box next to "Performance Bond":

A good and sufficient Performance Bond in compliance with Texas Government Code Section 2253.025 in an amount equal to one hundred percent (100%) of the Contract Sum, guaranteeing the full and faithful execution of the work and performance of this Contract and for the protection of the Town against any improper construction of the work or the use of inferior materials.

10. Section A.3.4 insert the following language in the box below "Performance Bond":

"Maintenance Bond"

11. Section A.3.4 insert the following language in the box next to “Maintenance Bond”:

A good and sufficient Maintenance Bond in an amount equal to one hundred percent (100%) of the Contract Sum, guaranteeing the repair and/or replacement of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of completion and acceptance of the improvement by the Owner.

12. In Section A.3.4 amend the last sentence that begins with the language “Payment and Performance Bonds shall be AIA Document A312TM, ...” in its entirety to read as follows:

Payment, Performance, and Maintenance Bonds shall be provided on the forms required pursuant to Section 11.4.1 of the General Conditions.

ARTICLE A.4: SPECIAL TERMS AND CONDITIONS

EXECUTED this _____ day of _____, 2019.

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

Amendments to AIA Document
A201-2017 Edition
(General Conditions of the Contract for Construction)

Owner: Town of Flower Mound, Texas

Project: Fire Station 7 Construction

1. Amend Section 1.1.2 by adding the following after the second sentence:

1.1.2 As a material consideration for the making of the Contract Documents, modification to this Contract shall not be construed against the maker of said modifications.

2. Add the following to Section 1.2:

1.2.4 In case of discrepancy between two or more drawings (Architectural, Structural, Mechanical, etc.) or drawings and specifications, the Architect shall be the sole judge as to which takes precedence, but in any case it shall be assumed that bids are based on the most expensive procedure shown.

1.2.5 Dimensions found in error should be submitted to the Architect for resolution before proceeding with the Work.

3. Amend 1.5.2 by adding the following at the end of the existing paragraph:

1.5.2 Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work.

4. Add the following new Section 1.9:

1.9 Property of Political Subdivision. 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.

5. Delete the remainder of Section 2.1.1 after the first sentence, and replace it with the following:

2.1.1 ... The Owner shall designate a representative with respect to the Project. Such representative shall not have authority to make final decisions on behalf of the Owner concerning Change Orders, changing the Guaranteed Maximum Price, extending the date of Substantial or

Final Completion, or other items requiring Town Council approval; however, the Owner or such authorized representative, shall render decisions in a timely manner in order to avoid unreasonable delay in the service or Work of the Contractor.

6. Delete Section 2.1.2.
7. Delete Section 2.2 "Evidence of the Owner's Financial Arrangements" in its entirety.
8. Delete Section 2.3.4 and replace it with the following:

2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site. Owner does not guarantee the accuracy of the survey as describing the site of the Project and Contractor should determine the sufficiency of same before beginning the work. The Owner does not guarantee the utility lines to be in the exact locations as shown on plans and surveys. Contractor shall verify with the utilities the location of utility lines. Any water, gas or sewer line, telephone, telegraph or electric wire, or cable broken or cut by the Contractor or any of his workmen or subcontractors, shall be replaced by the Contractor at his own expense, or by the responsible subcontractor at its own expense, and will not be paid for by the Owner. Repairs shall be made immediately and no other work shall be done until breaks or damages have been repaired and service restored. Any delay caused by the cut or break shall be solely attributed to the Contractor.

9. Add the following sentence at the end of the existing Section 2.3.5:

Absent such written request, any Claim based upon lack of such information or service shall be waived.

10. Add Section 3.1.4 as follows:

3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner 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 where the Project is located 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.

11. Add Section 3.3.4 as follows:

3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all trades and sub-contractors.

12. Add the following Sections 3.4.4 and 3.4.5:

3.4.4 Prevailing Wages. Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Among other things, this Article provides that it shall be mandatory upon the Contractor and upon any subcontractor under him to 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 the Contract. No claims for additional compensation shall be considered by Owner because of payments of wage rates in excess of the applicable rate provided herein.

3.4.5 Owner 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.

13. Add the following Subparagraphs 3.5.3 and 3.5.4:

3.5.3 Except where otherwise stipulated in the Contract Documents, the Contractor shall, as per its Contract, warranty all materials and workmanship furnished under this Contract for a period of two (2) years after the date of Substantial Completion and shall repair and make good, without expense to the Owner, any and all defects in his work which may develop within that time.

3.5.4 All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms at the time of Substantial Completion.

14. Add the following to Section 3.6:

3.6.1 This Project is eligible for exemption from the State Sales Tax on materials incorporated in the Project, provided that Contractor fulfills the requirements of State Tax Laws. For the purpose of establishing exemption, it is understood and agreed that Contractor will be required to segregate materials and labor costs at the time a Contract is awarded, and will accept an exemption certificate from Owner. The Contractor shall pay any taxes otherwise assessed because of Contractor's failure to comply with the requirements of State Law to qualify for that tax exemption.

15. **3.12.10.1** In the second sentence of Section 3.12.10.1, add the word "reasonably" before the word "rely".

16. Add the following to Section 3.12:

3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an

initial submittal and one (1) resubmittal. The Owner is entitled to obtain reimbursement from the Contractor for amounts paid to the Architect for evaluation of additional submittals.

17. Add the following to the end of Section 3.16:

Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

18. Delete the last sentence of Section 3.17 and replace it with the following:

However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

19. Add Section the following to Section 4.2.2:

4.2.2.1 The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for site visits made necessary by the fault of the Contractor or by defects and deficiencies in the work.

20. Delete Section 4.2.13 and replace it with the following:

The Owner's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents. The Architect shall be the sole interpreter of the design intent with respect to such matters, but the Architect's authority with respect thereto shall not contravene any other rights of the Owner ascribed to the Owner by other provisions of the Contract.

21. Add the following Sections 5.3.1 and 5.3.2:

5.3.1 Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor or other materialman or workman employed by Contractor the right to obtain a personal judgment or to create a lien against Owner for the amount due from the Contractor.

5.3.2 In the event of any termination of the Contract in accordance with Article 14, Owner shall not be liable to any subcontractor. Contractor shall be responsible for any claim of a subcontractor for Work executed under the Contract.

22. Add Section 5.4.4 as follows:

5.4.4 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable. Owner shall only be responsible for compensating subcontractors for Work performed or material furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

23. In both the third and fourth sentences of Section 7.4, add the words "and the Owner" after the word "Architect".

24. Add Section 9.5.5 as follows:

9.5.5 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under these Conditions, then Owner may withhold any further payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damage. The Owner shall not be deemed in default by reason of withholding such payment.

25. Delete Section 9.6.7 and replace with the following language:

9.6.7 Payments received by the Contractor for Work properly performed by Subcontractors or materials properly provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor of which payment was made by the Owner.

26. Delete the phrase "Provided the Owner has fulfilled its payment obligations under the Contract Documents," from the beginning of Section 9.6.8.

27. Add Section 9.7.1 as follows:

9.7.1 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due to Owner, or the Owner incurs any costs and expense to cure any default of the Contractor or to correct defective Work, pursuant to the Contract, the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or

.2 issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

28. Add the following to Section 9.8.3:

9.8.3.1 The Architect will perform no more than two (2) inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

29. Add the following to Section 9.8.5:

9.8.5.1 The application for payment to release retainage will not be approved by the Architect until the completed and corrected closeout documents are provided to the Architect by the Contractor. Closeout documents shall be delivered to the Architect under conditions and times set forth in the contract documents and specifications.

30. Add the following new Section 9.8.6:

9.8.6 Notwithstanding any provision contained within this Article, if the work has not attained Substantial Completion with the contract time, subject to extensions of time allowed under these Conditions, Owner may withhold any further payment to Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages assessed against Contractor up to the time of Application for Payment and to the time it is reasonably anticipated that Substantial Completion will be achieved.

31. Add the following to Section 9.10.1:

9.10.1.1 The Architect will perform no more than one (1) inspection to determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

32. Replace 9.10.4 in its entirety with the following language:

9.10.4 The making of final payment shall not constitute a waiver of any Claims by the Owner.

33. Add the following section 9.11:

9.11 The time of completion is the essence of this Contract. Should the Contractor fail to reach Substantial Completion of the Project within the time required by the Contract Documents, plus any additional time allowed by the Owner, Contractor shall pay, or there shall be deducted from any amounts due and owing to Contractor, liquidated damages for each day that any Work shall remain uncompleted after the time for Substantial Completion of the Project, plus any additional time allowed by the Owner. The liquidated damages sum shall be \$ _____ per day. The liquidated damage sum for such delay, failure or non-completion is fixed and agreed upon between

Owner and Contractor as the most reasonable estimate of Owner's actual damages because of the impracticability and extreme difficulty of fixing and ascertaining the Owner's true actual damages.

34. Add Sections 11.1.5, 11.1.6 and 11.1.7 as follows:

11.1.5 By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor for administrative penalties, criminal penalties, civil penalties, or other civil actions.

11.1.6 The Contractors' failure to comply with any of these provision is a breach of contract by the Contractor which entitles the Owner to declare the Contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the Owner.

11.1.7 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, or volunteers.

35. Delete Section 11.4 and replace with the following:

11.4 CONTRACTOR'S BONDS

11.4.1 With the execution and delivery of the Contract, the Contractor shall furnish and file with the Owner, the surety bonds specified in this Section. Without exception, the Owner's bond forms must be used, and exclusive venue for any lawsuit in connection with the bonds shall be Tarrant County. The surety bonds shall be in accordance with the provisions of Chapter 2253, Government Code, Vernon's Texas Codes Annotated as applicable. All bonds shall automatically be increased by the amount of any change order or supplemental agreement which increases the Contract Sum with or without notice to the surety, but in no event shall a change which reduces the Contract Sum reduce the penal amount of such bonds.

11.4.2 The Contractor shall provide good and sufficient performance bond in an amount not less than one hundred (100) percent of the approximate total amount of the Contract, as evidenced by the proposal tabulation, or otherwise guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with the Contract Documents, including any extensions, for the protection of the Owner.

11.4.3 The Contractor shall provide good and sufficient payment bond in an amount not less than one hundred (100) percent of the approximate total amount of the Contract, as evidenced by the proposal tabulation, or otherwise guaranteeing the full and proper protection of all claimants supplying labor and material in the execution of the Work provided for in this Contract and for the use of each claimant.

11.4.4 The Contractor shall provide good and sufficient maintenance bond in an amount not less than one hundred (100) percent of the approximate total amount of the Contract, as evidenced by the proposal tabulation, or otherwise guaranteeing the provide for the repair and/or replacement of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of completion and acceptance of the improvement by the Owner.

11.4.5 No sureties shall be accepted by the Owner who are now in default or delinquent on any bonds or who are interested in any litigation against the Owner. All bonds shall be made on forms furnished by the Owner, and shall be executed by not less than one corporate surety authorized to do business in the State of Texas and acceptable to the Owner. Each bond shall be executed by the Contractor and surety. Each surety shall designate an agent resident in the Owner's jurisdictional area acceptable to the Owner to whom any requisite notices may be delivered and on whom service of process may be obtained in matters arising out of the suretyship.

11.4.6 If at any time the Owner determines that the Contractor's surety has experienced financial losses such that the Owner's ability to enforce the bond obligations is substantially at risk, the Contractor shall within thirty (30) days after notice from the Owner to do so, substitute an acceptable bond (or bonds), or provide an additional bond, in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bonds shall be paid by the Contractor without recourse to the Owner. No further progress payments under the contract shall be deemed due or payable until the substitute or additional bonds shall have been furnished and accepted by the Owner; however, in such event, final payment shall be due and payable as provided in this Contract whether or not such additional bonds are obtained, to the extent that the project is complete and the Owner is not exposed to liability for payment bond claims.

36. Add the following to Section 12.2.2:

12.2.2.4 Upon request by the Owner or prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

37. Delete Section 13.5 and replace with the following:

13.5 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is overdue, at the rate provided by Section 2251.025, Texas Government Code.

38. Add the following new Section 13.6:

13.6 EQUAL OPPORTUNITY

13.6.1 The Contractor shall maintain policies of employment as follows:

13.6.1.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees

are treated during employment without regard to their race, religion, color, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the nondiscrimination policies.

13.6.1.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

39. Add Section 13.7 as follows:

13.7 IMMUNITIES

13.7 Contractor stipulates that Owner 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, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

40. Amend Section 14.1.3 as follows:

Delete the phrase "as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination" at the end of Section 14.1.13, and replace it with the phrase "through the date of termination."

41. Add the following subsections to Section 14.2.1:

.5 fails to furnish the Owner, upon request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;

.6 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the law prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or

.7 fails to proceed continuously and diligently with the construction and completion of the Work; except as permitted under the Contract Documents.

➤ Amend Section 14.3.2 as follows:

Delete "shall" and replace it with "may" after the words "Contract Time".

42. Delete Section 14.4.1 and replace with the following:

14.4.1 The Owner may, at any time, terminate the Contract, or any part or portion thereof, for the

Owner's convenience and without cause.

43. Delete Section 14.4.3 and replace with the following:

14.4.3 In the case of such termination for the Owner's convenience, the Contractor shall only be entitled to receive payment for work properly executed through the date of termination.

44. Add the following Section 14.4.4:

14.4.4 Owner shall be entitled to delete or terminate any portion of the Contract bid as an alternate component, at any time at the Owner's convenience and without cause. In the event of such termination, the Contractor shall only be entitled to receive payment for Work executed on the alternate component, if any, through the date of termination.

45. Delete Section 5.1.2 in its entirety.

46. Add the following to Section 15.1.6:

15.1.6.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.

15.1.6.4 Extension of time for completion of the work on account of weather or other circumstances beyond the Contractor's control will be subject to submission of verifiable data. Request for extension of time shall be submitted in writing with each Request for Payment. If Contractor fails to submit request, time extension will not be approved for the pay period.

15.1.6.5 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Town Council approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

47. Delete Section 15.3.3 in its entirety.

48. Delete Section 15.4 "Arbitration" in its entirety.

EXECUTED this _____ day of _____, 2017.

OWNER:

By: _____

Title: _____

CONTRACTOR:

By: _____

Title: _____



TOWN COUNCIL AGENDA ITEM NO. 20

REGULAR ITEM

DATE: January 7, 2019

FROM: Brian Waltenburg, P.E., Engineering Manager

ITEM: Consider approval of a Construction Agreement with McDonald Municipal & Industrial, a Division of C.F. McDonald Electric, Inc., for the Pintail Pump Station (Auxiliary Power & Upgrades) project, in the amount of \$1,068,469.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On December 5, 2018, bids were received and opened for the Pintail Pump Station (Auxiliary Power & Upgrades) project (Bid # 2019-21-B). McDonald Municipal & Industrial, a Division of C.F. McDonald Electric, Inc., submitted the lowest qualified bid of the five responding bidders at a base bid of \$1,068,469.00.

FISCAL IMPACT: \$1,068,469.00

Proposed Revenue:	Account Number(s):
\$ 66,895.43	601-900-98343
\$ 144,604.57	610-980-98343
\$ 856,969.00	630-960-98343

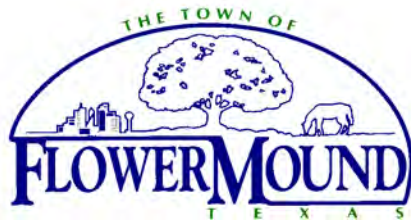
Finance Review by: Debra Wallace, Deputy Town Manager/CFO *DW*

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 in preparation of these documents.

ATTACHMENTS:

1. Bid Tabulation
2. Construction Agreement

DRAFT MOTION: Move to approve as presented in the agenda caption.



Town of Flower Mound
Bid Tabulation

Bid No: 2019-21-B - Pintail Pump Station (Auxiliary Power & Upgrades)

Bid Opening: 12/5/2018 at 11:00 AM

Company	Total Bid
Fort Worth Civil Constructors, LLC	\$ 1,166,600.00
Felix Construction Company	\$ 1,110,478.00
Gracon Construction, Inc	\$ 1,076,478.00
Rebcon, Inc	\$ 1,245,638.00
McDonald Municipal & Industrial	\$ 1,068,469.00

******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 Zadow
Purchasing Manager
Town of Flower Mound, Texas

Date: December 5, 2018

TOWN OF FLOWER MOUND
PINTAIL PUMP STATION
(AUXILIARY POWER & UPGRADES)

Bid # 2019-21-B

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this 7th day of January, 2019, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and McDonald Municipal & Industrial, a Division of C.F. McDonald Electric, Inc., a corporation, hereinafter referred to as the "Contractor." For and in consideration of the payment, agreements, and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

PINTAIL PUMP STATION
(AUXILIARY POWER & UPGRADES)
Bid # 2019-21-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 Sixty-Eight Thousand Four Hundred Sixty-Nine Dollars and 00/100 cents (\$1,068,469.00)** 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 Three Hundred (300) calendar days, and final completion of Three Hundred Thirty (330) 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 Fifty and Zero/One Hundredths Dollars (\$250.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of Two Hundred Fifty and Zero/One Hundredths Dollars (\$250.00) 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

Steve Dixon, MAYOR

(Signature)

(Printed Name)

(Position)

(CORPORATE SEAL)

(CORPORATE SEAL)

ATTEST: _____
Theresa Scott, TOWN SECRETARY

ATTEST: _____ (Signature)

(Position)



TOWN COUNCIL AGENDA ITEM NO. 21

REGULAR ITEM

DATE: January 7, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Discuss and consider Charter Review Commission recommendations and any proposed amendments to the Town Charter for a future election.

BACKGROUND INFORMATION: At the December 17, 2018, Town Council meeting there was Council consensus to review the last few Charter Review Commission (CRC) recommendations that were presented for Council consideration, however, not placed on the ballot or that did not pass by the voters.

Given there is new technology in Jody Smith Hall, there was also discussion about the option of electronic voting versus roll call. Currently the Town Charter and Town Council Rules of Procedures present limitations in doing so, and as indicated below:

§ 3.08.3. (Charter):

The vote upon the passage of all ordinances and resolutions shall be taken by "Ayes" and "Nays" and entered upon the minutes.

Ordinance 21-88, 2(f) (Town Council Rules of Procedure):

Decisions shall be the result of a formal roll call vote.

Additionally, there would be a cost of \$5,000 to activate the voting component of this equipment.

The deadline for ballot items to be submitted for the May 4, 2019 election is February 4, 2019 (last Council meeting prior to the statutory deadline of February 15, 2019) and August 19, 2019, for the November 5, 2019, election.

2016 CRC Recommendations (Chair: Jody Smith)

The following list only includes recommendation(s) that were presented for Council consideration and not placed on the ballot or that was placed on the ballot but failed by the voters.

Category	CRC Recommendation	Placed on the ballot by Council	Passed or failed by Voters
Ordinance Publication	Proposition 4: Shall Section 3.07 of the Flower Mound Home Rule Charter be amended to remove the requirement that all ordinances adopted by the Town be published except those ordinances required to be published by law?	Yes	Failed Results: Yes: 48.40% No: 51.60%
Finance	Proposition 8: Shall Section 9.10 of the Flower Mound Home Rule Charter be deleted in its entirety to remove the requirement that the Town budget be filed with various county and state agencies; and shall Section 9.14 of the Flower Mound Home Rule Charter be amended to allow transfer of funds between departments without the requirement of a budget amendment?	Yes	Failed Results: Yes: 44.97% No: 55.03%

A Charter Review Commission was appointed on October 7, 2013 (Chair: Paul Stone). A final report was presented to Council on February 3, 2014. The CRC recommended that no amendments come forward for a Charter election.

2012 CRC Recommendations (Chair: Rick Lust):

The following list only includes recommendation(s) that were presented for Council consideration and not placed on the ballot or that was placed on the ballot but failed by the voters.

Related	Category	CRC Recommendation	Placed on the ballot by Council	Passed or failed by Voters
	Petition Signatures	Prop. 6: Shall Section 7.04 of the Town Charter, entitled "Council Either to Pass Ordinance or Call Election," be amended to delete the minimum number of signatories to a petition for initiative?	Yes	Failed Results: Yes: 49.50% No: 50.50%
	Petition Signatures	Prop. 7: Shall Section 7.05 of the Town Charter, entitled "Submitted at General Election When Only 5% Sign," be amended to delete the minimum number of signatories to a petition for referendum?	Yes	Failed Results: Yes: 49.45% No: 50.55%
	Petition Signatures	Prop. 8: Shall Section 7.15 of the Town Charter, entitled "Referendum Petition Requirements," be amended to delete the minimum number of signatories to a petition for referendum?	Yes	Failed Results: Yes: 47.86% No: 52.14%
	Compensation	Effective June 1, 2013, the Mayor shall receive a monthly stipend of \$300 and members of the Town Council shall receive a monthly stipend of \$200. In addition, they shall be entitled to reimbursement of any necessary expenses incurred in the performance of their official duties, when approved by the Council.	No	N/A

FISCAL IMPACT: The Town is scheduled to have a November 2019 election for the purpose of bringing forward a reauthorization of the local sales and use tax (maintenance and repair of municipal streets) to the voters. As such, there would be minimal cost to add ballot items to either a May or November 2019 election.

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

CRC Final Reports:

1. August 4, 2016
2. February 3, 2014
3. March 5, 2012

DRAFT MOTION: N/A



Charter Review Commission (CRC) Recommendations & Council Initiated Items

Pending Discussion/Direction Items:

1. PALS Board reference (amend or repeal)
2. Procedure for processing Charter violations (additional & modified steps)
3. Term Lengths & Limits (3 years/clock reset for Mayor)
4. % requirements for referendum/initiative/recall

Review & discuss removal of the provisions relating to the Parks, Arts, and Library Services Board

7/18 follow up: Consider whether to amend or repeal the text

CURRENT:

§ 8.04. - Parks, Arts, and Library Services Board. The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks, Arts, and Library Services Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks, Arts, and Library Services Board shall perform such duties as the Town Council may direct.

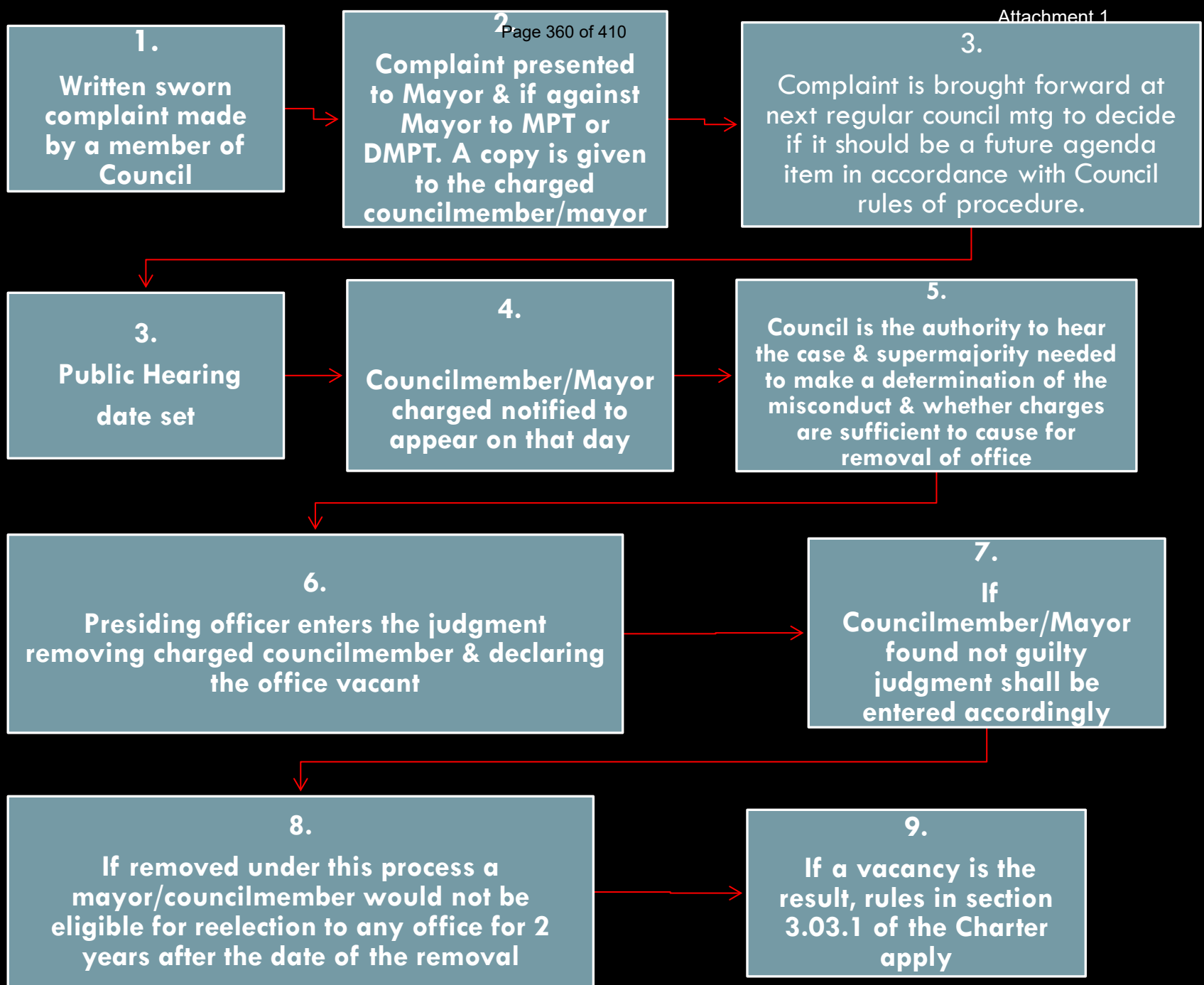
CRC RECOMMENDATION:

§ 8.04. - Parks,~~Arts, and Library Services~~ Board. The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks,~~Arts, and Library Services~~ Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks,~~Arts, and Library Services~~ Board shall perform such duties as the Town Council may direct.

6/30/16: Vote 5:0

1 of 1

Steps for processing charter violations if Prop. 3 passes.



Review & discuss provisions relating to term limits and consecutive terms for elected officials.

7/18 Council Discussion Follow Up:

- Three year term lengths with an election held every year (two seats are up every three years) and a transition plan that gets Council from where they are today to that point, and have an open discussion at the next meeting regarding term limits and if the Council should consider putting forward to the voters two three year terms or three/three year terms, including an effective start date
- Interest in continuing the discussion on term limits in the event a member of Council changes position to Mayor

What Other Cities Do (term of office)

City	Term of Office
Allen	2
North Richland Hills	2
Richardson	2
Highland Village	2
Denton	2
Total (2 years)	5 cities
Carrollton	3
Colleyville	3
Coppell	3
Frisco	3
Grapevine	3
Keller	3
Lewisville	3
McKinney	4
Total (3-4 years)	8 cities

Recall & Referendum Percentage Requirements

Discussion Summary from 7/18 Council meeting:

Review the percentages or numbers needed to initiate a recall and identify if they are attainable, and whether or not a change is needed (and would be for recall petition or referendum)

Charter References:

Article VI - Recall	Article VII - Legislation by the people, initiative and referendum
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§ 6.02 – Petition for Recall

Before the question of recall of such officer shall be submitted to the qualified voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary; which said petition shall be signed by a number equal to at least fifteen percent (15%) of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters

§ 7.04/05– Petition (Initiative/Referendum)

§ 7.04 - Council Either to Pass Ordinance or Call Election

If the petition accompanying the proposed ordinance is signed by qualified voters equal in number to fifteen percent (15%) of the qualified voters of the Town or three hundred (300) of the qualified voters of the Town, whichever is greater,

§ 7.05 - Submitted at General Election When Only 5% Sign

If the petition is signed by electors equal in number to at least five percent (5%), but less than fifteen percent (15%) or three hundred (300) of the qualified voters of the Town of Flower Mound, as required by Sec. 7.04 of this Charter, then such ordinance, without alteration, shall be submitted by the governing body of the Town to a vote of the people at the next general municipal election...

Voter Turnout History (May Only)

Page 366 of 410

Attachment 1

Election Year	Total Voters	Registered Voters	Percentage
1992	2,483	9,117	27.23%
1993	1,094	11,978	9.13%
1994	786	14,816	5.30%
1995	2,526	16,954	14.89%
1996	1,801	20,215	9%
1997	2473	23,868	10.4%
1998	3,910	26,809	15%
1999	2607	28396	9.3%
2000	4,631	31,437	15%
2001	2,501	35,427	7.06%
2002	6,267	37,972	16.5%
2003	2,676	36,593	7.3%
2004	5,929	38.593	15.3%
2005	1,440	38,651	3.70%
2006	2,245	40,921	5.50%
2007	2,530	40,035	6.30%
2008	3,042	44,959	6.80%
2009	3150	41,378	7.60%
2010	8,401	42,111	19.94%
2011	2,621	41,687	6.28%
2012	5,791	42,913	13.49%
2013	2,421	42,897	5.64%
2014			No election
2015	3,442	44,577	7.73%
2016	4,453	46,538	9.85%

Average over 25 years: 10.59%

RV – Registered Voters

VC – Votes Cast

Most are based on RV or VC at last election

What Other Cities Do

City	% required (Recall)	% required (I/R)
Lewisville	5% RV	same
Keller	5% RV	same
Richardson	10% RV	same
Coppell	15% RV	10% RV
Southlake	20% RV	same
Highland Village	20% RV	same
Allen	30% RV	same
Denton	25% VC for that councilmember & all of his opponents in last election he was a candidate	25% VC
McKinney	25% VC	same
North Richland Hills	25% VC	Same
Carrollton	30% VC	same
Colleyville	30% VC	40% VC
Frisco	35% VC at last mayoral election	Same
Grapevine	40% VC	Same

Timeline

8/04

- Council to provide direction on proposed or new amendments.

8/15

- Council to call Nov. election if applicable
(statutory deadline is 8/22)

11/8

- Election Day

Questions





FINAL REPORT – 2.3.14

Charter Review Commission (CRC) Presentation & Report

February 3, 2014

CRC Members

Paul Stone, Chair

Patti Fennessey

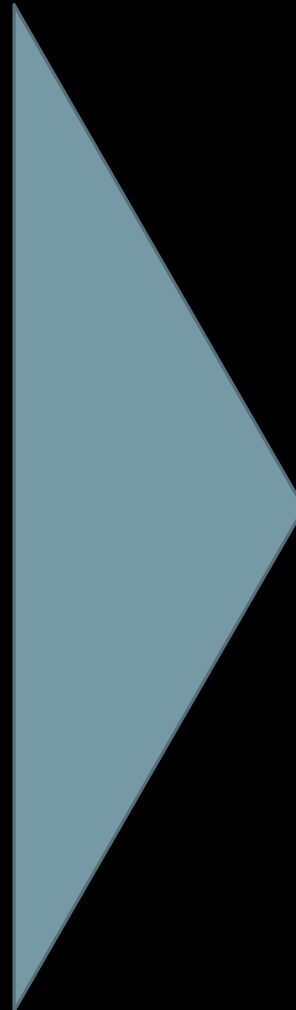
Brian Fox

Ray Loehr

Gail Scheepers

Sandeep Sharma

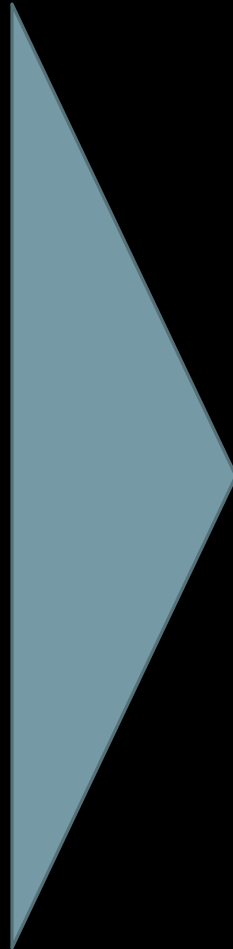
Jeffrey Smith



Appointed by
Town Council
October 7, 2013

CRC Meeting Schedule

- October 18th
- October 30th
- November 6th
- November 19th
- December 4th
- December 17th
- January 11th
- January 17th
- January 21



During this time 19 Items were reviewed, researched, and considered for a total of 28 meeting hours & countless individual hours reviewing and researching various information.



CRC REPORT (FINDINGS AND RECOMMENDATIONS)

- Council Original Charge Items (10)
 - Charter Review Commission Initiated Items (3)
 - Public Initiated Items (6)
-

Recommendations presented to include either:
No recommendation, a Charter Amendment,
or a Policy Recommendation.

COUNCIL INITIATED ITEMS



1. Review & Understand the Town Charter ☒
2. Review the book *Texas Home Rule Charters* ☒
3. Review and seek input from other North Texas municipalities about their Charters ☒

COUNCIL INITIATED ITEMS



4. Review and discuss single member district seats for the purpose of promoting representation on Town Council from far west and far east of Flower Mound.

CRC RECOMMENDATION:

Take no further consideration.

1/17/14: Vote 5-1; 1 Absent



COUNCIL INITIATED ITEMS



5. Review and discuss the possibility of three-year Council terms.

CRC RECOMMENDATION:

Two 3 year terms on a staggered basis
(which allows for 1 year with no election).

1/21/14: Vote 4:3

COUNCIL INITIATED ITEMS

6. Review and discuss the possibility of a change to term limits that would allow a council member to run for Mayor, and if elected, would reset the term limit clock.

CRC RECOMMENDATION:

No further consideration.

1/17/14: Vote 5:1; 1 Absent



COUNCIL INITIATED ITEMS



7. Review and discuss the possibility of enlarging the size of the Town Council

This discussion lead to a CRC initiated item: Whether the Mayor should have a casting vote for all matters coming before the Council, and not just in case of a tie vote.

CRC RECOMMENDATION:

No further consideration.

1/17/14: Vote 5:1; 1 Absent



COUNCIL INITIATED ITEMS

8. Review and discuss the possibility of board and commission members adhere to the same term limits as required of the Town Council.

This discussion lead to a publicly initiated item: Whether members should serve on multiple boards, commissions, or committees.

CRC RECOMMENDATION:

To further consider as a policy item the introduction of term limits for some board , commission or committees and limit board, commission, and committee members from serving on multiple boards, commissions, or committees where possible.

1/21/14: Vote 7-0



COUNCIL INITIATED ITEMS

10. Suggest possible Charter amendments in accordance with the proposed timeline, and identify a process for public review and proposed amendments.

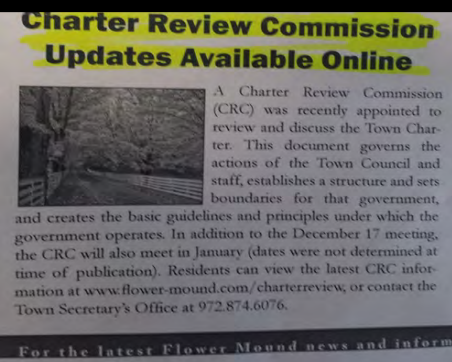
- Past CRC Chairs Invited
 - HOA leaders invited
- Two public participation opportunities per meeting
 - Two Public Hearings
- Charter@flower-mound.com

Continued on next page....



Public Outreach

- Town website
- Flower Mound Television (FMTV) – all meetings at Town Hall and broadcasted live or available via streaming
- Newspaper articles and print advertisement
- Sandwich board signs rotated between Library, CAC, and Town Hall
- Utility billing insert
- All meetings took place at Town Hall and broadcasted live & available via web streaming



CRC INITIATED ITEMS

2. Section 3.05 of the Town Charter: Discuss and consider whether the Council and public review process associated with the not to exceed amount of \$15,000 as authorized by the Mayor to the town Manager to sign all contracts is sufficient. In addition, whether the amount of \$15,000 is sufficient.

CRC RECOMMENDATION:

Town Council amend the Town Charter, Section 3.05, to \$50,000, and also reduce this through policy to \$25,000.

1/21/14: Vote 4-2; 1 Abstain



CRC INITIATED ITEMS



3. Discuss and consider adding language in the Charter that gives the power to the Council to designate where the administrative offices, including Town Hall, should be.

CRC RECOMMENDATION:

Council take under consideration.

1/21/14: Vote 7-0



PUBLIC INITIATED ITEMS

2. Discuss and consider whether the Arts should be separated from the Parks and Library Services Board (Section 8.04 of the Town Charter).

CRC RECOMMENDATION:

Town Council give future policy consideration to explore separating the Parks, Arts, and Library Services Board with Parks being one board and Arts and Library as an additional standalone board.

1/21/14: Vote 6-1



PUBLIC INITIATED ITEMS



3. Discuss whether candidates for Town Council should submit financial reports denoting financial contributors and expenses prior to the 30 days as currently required by the Texas Ethics Commission.

CRC RECOMMENDATION:

Take no further action.



PUBLIC INITIATED ITEMS



4. Discuss whether political party affiliation of a candidate should be stipulated on the ballot.

CRC RECOMMENDATION:

Take no further action.

PUBLIC INITIATED ITEMS

5. Discuss the Town's Code of Ethics and Section 11.03 of the Town Charter (Personal Interest) as it relates to conflict of interest, including but not limited to, definitions associated with development agreements or contracts.

This discussion lead to the further discussion related to use of social media.

CRC POLICY ITEM RECOMMENDATION:

Town Council address social media as a policy item in the Town's Code of Ethics.

1/21/14: Vote 7-0



PUBLIC INITIATED ITEMS



6. Discuss whether or not an election should be required for additional districts besides Municipal Utility, Public Improvements, or for certain Public Private Partnerships).

CRC RECOMMENDATION:

Take no further action.



COUNCIL INITIATED ITEMS

9. Based upon that review and input, consider and identify if there are any recommendations that should be considered for the Town of flower Mound Charter.

CRC FINAL RECOMMENDATION

After thorough and careful discussion and consideration, the Charter Review Commission recommends no amendments to come forward at this time for a Charter Election.

1/21/14: Vote 4-3



Questions?





CHARTER REVIEW COMMISSION (CRC) RECOMMENDATIONS (13)

March 5, 2012

CRC Recommendation #1

New language underlined; deleted language stricken.

§3.02 Term Limits

Beginning with the Town Council election to be conducted on the second Saturday in May 2013, neither the Mayor nor any member of the Town Council elected from and after said date shall be elected for more than three (3) full consecutive terms of two (2) years each for any place or position on the Town Council.



CRC Recommendation #2

New language underlined; deleted language stricken:

§ 3.02.1 Qualifications

Each member of the Council shall be a qualified voter of the Town, shall be twenty-one (21) years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, have been a resident of the Town for at least one (1) year prior to election date, shall not be employed by the Town, and shall hold no other public office except that of Notary Public or a member of the National Guard,~~or naval~~~~or~~ military reserve, or Coast Guard reserve.

New language and edits included; deletions excluded:

§ 3.02.1 Qualifications

Each member of the Council shall be a qualified voter of the Town, shall be twenty-one (21) years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, have been a resident of the Town for at least one (1) year prior to election date, shall not be employed by the Town, and shall hold no other public office except that of Notary Public or a member of the National Guard, military reserve, or Coast Guard reserve.



CRC Recommendation #3

New language underlined; deleted language stricken:

§ 3.04 Compensation

Effective June 1, 2013, the Mayor shall receive a monthly stipend of three hundred dollars (\$300.00) and members of the Town Council of Flower Mound shall ~~serve without pay or compensation~~ receive a monthly stipend of two hundred dollars (\$200.00). ~~; provided, however, that~~ In addition, they shall be entitled to reimbursement of any necessary expenses incurred in the performance of their official duties, when approved by the Council.

New language and edits included; deletions excluded:

§ 3.04 Compensation

Effective June 1, 2013, the Mayor shall receive a monthly stipend of three hundred dollars (\$300.00) and members of the Town Council of Flower Mound shall receive a monthly stipend of two hundred dollars (\$200.00). In addition, they shall be entitled to reimbursement of any necessary expenses incurred in the performance of their official duties, when approved by the Council.



CRC Recommendation #4

New language underlined; deleted language stricken:

§ 4.02 Town Manager—Appointment and Qualifications.

The Council by majority vote shall appoint a Town Manager. The method of selection shall be left to the discretion of the Council so long as the method ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Manager shall be chosen solely upon the basis of the person's executive and administrative training, experience, and ability. The Town Manager need not be a resident of Flower Mound when appointed, but within a reasonable time after such appointment, not to exceed six (6) months, reside within Flower Mound during the balance of the tenure of his or her appointment.

New language and edits included; deletions excluded:

§ 4.02 Town Manager—Appointment and Qualifications.

The Council by majority vote shall appoint a Town Manager. The method of selection shall be left to the discretion of the Council so long as the method ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Manager shall be chosen solely upon the basis of the person's executive and administrative training, experience, and ability. The Town Manager need not be a resident of Flower Mound when appointed, but within a reasonable time after such appointment, not to exceed six (6) months, reside within Flower Mound during the balance of the tenure of his or her appointment.

CRC Recommendation #5

New language underlined; deleted language stricken:

§ 6.02 Petition for Recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary; which said petition shall be signed by ~~three hundred (300) qualified voters or~~ a number equal to at least fifteen percent (15%) ~~whichever is greater,~~ of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the Voter Registrar of Denton County. The name of Each signer of the such recall petition shall be legibly printed and each signer shall personally sign his name thereto in ink or indelible pencil. The signer's information shall include and shall write after his name, his place of residence by, giving the name of the street and number, the signer's his voter registration certificate number or date of birth, and shall also include ~~write thereon~~ the day, the month, and the year his signature was affixed.

New language and edits included; deletions excluded:

§ 6.02 Petition for Recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary; which said petition shall be signed by a number equal to at least fifteen percent (15%) of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the Voter Registrar of Denton County. The name of each signer of the recall petition shall be legibly printed and each signer shall personally sign his name thereto in ink or indelible pencil. The signer's information shall include after his name, his place of residence by giving the name of the street and number, the signer's voter registration certificate number or date of birth, and shall also include the day, the month, and the year his signature was affixed.

CRC Recommendation #6

New language underlined; deleted language stricken:

§ 7.02 Petition Requesting Submission for Ordinance by Initiative.

Any proposed ordinance may be submitted to the governing body of the Town of Flower Mound by a petition signed by the qualified voters of the Town equal in number to the percentage hereinafter required. The signatures to the petition need not all be appended to one paper, but the name of each signer of the ~~such~~ petition shall be legibly printed and each signer shall personally sign his name in ink or indelible pencil. The signer's information shall include after his name, his place of residence by giving ~~and shall also write the name of the street and number, the signer's of his place of residence. The signer shall also write his~~ voter registration certificate number or date of birth, and shall also include thereon the day, the month, and the year his signature was affixed to the petition. The initiative petition must be addressed to the Council of the Town of Flower Mound. The signatures shall be verified by oath in the following form: . . .

New language and edits included; deletions excluded:

§ 7.02 Petition Requesting Submission for Ordinance by Initiative.

Any proposed ordinance may be submitted to the governing body of the Town of Flower Mound by a petition signed by the qualified voters of the Town equal in number to the percentage hereinafter required. The signatures to the petition need not all be appended to one paper, but the name of each signer of the petition shall be legibly printed and each signer shall personally sign his name in ink or indelible pencil. The signer's information shall include after his name, his place of residence by giving the name of the street and number, the signer's voter registration certificate number or date of birth, and shall also include thereon the day, the month, and the year his signature was affixed to the petition. The initiative petition must be addressed to the Council of the Town of Flower Mound. The signatures shall be verified by oath in the following form: . . .

CRC Recommendation #7

New language underlined; deleted language stricken:

§ 7.04 Council Either to Pass Ordinance or Call Election.

If the petition accompanying the proposed ordinance is signed by qualified voters equal in number to fifteen percent (15%) of the qualified voters of the Town ~~or three hundred (300) of the qualified voters of the Town, whichever is greater,~~ and contains a request that the ordinance be submitted forthwith to a vote of the people at a special election, the governing body of the Town shall either:

(1) Pass said ordinance without alteration within forty-five (45) days after the attachment of the Town Secretary's certificate of sufficiency to the accompanying petition (subject to referendum vote under the provisions of this Charter); or

(2) The governing body of the Town shall proceed to call a special election at which the ordinance, without alteration, shall be submitted to a vote of the people.

New language and edits included; deletions excluded:

§ 7.04 Council Either to Pass Ordinance or Call Election.

If the petition accompanying the proposed ordinance is signed by qualified voters equal in number to fifteen percent (15%) of the qualified voters of the Town and contains a request that the ordinance be submitted forthwith to a vote of the people at a special election, the governing body of the Town shall either:

(1) Pass said ordinance without alteration within forty-five (45) days after the attachment of the Town Secretary's certificate of sufficiency to the accompanying petition (subject to referendum vote under the provisions of this Charter); or

(2) The governing body of the Town shall proceed to call a special election at which the ordinance, without alteration, shall be submitted to a vote of the people.

CRC Recommendation #8

New language underlined; deleted language stricken:

§ 7.05 Submitted at General Election When Only 5% Sign.

If the petition is signed by electors equal in number to at least five percent (5%), but less than fifteen percent (15%) ~~or three hundred (300)~~ of the qualified voters of the Town of Flower Mound, as required by Sec. 7.04 of this Charter, then such ordinance, without alteration, shall be submitted by the governing body of the Town to a vote of the people at the next general municipal election on a uniform election date that shall occur at any time after thirty (30) days from the date of the Town Secretary's certificate of sufficiency attached to the petition accompanying such ordinance.

New language and edits included; deletions excluded:

§ 7.05 Submitted at General Election When Only 5% Sign.

If the petition is signed by electors equal in number to at least five percent (5%), but less than fifteen percent (15%) of the qualified voters of the Town of Flower Mound, as required by Sec. 7.04 of this Charter, then such ordinance, without alteration, shall be submitted by the governing body of the Town to a vote of the people at the next general municipal election on a uniform election date that shall occur at any time after thirty (30) days from the date of the Town Secretary's certificate of sufficiency attached to the petition accompanying such ordinance.



CRC Recommendation #9

New language underlined; deleted language stricken:

§ 7.15 Referendum Petition Requirements.

A petition for referendum may be submitted to the governing body of the Town when signed by fifteen percent (15%) of the qualified voters of the Town ~~or by three hundred (300) of the qualified voters of the Town, whichever is greater.~~ The procedures for submission, examination, and amendments of the petition shall be in accordance with § 7.02 and § 7.03 of this Charter.

New language and edits included; deletions excluded:

§ 7.15 Referendum Petition Requirements.

A petition for referendum may be submitted to the governing body of the Town when signed by fifteen percent (15%) of the qualified voters of the Town. The procedures for submission, examination, and amendments of the petition shall be in accordance with § 7.02 and § 7.03 of this Charter.



CRC Recommendation #10

§ 7.17 Election Required for Certain Public-Private Partnerships.

Prior to the commitment of any Town funds in a public-private partnership for an economic development project, other than for the construction or maintenance of public improvements, in which the Town has either a joint ownership interest or enters into a lease of Town property in excess of one (1) year, and which public-private partnership provides an economic benefit to a private party, the Town Council, following debate and discussion of the public-private partnership, may approve said partnership. Following the vote of the Town Council to approve said partnership, the Town Council shall call a special election to allow the qualified voters of the Town to approve or reject said commitment of Town funds. The ballot used when voting upon said partnership shall contain the words “For” and “Against” (stating the nature of the public-private partnership). If a majority of the qualified voters voting on the proposed partnership shall vote in favor thereof, such public-private partnership shall be approved.

New language underlined; deleted language stricken.



CRC Recommendation #11

New language underlined; deleted language stricken:

§ 8.04 Parks, Arts, and Library Services Board.

The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks, Arts, and Library Services Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks, Arts, and Library Services Board shall perform such duties as the Town Council may direct.

New language and edits included; deletions excluded:

§ 8.04 Parks, Arts, and Library Services Board.

The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Parks, Arts, and Library Services Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Parks, Arts, and Library Services Board shall perform such duties as the Town Council may direct.

CRC Recommendation #12

§ 8.06 Amendments to Oil and Natural Gas Well Drilling and Operations Ordinance.

Any amendment to the Oil and Natural Gas Well Drilling and Operations Ordinance, contained in Article VII of Chapter 34 of the Town's Code of Ordinances, as amended, requires a public hearing and the approval of three-fourths (3/4) of the membership of the Town Council.

New language underlined; deleted language stricken.



CRC Recommendation #13

New language underlined; deleted language stricken:

Section 5.08 – Oath of Office.

“I solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, ~~and~~ nor promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, ...

Section 3.11 – Bond for Employees.

The Town Manager and the Town Secretary, and such other Town officers and employees as the Town Council may require, shall before entering upon the duties of their office, enter into a good and sufficient fidelity bond in a sum to be determined by the Town Council payable to the Town of Flower Mound.

New language and edits included; deletions excluded:

Section 5.08 – Oath of Office.

“I solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, nor promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, ...

Section 3.11 – Bond for Employees.

The Town Manager and the Town Secretary, and such other Town officers and employees as the Town Council may require, shall before entering upon the duties of their office, enter into a good and sufficient fidelity bond in a sum to be determined by the Town Council payable to the Town of Flower Mound.

CRC Other Recommendations

For inclusion in the Oil & Gas Ordinance:

Any lease or conveyance of any of the Town's mineral rights requires a public hearing.

After in depth discussion on this topic in relation to the necessity of having it come forward as a Charter item or not, there was consensus to recommend an ordinance amendment that would require a public hearing for any conveyance of the mineral rights by the Town instead of a Charter amendment.



Items Discussed & Considered – Not Recommended

1. Online voting in Town elections
2. Rank choice voting (aka instant run off voting)
3. Background check requirements for Council candidates & Officers of the Town (§ 3.02.1)
4. Municipal Utility Districts (MUD)/Public Improvement Districts (PID) provisions, including possible update of title wording
5. Franchise powers of Council (§10.02)
6. Review process associated with the Charter
7. Charter Review Commission be set up in July & duties of the Commission.
8. Single Member Districts



Items Discussed & Considered – Not Recommended (*Continued*)

- 9. Meetings of the Council & how items are placed on the agenda.
- 10. Increasing the number of Council positions
- 11. Charter provision relative to Councilmember endorsements
- 12. Ethics Policy
- 13. Candidate filing fee



Questions?



Town Council Future Agenda Items



SCHEDULED	1/17/2019	Work Session	Placeholder: TIRZ Feasibility Study for Lakeside Village
		Work Session	Presentation and discussion on defining limited residential in the Lakeside Business District
		Work Session	Presentation and discussion of amending the Town's Park Land Dedication ordinance in order to establish park/open space standards for multi-family uses.
	2/4/2019	Presentation	ACMS Update
		Presentation	CoServ check presentation
		Consent	Peters Colony Road Roundabout & Windsor Drive Roundabout Connection Design Award.
		Consent	Red Bud Point Water Service Relocation.
		Consent	Pintail Pump Station (Auxiliary Power & Upgrades) - Testing
		Consent	Wastewater Treatment Plant UV Award
		Consent	Bruton Orand EST Chloramine Design Award.
		Consent	Placeholder: calling May 4, 2019 Election
		Consent	Fire Station #7 Testing Award.
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on January 7, 2019.
		Regular	Rippy Road Phase II Design Award.
		Regular	The first of two Public Hearings to review Chapter 50, Article III, "Offenses regarding Minors," Division 2, "Curfew."
		Regular	Discuss and consider appointment of Chair to the Tax Increment Reinvestment Zone (TIRZ).
		Regular	Public Hearing to consider approval of an ordinance establishing a Tax Abatement Reinvestment Zone for commercial-warehouse tax abatement at 951 S Garden Ridge Blvd.

SCHEDULED	2/4/2019	Regular	Public Hearing to consider approval of a Tax Abatement and Chapter 380 Agreement with Thirty-One Gifts, LLC and Prologis, Inc., for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of Town.
	2/18/2019	Consent	FM 1171 @ Riverwalk Drive - Testing Award
		Consent	Heritage Park Phase IV Change Order 3.
		Consent	FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171) - Testing Award.
		Consent	FM 2499 12-Inch Water Line Phase I (Dixon to South of FM 1171) - Construction Award.
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on February 4, 2019.
	3/18/2019	Consent	Bakerfield Park Restroom and Concrete Walkways Award
		Consent	FM 2499 @ Lakeside Parkway NB Right Turn Lane - Testing Award.
		Consent	FM407 at Browning Signal Construction Award
		Consent	Consider approval of the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2018.
		Consent	FM 2499 at Lakeside Parkway NB Right Turn Lane - Construction Award
		Consent	Library Expansion Construction Award (GMP).
	4/1/2019	Consent	Library Expansion Testing Award.