

AGENDA

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

10/7/2019

**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 Jody Smith Hall

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](#).

- 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. PRESENTATIONS

1. Veterans Liaison Doug Brown with update on current events
2. Police Chief Kancel update on school crossing guard hiring process
3. Republic Services Recycling audit update

F. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

G. TOWN MANAGER'S REPORT

Update and discussion on:

1. Capital improvement projects
2. Economic Development projects

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H. FUTURE AGENDA ITEMS

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

I. COORDINATION OF CALENDARS

1. A joint work session with the Parks Board is scheduled for Thursday, October 17.
2. The regular meeting for October 21 has been canceled.

J. 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. Minute approvals- 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 on September 16, 2019; and two regular meetings on September 17 & 19, 2019.
2. Printer Management Services Program- Consider approval of Print Management Services Agreement and printer replacement in the amount of \$66,400.00.
3. Access Control upgrade- Consider approval to upgrade existing access control software to SecurityXpert Transition provided by Schneider Electric from current INet in the amount of \$77,603.00.
4. Fee Schedule Update Ch. 70- Consider approval of an ordinance amending Appendix A, "Fee Schedule," Referenced in Chapter 70: Utilities by adding a new Section 70-55, 70-57, 70-58, and 70-59 and repealing an existing Section 70-362 and to consider adopting an ordinance for said amendment.
5. Utilities Ordinance Update- Consider approval of an ordinance amending Chapter 70: Utilities by replacing Section 70-55, 70-56, and 70-57, and adding a new section 70-58, and 70-59 of Article II, entitled "Water Services," and to consider adopting an ordinance for said amendment.
6. Reimbursement Resolution- Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.
7. Public Works Equipment Grant- Consider approval of a resolution authorizing the Town Manager to accept the 2019 Public Works Emergency Response Team (PWERT) Equipment Cache Enhancement Response Trailer grant under the 2019 Homeland Security Grant Program (HSGP).
8. Furniture for CFS Admin Offices- Consider purchase and installation of furniture and fixtures for Central Fire Station Administration offices from Plano Office Supply in the amount of \$122,534.24.
9. A/V Equipment for CFS Training Room- Consider purchase and installation of audio/visual equipment for Central Fire Station Training Room from Data Projections in the amount of \$129,653.77.
10. Everbridge emergency notification system- Consider approval of a Contract Renewal Quotation for the Everbridge emergency notification system for a total amount of \$26,145.00 and authorization for the Mayor to approve same on behalf of the Town.

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11. Outdoor Warning Sirens- Consider approval of the purchase of two outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$52,597.79.
12. Lewisville Range- Consider approval of a fee agreement with City of Lewisville for use of the Jerry R. Galler Public Safety Training Center for the purpose of firearms training and annual qualifications; and authorization for the Mayor to execute same on behalf of the Town.
13. Library Expansion - Shelving- Consider approval of the purchase of shelving for the Library Expansion and Renovation project, from Lone Star Furnishings, LLC, through a Lone Star Buy Board contract No. 503-16, in the amount of \$350,479.20.
14. Impact Fee Update; Wtr & WW Master Plans- Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., for the professional services associated with the Water and Wastewater Master Plan Updates and Water, Wastewater, and Roadway Impact Fee Updates project, in the amount of \$453,500.00; and authorization for the Mayor to execute same on behalf of the Town.
15. Sidewalk Links- Consider approval of a Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., for the design phase services associated with the Sidewalk Links project, in the amount of \$60,000.00; and authorization for the Mayor to execute same on behalf of the Town.
16. Storage Warehouse CO#2- Consider approval of Change Order No. 2 for the construction of Flower Mound Storage Warehouse project, amending the contract with MSB Constructors, Inc., to provide for an increase to the contract in the amount of \$61,670.80; and authorization for the Mayor to execute same on behalf of the Town.
17. WWTP Phase V CCA- Consider approval of a Professional Services Agreement with Plummer Associates, Inc., to provide contract construction management and resident project representation services, associated with the Wastewater Treatment Plant Rehabilitation Phase V, project, in the amount of \$569,459.00; and authorization for the Mayor to execute same on behalf of the Town.
18. WWTP Phase V Testing Award- Consider approval of a Professional Services Agreement with Alliance Geotechnical Group INC., for construction testing of materials and methods for WWTP Phase V project, for an amount not to exceed \$124,200.00; and authorization for the Mayor to execute same on behalf of the Town.
19. Bakers Branch Stabilization@621 Somerset- Consider approval of the purchase of creek bank stabilization and erosion control services from Knight Erosion Control, Inc., a sole source provider, for work associated with the Bakers Branch Stabilization at 621 Somerset Drive project, in the amount of \$391,568.00; and authorization for the Mayor to execute on behalf of the Town.
20. Lakewood Pk Pavilion Imprv Construction- Consider approval of a Construction Agreement with Northstar Construction, LLC, for the 2018-19 Playground Replacements and the Lakewood Park - Pavilion projects, in the amount of \$63,510.00; and authorization for the Mayor to execute same on behalf of the Town.

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21. Whyburn Drain/Easement Agreement- Consider approval of Whyburn Farm Drainage and Easement Agreement; and authorization for the Mayor to execute the same on behalf of the Town.
22. Cultural Arts Feasibility Study- Consider approval of a Consulting Agreement with Webb Management Services to conduct a feasibility study for a Cultural Arts Center.

K. REGULAR ITEMS

23. Fire Staffing SAFER Grant- Consider approval of a resolution authorizing the Town's Emergency Management Officer to accept the Staffing for Adequate Fire and Emergency Response (SAFER) Grant from the U.S. Department of Homeland Security under FEMA's Fiscal Year 2018 SAFER Grant Program.
24. Denton County ICA for Kirkpatrick 3- Consider approval of an Interlocal Cooperative Agreement with Denton County for the Extension of Kirkpatrick Road; and authorization for the Mayor to execute same on behalf of the Town.
25. Tree Removal- 2233 Sullenberger Way- Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Block B, Lot 13, of Oakbridge at Flower Mound Phase 2. The property is generally located at 2233 Sullenberger Way. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its September 12, 2019, meeting).
26. Tree Removal- St. Philip Catholic Church- Public Hearing to consider an application for a tree removal permit for six (6) specimen trees on property proposed for development as St. Philip the Apostle Catholic Church. The property is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road. (The Environmental Conservation Commission recommended approval by a vote of 5-0-1 at its September 12, 2019, meeting.)
27. SP19-0006 - St. Philip Catholic Church- Consider a request for a Site Plan (SP19-0006 - St. Philip The Apostle Catholic Church, Phase 1) to develop a church, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances. The property is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its September 23, 2019, meeting.)
28. LDR19-0005 - Extended Stay Hotels- Public Hearing to consider an ordinance amending the Land Development Regulations (LDR19-0005 – Extended Stay Hotels) by amending Chapter 98 entitled "Zoning," of the Town's Code of Ordinances, to create or modify the definitions and define the standards for hotels and motels, extended stay hotels, and specific use permit automatic renewals. (The Planning and Zoning Commission recommended approval with modifications by a vote of 6 to 1 at its August 12, 2019, meeting.)
29. DCAD/TAD Board of Directors Nominee(s)- Town Council to consider approval of a Resolution to nominate individuals to be voted on by taxing jurisdictions for the Board of Directors for the Denton Central (DCAD) and Tarrant Appraisal Districts (TAD).

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

Pre-Council Room

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

M. CLOSED MEETING

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

a. Consultation with Attorney.

1. Legal issues associated with discussion of legislative matters outside of a meeting.

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, cultural arts center, and/or other municipal purposes and all matters incident and related thereto.
- c. Discuss and consider resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.
- d. Annual Review of Town Manager and Town Secretary.
- e. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, senior housing, hospitality projects, and performance related to certain incentive agreements.

N. RECONVENE TO REGULAR MEETING

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

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O. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: October 3, 2019, at 4:30 p.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

The Flower Mound Town Hall and Jody Smith Hall 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: October 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 on September 16, 2019; and two regular meetings on September 17 & 19, 2019.

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 September 16, 2019. The Town Council also held a regular meeting on September 17 & 19, 2019, for board and commission interviews.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure/(Revenue):	Account Number(s):

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes from 9.16.19
2. Draft minutes from 9.17.19
3. Draft minutes from 9.19.19

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

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 1**

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 16TH DAY OF SEPTEMBER 2019, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

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

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

Steve Dixon	Mayor
Sandeep Sharma	Mayor Pro Tem
Claudio Forest	Deputy Mayor Pro Tem
Jim Pierson	Councilmember Place 1
Ben Bumgarner	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
Tammy Wilson	Exec Dir of Financial Services
Kay Wilkinson	Budget Officer
Tommy Dalton	Assistant Town Manager
Lexin Murphy	Director of Planning Services
Tiffany Bruce	Executive Director of Public Works
Clayton Riggs	Assistant Director of Public Works
Tom Vyles	Environmental Health Manager
Brian Waltenburg	Assistant Director of Engineering

A. CALL REGULAR MEETING TO ORDER

Mayor Dixon called the regular meeting to order at 6:01 p.m.

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

Chaplain Russ McNamer gave the invocation and Cub Scout Pack 295 led the pledges.

D. 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.	Paul Stone, 4100 Broadway	Various – Budget and Politics
2.	Lori Walker, 4913 Kingswood	Announcement
3.	Warner Watkins, 2800 London Dr	Budget; 21 - support
4.	Kevin Bryant, 3513 Castlewood	21 – 24
5.	Robert Rawson, 1409 Basil Dr	Public comment; 21 - support

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6.	James Rawson, 1313 Cilantro Dr	21 - support
7.	Bjorn Vandug, 2016 Barton Creek Ln	Council member experience and budget
8.	Sarah Vaught, 3624 Burlington Dr	Town staff
9.	Tim Whisenant, 2121 Helmsford	Town budget
10.	Dan Licardo, 4200 Broadway Ave	Public participation
11.	Don McDaniel, 3801 Hide A Way	Blood drive
12.	David Johnson, 3617 San Paula	Public comment
13.	Geany Glock, 1904 Stonehill Dr, Justin, Tx	2020 Census jobs
14.	Sharon Gentry, 2750 Bob White Ln	Public comment
15.	Jay Marks, 2105 Larkspur	Public comments
16.	Karen Rawson, 1409 Basil Dr*	21 – support
17.	Brit Stock, 3701 Acton With donated time from: 1. Alexis Grossman, 4100 Broadway 2. Beth Dilley, 3100 Sagebrush Dr	Budget
18.	Albert Picardi, 1525 Lindby	Public participation
19.	Bryan Webb, 4112 High Rd With donated time from: 1. Alison Olson, 4509 Ironwood Dr 2. Cherie Hadjian, 1624 Lansdale Dr 3. Pat Graves, 2104 Kings Forest 4. Doug Graves, 2104 Kings Forest	Budget and process

**Submitted a public comment form; however, indicated do not wish to speak*

E. PRESENTATIONS

1. Proclamation for United Way of Denton County, "LIVE UNITED Month"

Mayor Dixon recited the Proclamation and presented it to the following United Way representatives:

Rob Seay, United Way Board Member;

Gary Henderson, President and CEO United Way Denton County;

Teddy Yan, Director of Financial Initiatives

2. Recognition of the 2019 Food Safety Award of Excellence winners and National Food Safety Month

Mr. Vyles provided background information on the program and announced the winners:

- o Fast Food: Pizza Hut, 2717 Cross Timbers Rd.
- o Full Service: Pier 407 Seafood & Grill
- o Hospital/ Assisted Living: Autumn Leaves
- o Grocery Store: Tom Thumb, 2301 Justin Rd.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 3****3. National Septic Smart Week Proclamation**

Mayor Dixon recited the Proclamation and presented it to Mr. Vyles.

F. ANNOUNCEMENTS

Mayor Dixon provided a statement of fact regarding a criminal complaint that has been filed with the Denton County District Attorney's Office, which names several members of staff along with the entire 2018 Town Council. He reported that after reading the complaint and consulting with the Town Attorney, he felt compelled to state that the allegations are clearly baseless. Additional statements were also provided on the matter.

Councilmember Bumgarner had the following announcements:

- Thanks to the Summit Club for the blood drive and for Dan Licardo and his involvement
- Thanks to Troop 295 for being here
- Mayor Steve Dixon was awarded Best Mayor of Denton County

Councilmember Engel had the following announcements:

- Keep Flower Mound Trash Bash on Saturday, September 28
- On 10/5 there will be a Casino night at the Marriott Courtyard for the Flower Mound Citizen Police Academy Alumni Association to benefit the Police Department's Santa Cops program
- His thoughts regarding the criminal complaint

Councilmember Pierson had the following announcements:

- Shared his thoughts regarding the criminal complaint
- Reported on the LISD dignitary game at Marcus High School

G. TOWN MANAGER'S REPORT

Mr. Stathatos summarized the Town's financial position and provided an update on the following projects:

1. Capital improvement projects
 - Yucca and Churchill
 - Sidewalk links and ADA improvements
2. Economic Development projects
 - Hotel Indigo has submitted plans (Lakeside Crossing)
 - Economic score card is now on line

Mr. Dalton provided an update on the following project:

3. Small Cell Permits
 - Background information
 - Macro cell map (traditional cell towers – 21 sites), including photographs
 - Small cell poles
 - o 112 permits to date (17 finalized and 95 in process)
 - o pictures of sites
 - o map of locations and providers

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and he responded to the following questions from Council:

- What is the time frame for the proposed sites
- Is there a process that residents can be involved in to communicate the poor service in some areas of Town
- Do the towers present any type of safety concern as it relates to radiofrequency emissions

H. FUTURE AGENDA ITEMS

1. There were no items requested for a future agenda.

I. COORDINATION OF CALENDARS

Mayor Dixon announced the following upcoming meetings:

1. Board and Commission Interviews (9/17 & 9/19).
2. A regular meeting is scheduled for Monday, October 7.
3. A joint work session with Parks Board is scheduled for Thursday, October 17.

J. CONSENT ITEMS

1. 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 on September 3, 2019.
2. Consider approval of a resolution adopting a new voting system for Town elections (Tarrant County); and providing an effective date.

RESOLUTION NO. 13-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING A NEW VOTING SYSTEM FOR TOWN ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.

Item 3 moved from consent to regular items.

4. Consider and approve annual update to the River Walk Public Improvement District No. 1 (PID) Service and Assessment Plan (SAP) and Assessment Roll
5. Consider approval of an ordinance adopting Atmos Energy Corp., Mid-Tex Division's rate tariffs that reflect the negotiated rate change pursuant to the Rate Review Mechanism process.

ORDINANCE NO. 46-19

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED

SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC'S LEGAL COUNSEL.

6. Consider approval of an ordinance amending the Code of Ordinances of the Town of Flower Mound through the amendment of Appendix A "Fee Schedule" of the Code of Ordinances by amending Section 70-777 relative to the charges for the Stormwater Utility System fee.

ORDINANCE NO. 47-19

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A "FEE SCHEDULE" OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND RELATIVE TO THE CHARGES FOR STORMWATER UTILITY SYSTEM FEES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

7. Consider approval of an ordinance amending Appendix A of the Code of Ordinances by amending the charges for residential and non-residential water and wastewater service; providing a severability clause; providing for publication; and providing an effective date.

ORDINANCE NO. 48-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING APPENDIX A, "FEE SCHEDULE," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND BY AMENDING THE CHARGES CONTAINED THEREIN FOR RESIDENTIAL AND NON-RESIDENTIAL WATER AND WASTEWATER SERVICE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

8. Consider approval of a resolution amending the financial policies of the Town of Flower Mound.

RESOLUTION NO. 14-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF AMENDED FINANCIAL POLICIES; AND PROVIDING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 6**

9. Consider approval of a resolution adopting an Investment Policy for funds for the Town of Flower Mound as required annually by the Public Funds Investment Act.

RESOLUTION NO. 15-19**A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS ("TOWN"), ADOPTING AN INVESTMENT POLICY FOR FUNDS FOR THE TOWN AS REQUIRED ANNUALLY BY THE PUBLIC FUNDS INVESTMENT ACT; AND PROVIDING AN EFFECTIVE DATE.**

10. Consider approval of the purchase of 18 sets of bunker gear for \$49,130.82 and 100 pairs of firefighting gloves for \$7,286.00 from NAFECO, Inc. through Buyboard Purchasing Contract # 514-17 in the total amount of \$56,416.82 and authorization for the Mayor to approve same on behalf of the town.
11. Consider approval of Change Order No. 2 for the Flower Mound Central Fire Station, Phase II project, amending the contract with Schmoldt Construction, to provide for an increase to the contract in the amount of \$45,084.11; and authorization for the Mayor to execute same on behalf of the Town.
12. Consider approval of a Construction Manager at Risk Agreement for the restoration of the Gibson Grant Log Cabin Project with Phoenix I Restoration and Construction, Ltd., for a fixed fee of \$185,244.00; and authorization for the Mayor to execute the same on behalf of the Town.
13. Consider approval of Change Order No. 1 to North Rock Construction, LLC,. for the Bakersfield Rest Room and Concrete Walkways project, in the amount of \$89,818.03; and authorization for the Mayor to execute same on behalf of the Town.
14. Consider approval of Amendment No. 1 to the Professional Services Agreement with Alan Plummer Associates, Inc., to provide additional contract construction management and resident project representation services, associated with Wastewater Treatment Plant Rehabilitation Phase IV project for an increase of \$30,000.00; and authorization for the Mayor to execute same on behalf of the Town.
15. Consider approval of a Professional Services Agreement with ECS Southwest, LLP., to provide construction materials engineering and testing, for the Kirkpatrick Lane 12-Inch Water Line Phase II project, in the amount of \$47,170.00; and authorization for the Mayor to execute same on behalf of the Town.
16. Consider approval of a Construction Agreement with A&M Construction and Utilities, Inc., for the Kirkpatrick Lane 12-Inch Water Line Phase II project, in the amount of \$867,140.80; and authorization for the Mayor to execute same on behalf of the Town.
17. Consider approval of a Professional Services Agreement with ECS Southwest, LLP, to provide construction materials engineering and testing, for the FM2499 12-Inch Water Line Phase I project, in the amount of \$18,320.00; and authorization for the Mayor to execute same on behalf of the Town.
18. Consider approval of a Construction Agreement with GRod Construction, LLC., for the FM2499 12-Inch Water Line Phase I project, in the amount of \$859,092.30; and authorization for the Mayor to execute same on behalf of the Town.

Items 19-20 moved from consent to regular items.

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Mayor Pro Tem Sharma moved to approve by consent Items 1, 2, 4 – 18, as presented in the agenda caption. 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: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE****K. REGULAR ITEMS**

3. Consider approval of a Professional Services Agreement with Matrix Consulting Group, Inc. to conduct an assessment of the development review process, in the amount of \$34,800.00; and authorization for the Mayor to execute same on behalf of the Town.

Councilmember Engel recalled that a few meetings ago Council directed staff to look at development and permit fees, etc. He indicated that this might be a good opportunity to expand the scope since for a review of the Town's development and permitting fee structure.

There was Council consensus to proceed with a revised scope of work as discussed, and with the understanding that staff would come back with an amendment so as to not delay their going forward with what is currently outlined.

Councilmember Engel moved to approve as presented. Mayor Pro Tem Sharma seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

Mayor Dixon opened items 19 and 20 at the same time.

19. Consider approval of a Professional Services Agreement with Braun Intertec Corporation, to provide construction materials engineering and testing, for the Valley Ridge Blvd & Morriss Road Intersection Improvements and Windsor Drive Roundabout Connection projects, in the amount of \$30,182.00; and authorization for the Mayor to execute same on behalf of the Town.
20. Consider approval of a Construction Agreement with 2L Construction, LLC., for the Valley Ridge Blvd & Morriss Road Intersection Improvements and Windsor Drive Roundabout Connection projects, in the amount of \$613,413.50; and authorization for the Mayor to execute same on behalf of the Town.

Mr. Waltenburg responded to the following questions from Council:

- What stage is the Town in with these projects
- What is the investment so far

Deputy Mayor Pro Tem Forest moved to approve items 19 and 20 as presented. Councilmember Engel seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 8****VOTE ON MOTION:***Motion passed***AYES: FOREST, SHARMA, ENGEL****NAYS: BUMGARNER, PIERSON**

Mayor Dixon opened Items 21-24 at the same time.

21. Consider approval of an ordinance adopting the budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and making appropriations for each fund and department.

Staff Presentation

Ms. Wallace gave a presentation for items 21 - 24 identifying or noting:

- Budget process
- Budget timeline
- How Flower Mound compares (Benchmark cities) in the areas of population, tax rate, debt tax rate, % of the tax rate used to pay debt, percentage of governmental outstanding debt, total debt per capita, direct and overlapping debt per capita, full time equivalent (FTE) per capita, unassigned fund balance and financial policy
- Strategic goals
- Financial goals
- Required budget and tax rate adoption language
- 2019 debt service and tax rate
- General fund
- Residential and commercial tax bill comparison
- Utility fund
- Water/Wastewater rates
- Stormwater utility fund
- SWUS Rates
- Special revenue funds
- Total CIP – general
- Streets projects
- Signal projects
- Parks projects
- Total CIP – Utility
- Water projects

and she, or Mr. Stathatos, responded to the following questions from Council:

- In your professional opinion, which of the tax rates would be best to serve our Town and why
- Clarification that the proposed tax rate is \$0.4390
- Clarification regarding a proposed motion for a different amount

and there was Council discussion regarding:

- How it was never about reducing compensation and how the discussion started about performance based increases
- Effective tax rate versus proposed tax rate and associated impacts

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019

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- Possibility of one half a percent reduction on the tax rate and acceptance of the proposed cuts presented by staff
- Possibility of \$0.4365 tax rate
- Appreciation for the work to date regarding the budget reductions
- Budget history (presentation by Councilmember Pierson)
- How there are sufficient cuts in the budget that the Town can live with

ORDINANCE NO. 49-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AND APPROVING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020, AND MAKING APPROPRIATIONS FOR EACH FUND AND DEPARTMENT; PROVIDING FOR THE LEVYING AND COLLECTION OF A SUFFICIENT TAX TO PAY THE INTEREST ON SINKING FUND AND OTHER OBLIGATIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Deputy Mayor Pro Tem Forest moved to approve an ordinance adopting the budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and making appropriations for each fund and department. Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

Deputy Mayor Pro Tem Forest moved to ratify the property tax revenue increase reflected in the FY 2019-2020 budget. Councilmember Engel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE**

22. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020.

RESOLUTION NO. 16-19

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, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Deputy Mayor Pro Tem Forest, acting as the Board of Directors for the Crime Control and Prevention District, moved to approve a resolution adopting the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020. Councilmember Bumgarner seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 10****VOTE ON MOTION:***Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

23. Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020.

RESOLUTION NO. 17-19

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, ADOPTING AND APPROVING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019, AND ENDING SEPTEMBER 30, 2020; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Deputy Mayor Pro Tem Forest, acting as the Board of Directors for the Fire Control, Prevention, and Emergency Medical Services District, moved to approve a resolution adopting the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020. Councilmember Engel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE**

24. Consider approval of an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.4390 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2019.

Deputy Mayor Pro Tem Forest moved that the property tax rate be increased by the adoption of a tax rate of \$0.4390 per \$100 of assessed value, which is effectively a 2.77 percent increase in the tax rate; and moved to approve an ordinance adopting the 2019 tax rolls and fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.4390 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2019." No one seconded the motion.

Motion failed due to lack of a second

Mayor Pro Tem Sharma moved that the property tax rate be increased by the adoption of a tax rate of \$0.434 per \$100 of assessed value, which is effectively a 1.6 percent increase in the tax rate; and moved to approve an ordinance adopting the 2019 tax rolls and fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and for each fiscal year thereafter until otherwise provided, at the rate of

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019

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\$0.434 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2019.” No one seconded the motion.

Motion failed due to lack of a second

ORDINANCE NO. 50-19

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2019, AND ENDING ON SEPTEMBER 30, 2020, AND FOR EACH FISCAL YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT A RATE OF \$0.4365 PER ONE HUNDRED DOLLARS (\$100) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN AS OF JANUARY 1, 2019; DIRECTING THE ASSESSMENT THEREOF TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT EXPENSES AND TO PROVIDE AN INTEREST AND SINKING FUND ON ALL OUTSTANDING DEBTS OF THE TOWN; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST; PROVIDING FOR APPROVAL OF THE 2019 TAX ROLLS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

Councilmember Engel moved that the property tax rate be increased by the adoption of a tax rate of \$0.4365 per \$100 of assessed value, which is effectively a 2.18 percent increase in the tax rate; and moved to approve an ordinance adopting the 2019 tax rolls and fixing and levying municipal ad valorem taxes for the fiscal year beginning on October 1, 2019, and ending on September 30, 2020, and for each fiscal year thereafter until otherwise provided, at the rate of \$0.4365 per \$100 assessed valuation on all taxable property within the corporate limits of the Town of Flower Mound as of January 1, 2019.” Deputy Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

Mayor Dixon opened Items 25-26 at the same time.

25. Public Hearing to consider an application for a tree removal permit for one hundred seven (107) specimen trees on property proposed for development as Lakewood development. The property is generally located north of Long Prairie Road and east of Silveron Boulevard. Commission Member Naylor seconded the motion. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its March 5, 2019, meeting).

Councilmember Pierson moved to deny item 25 (Tree removal – Lakewood). Mayor Pro Tem Sharma seconded the motion.

VOTE ON MOTION:*Motion passed (to deny)***AYES: BUMGARNER, SHARMA, ENGEL, PIERSON****NAYS: FOREST**

26. Public Hearing to consider a request for rezoning (ZPD17-0013 - Lakewood) from Planned Development District No. 31 (PD-31) with Campus Commercial District (CC) uses to Planned Development District No.163 (PD-163) with both non-residential and residential uses in compliance with the Campus Commercial land use designation within the Lakeside Business District Area Plan, including a Comprehensive Sign Package, and with an exception to the Architectural Standards of the Town's Urban Design Plan for meritorious design, and a waiver to the Architectural Standards in the Town's Urban Design Plan for roof pitch for certain buildings less than 15,000 square feet in size, a request for an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with certain waivers, exceptions and modifications to the Code of Ordinances including but not limited to an exception to Section 98-147, "Topographical Slope Protection," and consider adopting an ordinance providing for said amendment subject to the terms and conditions in the attached Development Agreement and authorization for Mayor to execute same on behalf of the Town. The property is generally located north of Long Prairie Road and east of Silveron Boulevard. (The Planning and Zoning Commission recommended denial by a vote of 6 to 1 at its August 26, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation for items 25 and 26 identifying or noting:

- General location
- Detailed location
- Project proposal
- Waivers and exceptions requested
- Concept site plan
- Other environmental impacts
- Trees proposed to be removed
- Open space
- Comprehensive Sign Package request
- Modifications summary
- Campus Commercial uses by right
- Phasing

and she, or Ms. Bruce responded to the following questions from Council:

- Clarification regarding:
 - o The amount of waivers/exceptions
 - o What is the ratio of residential versus nonresidential square footage
- What is the level of service on FM 2499
- Do the other developments in the area with residential components meet the marketing needs
- How long is the pedestrian bridge and how close is the nearest public parking
- Would it be possible to put parking stalls around the park

Applicant Presentation

Kendra Stephenson, 3505 Yucca Dr, Portmanteau Consulting, representing the property owner and lead developer.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 13**

Mark Myer, TBG Partners

Alex Rathbun, Kimley-Horn, 13455 Noel Road, Dallas

Ms. Stephenson gave a presentation identifying or noting:

- Development partners
- Lakeside Business District aerial map
- Site analysis
- Site condition
- Existing entitlement
- The lake aerial view
- Lakewood addresses issues with existing mixed use projects and existing zoning
- Lakewood Master Plan
- Land use
- Regional trail system
- Artist rendering of lake area
- Linear park
- Preserved upland and open space
- Entertainment zone
- Commercial zone (3)
- Single family residential
- ECC approval
- Parks approval
- Staff comments and P & Z questions
- Lakewood meets applicable limited residential requirements
- Lakewood land use versus lakeside Business District Are mixed use project
- Exceptions, modifications, and unresolved items
- Elevation comparisons
- Typical retail elevations

and she, or Mr. Meyer, or Mr. Rathbun, responded to the following questions from Council, some of which were as a result of the public hearing:

- Clarification regarding the pitched roof exception, impact of the slope, open space
- Clarification regarding phasing
- What is the plan for the ponds adjacent to Long Prairie Road
- Traffic study results

Mayor Dixon opened the Public Hearing for items 25 and 26 at 10:30 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
Patsy Mizeur, 1821 Castle Ct	Adam Schiestel, 2205 Waterford Dr	None
	Judy Collins, 1537 Simmons Rd**	Tim Whisenant, 2121 Helmsford

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 14**

	Sandy Fambrough, 4105 Spring Meadow Ln*	
	David McCarty, 1412 Stapleton*	
	Scott Langley, 800 Carter Ct*	
	Lori Pearson 5304 Singing Brook*	
	KC Walsh, 3525 High Rd*	

*submitted a speaker card but indicated did not wish to speak

**submitted a speaker card but was not available when called

Mayor Dixon closed the Public Hearing for items 25 and 26 at 10:34 p.m.

There was Council discussion regarding:

- How traffic issues on 2499 is not going to change
- How it's a good use of the property and there is a lot of open space
- Traffic concerns
- How people in Lakeside want a grocery store
- Aspects of the project that are nice
- Issues (residential density, commercial and single story buildings, parking)
- Too much stuff concentrated in one area
- Concerns regarding the number of exceptions being requested
- Market demands
- Concerns regarding the amount of residential
- Rather see the lake and the amenities (including the ponds across the front) activated, along with the retail and office building instead of a motel and retailers like Dollar Tree, etc.
- How traffic will continue to be an issue
- Urban versus suburban classification
- Recognize that a mixed use is needed; however, the amount of residential in the area should allow the development to be sustained
- Understanding that the property will be developed but concerns regarding the whole package

Mayor Pro Tem Sharma moved to deny item 26 (ZPD Lakewood PD-163). Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:

Motion passed (to deny)

AYES: PIERSON, ENGEL, SHARMA, BUMGARNER

NAYS: FOREST

27. Public Hearing to consider a request for Specific Use Permit No. 456 (SUP19-0001 - RaceTrac) to permit a convenience store with gasoline sales, with an exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances, an exception to Section IV.C.5. of the Town's Engineering Design Criteria regarding the requirement for a wet detention pond, an exception to the Architectural Standards of the Town's Urban Design Plan for meritorious design, a waiver to the Architectural Standards in the Town's Urban Design Plan regarding roof pitch and a deviation to the required parking standard pursuant to Section 82-73 of the Code of Ordinances, and to consider adopting an ordinance providing for said amendment.. The property is generally located east of Long Prairie Road and south of Spinks Road. (The

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 15**

Planning and Zoning Commission recommended denial by a vote of 4 to 3 at its September 9, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- Land use and zoning
- Photos of the site
- Exceptions and waivers
- Landscape plan
- Exceptions: drive spacing
- Exception: wet pond
- Elevations
- Waiver: roof pitch
- Exception: franchise architecture
- Turning movements
- Comprehensive site plan
- Landscape plan

and she, Mr. Dalton, or Ms. Bruce responded to the following questions from Council:

- Where are the fuel pipes within the property
- Are the parking standards different for restaurant versus a convenience store
- Is there a map of area convenience stores
- Since it's a right in only what is the objection to the other driveway
- Why aren't deceleration lanes an option

Applicant Presentation

Drew Cunningham, Race Trac Petroleum, Atlanta, GA

Mr. Cunningham gave a presentation identifying or noting:

- Company information
- The property (map)
- Summary of request
- Proposed site plan
- Proposed landscape plan
- Parking waiver
- Drive on Spinks
- Standard canopy
- Enhanced canopy
- Standard elevation
- Enhanced elevation
- Renderings
- Truck route concern; truck turn radius

and he responded to the following questions from Council:

- Traffic patterns as it relates to markets and overall flow
- Where are other RaceTrac locations nearby

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 16**

- Does the spacing requirements work today at other Race Trac stores based on the truck standards

Mayor Dixon opened the Public Hearing at 11:26 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
Ron Crosby, 16741 Village Ln, Dallas, Tx	Tim Whisenant, 2120 Helmsford	None
	Sandy Fambrough, 4105 Spring Meadow Ln**	
	Scott Langley, 800 Carter Ct*	
	KC Walsh, 3525 High Rd*	
	David McCarty, 1412 Stapleton	
	Lori Pearson, 5304 Singing Brook	

*submitted a speaker card but indicated did not wish to speak

**submitted a speaker card but was not available when called

Mayor Dixon closed the Public Hearing at 11:32 p.m.

Council Discussion

There was Council discussion regarding:

- Emails received and traffic concerns regarding the proximity to areas where children travel
- 24 hour convenience station may result in high traffic numbers
- Concerns regarding traffic patterns, truck movements, and passage lanes are a bit tight
- Concerns that a lot is being compressed in small acreage
- Appreciation for the building design, patio
- How it will not be bringing in "new" sales tax to the Town and may hurt other businesses
- How the applicant states they have over 400 stores and the truck patterns work
- There is nothing on the site that precludes them from being there
- How proper signage can keep trucks from coming out on Spinks
- Even if there are 50 gas stations in the area it's not Council's job to make sure the market can handle the store
- The main issue has to do with safety

Deputy Mayor Pro Tem Forest moved to approve SUP19-0001 – RaceTrac SUP – 456 as presented. Councilmember Engel seconded the motion.

VOTE ON MOTION:

Motion failed

AYES: FOREST

NAYS: PIERSON, ENGEL, SHARMA, BUMGARNER

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 17**

Mayor Pro Tem Sharma moved to deny SUP19-0001 – RaceTrac SUP – 456. Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:*Motion failed (to deny)***AYES: BUMGARNER, SHARMA, PIERSON****NAYS: FOREST, ENGEL**

Administrative Note: A super majority was required for this item due to the Planning and Zoning recommendation vote of denial.

28. Public Hearing to consider a request for rezoning (ZPD19-0010 – Parker Square CSP Building 700) to amend the Comprehensive Sign Standards within Planned Development District No. 24 (PD-24) by allowing certain attached office tenant signs for Building 700, and consider adopting an ordinance providing for said amendment. The property is located north of Cross Timbers Road at 700 Parker Square Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 1 at its September 9, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Site photos of the building subject to the request
- Proposed signs

Council Discussion

There was Council discussion regarding:

- How the new signage will be helpful for residents to navigate their way around the property

Mayor Dixon opened the Public Hearing at 11:50 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 11:50 p.m.

ORDINANCE NO. 51-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 80-03, WHICH AMENDED PLANNED DEVELOPMENT DISTRICT NO. 24 (PD-24) FOR (O) OFFICE DISTRICT AND (R-2) RETAIL DISTRICT-2 USES, BY AMENDING EXHIBIT "B" ON CERTAIN PROPERTY DESCRIBED AS LOT 4R, BLOCK 1, OF THE PARKER SQUARE ADDITION, BY ALLOWING CERTAIN ATTACHED TENANT WALL SIGNS; 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.

Councilmember Bumgarner moved to approve as presented. Councilmember Engel seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 18****VOTE ON MOTION:***Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

29. Consider a request for a Site Plan (SP19-0017 – Valley Creek Church Parking Lot Expansion) to develop a parking lot addition with a request for a deviation to the required parking standard pursuant to Section 82-73 of the Code of Ordinances. The property is generally located south of Dixon Lane and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 7 to 0 at its September 9, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- General location
- Land use and zoning
- Parking allowance for a church
- Deviation to exceed the allowable amount of parking (reason why it's coming before Council)
- Photos of the site
- Site plan
- Previously approved site plan
- Landscape plan

and she responded to the following questions from Council:

- Why is there a problem with going 20% over for parking
- Are they required to irrigate the islands

Council Discussion

There was Council discussion regarding:

- How it's great to see them doing so well that they need more spaces
- How there is never enough parking in a lot of places
- How there is an unlikelihood of something being along Dixon

Deputy Mayor Pro Tem Forest moved to approve item 29 (SP19-0017 – Valley Creek Church Parking) as presented. Mayor Pro Tem Sharma seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

30. Consider approval to award Bid No. 2019-155-B to Archer Western Construction, LLC., for the Wastewater Treatment Plant Rehabilitation Phase V, Solids Facility Improvements, in the amount of \$9,199,060.00; and authorization for the Mayor to execute same on behalf of the Town.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 16, 2019**PAGE 19****Staff Presentation**

Mr. Riggs gave a presentation identifying or noting:

- Project description (demolition, installation)
- Construction time of 600 days
- Why is it needed
- Bid response
- Aerial of the treatment facility

Mayor Pro Tem Sharma moved to approve as presented. Councilmember Engel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE****L./M. CLOSED/OPEN MEETING**

The Town Council did not convene into closed meeting. No action was taken on the following items:

- a. Consultation with Attorney.

Regulation of Short Term Rentals

- b. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts center, 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.

N. ADJOURN REGULAR MEETING

Mayor Dixon adjourned the meeting at 12:03 a.m. on Tuesday, September 17, 2019, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

STEVE DIXON, MAYOR**ATTEST:**

THERESA SCOTT, TOWN SECRETARY

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 17, 2019**PAGE 1**

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 17th DAY OF SEPTEMBER, 2019, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

[Click here](#) for meeting Video Link (subject to change)

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

Steve Dixon	Mayor
Sandeep Sharma	Mayor Pro Tem
Jim Pierson	Councilmember Place 1
Ben Bumgarner	Councilmember Place 3
Jim Engel	Councilmember Place 4

constituting a quorum with the following members absent:

Claudio Forest	Deputy Mayor Pro Tem
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constituting a quorum with the following members of the Town Staff participating:

Theresa Scott	Town Secretary
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A. CALL MEETING TO ORDER

Mayor Dixon called the meeting to order at 6:06 p.m. and announced the interview format that will be used.

B. PUBLIC COMMENT

	Speaker names and address	Subject (as written on the form)
1.	No one spoke	

C. BOARDS/COMMISSIONS

The Town Council conducted interviews for the following boards or commissions:

1. Animal Services Board
2. Board of Adjustment/Oil and Gas Board of Appeals
3. Community Development Corporation
4. Cultural Arts Commission (CAC)
5. DCTA Board of Directors (Town appointed representative)
6. Environmental Conservation Commission (ECC)
7. LISD Liaison
8. Parks Board
9. Planning & Zoning Commission
10. SMARTGrowth Commission
11. Tax Increment Reinvestment Zone Number One (TIRZ #1)
12. Transportation Commission
13. Veterans Liaison

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 17, 2019**PAGE 2**

The following individuals interviewed for current or new positions on a Town Board or Commission:

First Name	Last Name
Ram	Arikkath
Brandi	Billings-Wilkerson
Troy	Bishop
David	Boehner
Brittany	Bowden
Alton	Bowman
Philip	Del Vecchio
Bethany	Dilley
Ryan	Geddie
James	Gerber
Brenda	Gribbin
Kent	Johnson
Veena	Kodali
Patrick	Martin
Russ	McNamer
Charlie	Moussa
James	Naylor
Dale	Olson
Brad	Painter
Tom	Pickering
Jennifer	Romaszewski
Holly	Royer
Willie	Scales
Adam	Schiestel
Michael	Schramm
Greg	Schultz
Jodi	Seay
Deanna	Soper-Pinkelman
Theresa	Thomason
Mary Kay	Walker
Janvier	Werner
Barry	Willett

No action was taken.

D. COORDINATION OF CALENDAR

1. Mayor Dixon announced that a second Board & Commission interview meeting is scheduled for Thursday, September 19.

E. ADJOURN MEETING

Mayor Dixon adjourned the regular meeting at 8:23 p.m. on Tuesday, September 17, 2019, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

STEVE DIXON, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019**PAGE 1**

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 19th DAY OF SEPTEMBER, 2019, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 6:00 P.M.

[Click here](#) for meeting Video Link (subject to change)

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

Steve Dixon	Mayor
Sandeep Sharma	Mayor Pro Tem
Jim Pierson	Councilmember Place 1
Ben Bumgarner	Councilmember Place 3
Jim Engel	Councilmember Place 4
Claudio Forest	Deputy Mayor Pro Tem

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

Theresa Scott	Town Secretary
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A. CALL MEETING TO ORDER

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

B. 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.	No one spoke	

C. BOARDS/COMMISSIONS (Jody Smith Hall)

Town Council conducted interviews for the following boards or commissions:

1. Animal Services Board
2. Board of Adjustment/Oil and Gas Board of Appeals
3. Community Development Corporation
4. Cultural Arts Commission (CAC)
5. DCTA Board of Directors (Town appointed representative)
6. Environmental Conservation Commission (ECC)
7. LISD Liaison
8. Parks Board
9. Planning & Zoning Commission
10. SMARTGrowth Commission
11. Tax Increment Reinvestment Zone Number One (TIRZ #1)
12. Transportation Commission
13. Veterans Liaison

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019**PAGE 2**

with the following individuals participating:

First Name	Last Name
Chris	Adams
Annaprabha	Athappan
Doug	Brown
Bill	Collins*
Dan	Courtright
Greg	Crouse
Sandra	Fambrough
Tim	Fink
Donald	Gilmore
Prabu	Jaganatan
Andrew	Kloefkorn
William	Langley
Drew	Larson
Chris	Lueking
Rishiyur (Mo)	Mohan
Ron	Murchek
Al	Picardi
Robert	Rawson
Mark	Roberson
Brad	Ruthrauff
Claire	Schroeder-Brown
Ellis	Stallings
Jonathan	Stricklan
Justin	Thomason

**Signed in but not available when called.*

D. BOARDS/COMMISSIONS (Pre-Council Room)

At 7:21 p.m. the Town Council convened to the Pre-Council Room to discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions:

1. Animal Services Board
2. Cultural Arts Commission (CAC)
3. DCTA Board of Directors (Town appointed representative)
4. Environmental Conservation Commission (ECC)
5. LISD Liaison
6. Parks Board
7. SMARTGrowth Commission
8. Tax Increment Reinvestment Zone Number One (TIRZ #1)

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019

PAGE 3

9. Transportation Commission
10. Veterans Liaison

E. BOARDS/COMMISSIONS (Jody Smith Hall)

The Town Council reconvened to Jody Smith Hall at 8:16 p.m. and appointments/reappointments for the above referenced boards was tabled until after the closed session and were as follows:

For the Parks Board Councilmember Pierson moved to:

Reappoint* or Appoint**	Term
<u>Dale Olson, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Teresa Thomason, Place 3*</u>	
<u>Jodi Seay, Place 5*</u>	
<u>Jennifer Romaszewski, Place 7*</u>	
<u>William (Scott) Langley, Place 9, Alternate**</u>	
<u>Holly Royer, Place 10, Alternate**</u>	<u>October 1, 2019 – September 30, 2020</u>

and Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:

AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER

NAYS: NONE

Motion passed

For the Cultural Arts Commission Councilmember Engel moved to:

Reappoint* or Appoint**	Term
<u>Ron Miller, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Beth Dilley, Place 3*</u>	
<u>Jonathan Stricklan, Place 5**</u>	
<u>Brenda Gribben, Place 7, Alternate**</u>	

and Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:

AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON

NAYS: NONE

Motion passed

For the Environmental Conservation Commission Councilmember Engel moved to:

Reappoint* or Appoint**	Term
<u>James Naylor, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Russell McNamer, Place 3*</u>	
<u>Alton Bowman, Place 5*</u>	
<u>Deana Soper-Pinkelman, Place 7**</u>	
<u>Anna Athappan, Place 9, Alternate**</u>	

and Mayor Pro Tem Sharma seconded the motion.

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019**PAGE 4****VOTE ON MOTION:***Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

For the Transportation Commission Mayor Pro Tem Sharma moved to:

Reappoint* or Appoint**	Term
<u>Charles (Drew) Larson, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Ron Hogue, Place 3*</u>	
<u>Donald Gilmore, Place 5*</u>	
<u>Justin Thomason, Place 7*</u>	
<u>Mary Kay Walker, Place 9, Alternate**</u>	
<u>Mark Roberson, Place 4**</u>	<u>October 1, 2019 – September 30, 2020</u>

and Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE**

For the Denton County Transportation Authority (DCTA), Deputy Mayor Pro Tem Forest moved to:

Reappoint* or Appoint**	Term
<u>Mark Miller*</u>	<u>Effective immediately and ending November 12, 2021</u>

and Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE**

For the Veterans Liaison Councilmember Bumgarner moved to:

Reappoint* or Appoint**	Term
<u>Doug Brown*</u>	<u>October 1, 2019 – September 30, 2021</u>

and Councilmember Engel seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: BUMGARNER, FOREST, SHARMA, ENGEL, PIERSON****NAYS: NONE**

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019**PAGE 5**

For the Animal Services Board Councilmember Bumgarner moved to:

Reappoint* or Appoint**	Term
<u>David Boehner, Place 3**</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Claire Schroeder-Brown, Place 5*</u>	
<u>Ben Bumgarner, Place 7*</u>	
<u>Barry Willet, Place 9, Alternate**</u>	

and Deputy Mayor Pro Tem Forest seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE****F./G. CLOSED MEETING/RECONVENE TO REGULAR MEETING**

The Town Council convened into closed meeting at 8:16 p.m. pursuant to Texas Government Code Chapter 551.074, to discuss matters relating to personnel, and reconvened at 9:01 p.m. to take the following action:

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

For the Planning & Zoning Commission Mayor Pro Tem Sharma moved to:

Reappoint* or Appoint**	Term
<u>Brad Ruthrauff, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Robert Rawson, Place 3*</u>	
<u>Phil Del Vecchio, Place 5**</u>	
<u>Thomas Pickering, Place 7*</u>	
<u>Timothy (Tim) Fink, Place 9, Alternate**</u>	<u>October 1, 2019 – September 30, 2020</u>
<u>Adam Schiestel, Place 2*</u>	

and Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE**

FLOWER MOUND TOWN COUNCIL MEETING OF SEPTEMBER 19, 2019

PAGE 6

For the Board of Adjustment/Oil & Gas Board of Appeals Deputy Mayor Pro Tem Forest moved to:

Reappoint* or Appoint**	Term
<u>Gregory Schultz, Place 1*</u>	<u>October 1, 2019 – September 30, 2021</u>
<u>Denis Toth, Place 3*</u>	
<u>Greg Wilson, Place 5**</u>	
<u>Ryan Geddie, Place 7, Alternate**</u>	

and Councilmember Bumgarner seconded the motion.

VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER****NAYS: NONE****H. ADJOURN MEETING**

Mayor Dixon adjourned the regular meeting at 9:09 p.m. on Thursday, September 19, 2019, 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: October 7, 2019

FROM: Gary Bertagnolli, Director of Information Technology

ITEM: Consider approval of Print Management Services Agreement and printer replacement in the amount of \$66,400.00

BACKGROUND INFORMATION: There are currently 120 network printers located at various Town facilities. Printers, parts, and toner purchases are currently the responsibility of each department which is approximately \$5,800 a month. There are also additional costs related to the time it takes time for the MIS department to service and repair these printers. The purpose of this agreement is to centralize and outsource all network printer upkeep at a net savings by outsourcing service and toner to CopyNet at \$3,450 month (\$41,400 a year) on a DIR contract.

90 current Dell printers must be replaced with Hewlett Packard printers. Parts and toner for Dell printers are becoming more expensive and harder to obtain since Dell stopped making printers in 2015. The one-time replacement cost is \$25,000.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Net impact for FY19/20 - savings of (\$3,200), Future years annual savings - (\$28,200)

Proposed Expenditure/(Revenue):	Account Number(s):
\$23,713.00	100-680-81000-2180
\$36,757.00	100-680-81000-5110
\$1,287.00	200-680-83000-2180
\$4,643.00	200-680-83000-5110

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

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

ATTACHMENTS:

1. Town of Flower Mound Maintenance Agreement
2. Town of Flower Mound Maintenance Schedule of Equipment
3. Town of Flower Mound Purchase Agreement

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



2805 E. Plano Parkway #100 | Plano, Texas 75074 | 972.881.2679 | www.copyprintscan.com

Maintenance Agreement

Town of Flower Mound

Customer Name

2121 Cross Timbers

Address

Flower Mound TX 75028

City

State

Zip

Gary Bertagnolli

Contact Person

972-874-6000

Phone Number

Fax Number

garyb@flower-mound.com

Email Address

Make / Model	Serial #	Equipment ID	Beginning Meter	
See Schedule of Equipment			B&W	0
			Color	0

Base Amount		Prints Included	Overages	
\$3,450.00	B&W:	46,500 Monthly	0.02	Monthly
	Color:	25,500 Monthly	0.1	Monthly
Monthly	Term:	36 Months	Start Date:	Upon Delivery

- CopyNet Access Meter Read Software must be loaded and operational during contract period for accurate reporting of equipment status and meter reporting. Sentry Onsite Local Beacon can be loaded for local print device reporting.
- Maintenance agreement includes all supplies, toner, maintenance kits, developer, drums, parts, labor, calls, checks, transportation, and preventative maintenance kits.
- Maintenance agreement excludes paper, staples, freight / delivery charges for supplies, misuse and abuse.
- Network support related to printing, scanning, and network faxing is not covered under this agreement after the initial installation. Any connectivity support from the Network Server / Computer side will be done on a billable basis.
- If scans exceed prints then a scan charge of .0025 may apply to the # of scans that exceed the number of prints (\$25.00 per 10,000)

(All other Terms and Conditions on Reverse Side)

Accepted by CopyNet Digital Imaging Solutions

Date Received

Entered by:

(office use only)

Customer Signature

Print Name

Title

As faxed or scanned copy of this agreement with or without the reverse side is considered a binding agreement.

TERMS AND CONDITIONS

1. GENERAL SCOPE OF COVERAGE

This agreement covers both the labor and the material for adjustments, repairs and replacement of parts as necessitated by normal use of the equipment except as hereinafter provided. This agreement does not cover the moving or relocation of the equipment covered by this agreement. Damage to the equipment or its parts arising out of misuse, abuse, negligence, moving or relocating or causes beyond control are not covered. In addition, CopyNet Digital Imaging Solutions. may terminate this agreement in the event the equipment is modified, damaged, altered or serviced by personnel other than those employed by CopyNet, or if parts, accessories or components not authorized by CopyNet are fitted to the equipment.

2. SERVICE CALLS

Service calls under this agreement will be made during normal business hours between 8:00 AM and 5:00 PM at the installation address shown on the reverse side of this agreement. Travel and labor time for service calls after normal business hours, on weekends and on holidays, if and when available, will be charged at after hour rates in effect at the time the service call is made.

3. EXTENT OF LABOR SERVICES

Labor performed during a service call includes lubrication and cleaning of the equipment and the adjustments, repair, and installation of replacement parts described in Paragraph 4.

4. REPAIR AND REPLACEMENT OF PARTS

All parts necessary to the operation of the equipment with the exception of the parts listed below, and subject to the general scope of coverage, will be furnished free of charge during a service call include in the maintenance service provided by this agreement. Exceptions are:

*Circuit Boards and Power Supplies unless machine is attached to a
CopyNet approved surge/power protector (excluding printers) Drums
and maintenance kits in printers unless otherwise noted on the face of
this agreement.*

Any supply items i.e. paper, toner, cleaning items, etc unless otherwise noted on the face of this agreement.

5. RECONDITIONING

After the equipment has made 1,000,000 copies / prints, CopyNet will review the equipment condition at each renewal date of this agreement. Should CopyNet determine that a reconditioning is necessary to maintain the service ability of the equipment under this agreement it will be done at the customer's expense. During the reconditioning a suitable loan machine will be provided to the customer at no charge. If customer does not authorize a reconditioning then the equipment may be serviced under a Maintenance Agreement at an annual rate higher than the base rate for a new machine, or the customer may elect to have the equipment serviced on a per call basis.

6. TERM

This agreement shall become effective upon receipt of payment for the maintenance agreement charge provided on the reverse side hereof and shall continue for the entire term stated on the reverse side. The agreement will automatically renew upon its anniversary for successive 1 year periods. It shall be renewed for successive similar periods subject to the receipt by CopyNet of the maintenance charge in effect at the time of renewal, provided that the customer is not in default.

Excess meter charges will be billed in arrears on a per copy / print basis.

7. CANCELLATION

A cancellation can be effected by either party giving 30 days written notice. Customer agrees to pay ½ of the unbilled maintenance from the time of the cancellation notice is received until the end of the then current term of the contract. Discounted rates for cancellation will be based on the customers past 6 months average monthly usages / billings. This contract is cancelable at any time by customer with no penalty for non performance by CopyNet. Customer shall notify CopyNet in writing of the non performance related incident and CopyNet shall have 5 business days to correct the problem to the customer's satisfaction. If CopyNet does not rectify the non performance issue within the 5 business days then customer can elect to cancel the agreement effective immediately with no penalty. If at any time CopyNet deems the equipment to not be repairable due to age or unavailability of parts then CopyNet can cancel the agreement effective immediately. Any services rendered after cancellation by either party will be billed at the current hourly rate plus parts for any services rendered.

8. CHARGES

The monthly/quarterly charge for maintenance under this agreement shall be the amount set forth on the reverse side hereof. The monthly/quarterly maintenance charge with respect to any renewal term will be the charge in effect at the time of renewal. Customer agrees to pay the total of all charges for maintenance during the initial term and any renewal term within 30 days of the date of receipt of CopyNet's invoice for all such charges. CopyNet Digital Imaging Solutions. reserves the right to increase the price of the contract up to fifteen percent annually without written notice after initial term of agreement on reverse side. Customer understands that alterations or specification changes require an increase in maintenance charges and agrees to pay such charges promptly when due. CopyNet will charge a meter collection service fee of \$5.00 for each meter not collected electronically via meter collection software or if CopyNet does not receive the meter request sent to customers via fax or email back in a timely manner. CopyNet reserves the right to add a fuel surcharge of 1% to contract for rising fuel costs if the average cost per gallon of regular gas is above \$4.00.

9. TONER, DEVELOPER, AND DRUM WILL ONLY PERFORM TO MANUFACTURES YEILDS AND SPECIFICATIONS. CUSTOMERS REQUIRING ADDITIONAL TONER/DEVELOPER DUE TO DENSITY OR SPECIAL COPYING REQUIREMENTS WILL BE CHARGED ACCORDINGLY.

10. BREACH OR DEFAULT

If the customer does not pay promptly, when due all charges for maintenance or parts as provided hereunder including but not limited to any outstanding invoices with CopyNet (1) CopyNet may (a) refuse to service the equipment or (b) furnish service on a C.O.D. "Per Call" basis at published rates and (2) the customer agrees to pay CopyNet's costs and expenses of collection, including the maximum attorney's fee permitted by law, said fee not to exceed 25% of the amount due hereunder. If equipment is moved to a new service zone, CopyNet shall have the option to charge, and the customer agrees to pay the difference in published maintenance charges between the current zone and the new zone, such charges to be assessed on a prorated basis. If equipment is moved beyond published service zone, customer agrees to pay a fair and reasonable surcharge for continued maintenance under this agreement, taking into account the distance to the customer's new location and CopyNet's published rates for service on a "Per Call" basis. If the customer uses supplies other than those recommended by CopyNet and if such supplies are defective or not acceptable for use on the print device and cause abnormally frequent service calls or service problems, then CopyNet may, at its option, terminate this agreement and the unused portion of the maintenance charge will be refunded. In that event, the customer will be offered service on a "Per Call" basis at published

rates. It is not a condition of this agreement however, that the customer use only CopyNet 's authorized supplies.

11. NO WARRANTY

Other than the obligation set forth herein, COPYNET DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE, OR FITNESS FOR A PARTICULAR PURPOSE. DEALER SHALL NOT BE RESPONSIBLE FOR DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGE ARISING OUT OF THE USE OR PERFORMANCE OF THE EQUIPMENT. HOWEVER, NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS AN INDEMNITY AGREEMENT, GUARANTEED BY CUSTOMER.

12. MISCELLANEOUS

It is the customer's responsibility to order supplies before running out. CopyNet will deliver supplies within 5 to 7 business days from the time of order. Customer agrees to pay additional freight and handling for special ordering (hot shot / courier) needs. CopyNet will provide a free loaner machine if the covered unit is down and not repairable for an unreasonable length of time. The "Unreasonable" length of time will be determined by the circumstances under which the machine is being used. This agreement shall be governed by and construed to the laws of the State in which CopyNet is located applicable to agreements wholly negotiated, executed and performed in such State. Customer also agrees to waive its right to trial by jury. This constitutes the entire agreement between the parties and may not be modified except in a writing signed by duly authorized officers of CopyNet Office Systems Inc. and the customer.

13. Non-Appropriation

Customer, a Municipal Corporation, operates on a fiscal year October 1 through September 30. In the event sufficient funds are not appropriated for the payment of the contract amounts required to be paid in any fiscal year, then the Customer shall not be obligated to make the payments provided for in the Contract for such period, or thereafter, regardless of whether the Term has expired. The Agreement shall be deemed to have terminated on the last date for which adequate appropriation was made. Customer agrees to deliver notice to CopyNet of such termination at least thirty (30) days prior to the end of the then-current fiscal year. However, failure to deliver such proof of non-appropriation and notice to CopyNet shall not extend the term of this agreement beyond the end of the then-current fiscal year.



Town of Flower Mound

Equipment Model Usage Schedule

Town of Flower Mound

Customer Name

Make / Model	CPP / Overages		Make / Model	CPP / Overages	
HP M404	B&W	0.0200	HP M454	B&W	0.0200
	Color	na		Color	0.1000
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
HP M428	B&W	0.0200	HP M479	B&W	0.0200
	Color	na		Color	0.1000
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
HP M402	B&W	0.0200	HP 5550	B&W	0.0200
	Color	na		Color	0.1000
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
HP M426	B&W	0.0200	HP M750	B&W	0.0200
	Color	na		Color	0.1000
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	
Make / Model	CPP / Overages		Make / Model	CPP / Overages	
	B&W			B&W	
	Color			Color	

Customer Initials



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: October 7, 2019

FROM: Jeff Garner, Director of Facilities Management

ITEM: Consider approval to upgrade existing access control software to SecurityXpert Transition provided by Schneider Electric from current INet in the amount of \$77,603.00.

BACKGROUND INFORMATION: It is necessary to upgrade existing building automation systems (BAS) to interface correctly with newer systems. This request includes upgrading the existing INET access control software which is over 20 years old, to SecurityXpert. The outdated INET access software is no longer going to be supported by Schneider Electric. We have access control currently being used in 17 Town buildings and it will be expanded into the new storage warehouse and Fire Station 7. Schneider Electric is a sole source provider and installer of the hardware and software utilized by the Town for BAS.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$ 77,603.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$ 77,603.00	100-655-59200-6090

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Schneider Quote
2. Sole Source Letter

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



Town of Flower Mound – Flower Mound, TX INET Access Upgrade to SecurityXpert

Prepared for: Jeff Garner
Director of Facilities Management
Town of Flower Mound

September 24, 2019

TO: Jeff Garner
Director of Facilities Management
Town of Flower Mound
(214) 679-3866
herlinda.bonilla@foundrycommercial.com

REF: Town of Flower Mound-SecurityXpert Transition
2121 Cross Timbers Rd,
Flower Mound, TX 75028
Proposal #: 19-315_R1

Mr. Jeff Garner

We appreciate the opportunity to present you with this proposal for the Schneider Electric Security Expert Solution upgrade to your existing Inet Seven access control system.

Your facility is currently controlled by our TAC I/NET Access Control System product line. Although your current system is older, there is good news. Schneider Electric has a transition path that will preserve much of your existing site investment. This means that most of your existing system components will continue to operate with our Security Expert platform without having to replace the entire system. Schneider Electric will simply replace the front-end software with our server-based Security Expert Software and install our new Intelligent S-PC Controller replacing the existing 527/MCI hardware's.

Designed to continually meet your dynamic business and facility needs, our Security Expert Solution prepares your facility for the future of Internet of Things (IoT): increased IP-enablement, improved performance, best-in-class cybersecurity, and cloud based software for remote accessibility. By investing in this transition upgrade, you can ensure your facilities are **future-ready today**.

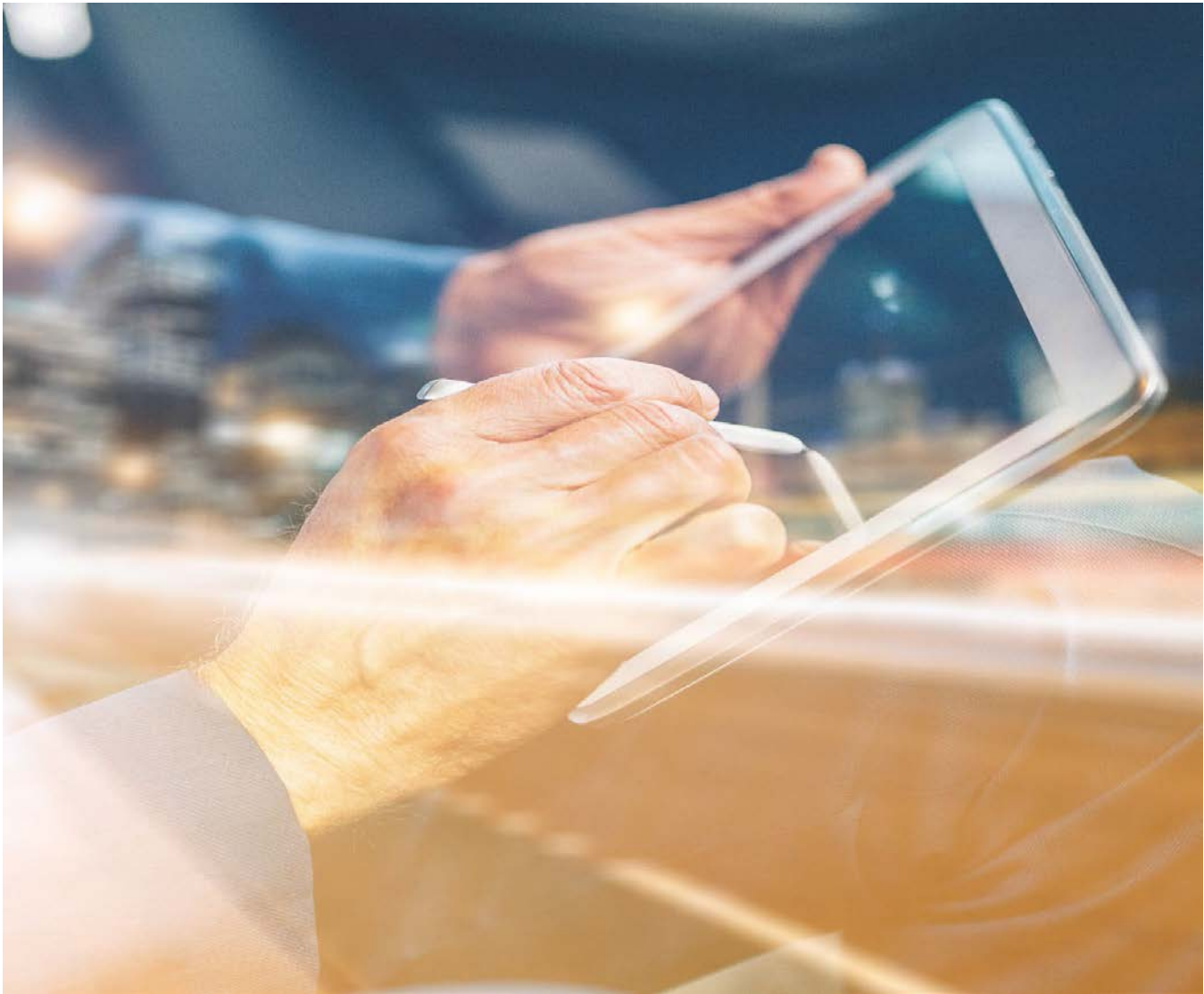
Upon review of this proposal, please feel free to follow up with me as your point of contact for questions or additional information. We look forward to speaking with you further and helping you to achieve success in your business.

Respectfully,

Mark A Boyd

Mark Boyd
Buildings Systems Integrator
Cell: 214-882-8398
mark.a.boyd@se.com

SCHNEIDER ELECTRIC BUILDINGS AMERICAS, INC.



Scope of Work.....	1.1
Schneider Electric Overview	1.2
Why Security Expert?	1.3
INET to Security Expert Transition Architecture.....	1.4

1.1 Scope of Work: Security Expert Transition

Schneider Electric will provide complete engineering, hardware components and labor to furnish a SecurityXpert upgraded Access Control System (ACS) for the Town of Flower Mound (TFM). Equipment configuration for the proposed ACS will be as specified below. Schneider Electric will be responsible for the following:

- Material ordering and delivery
- Software integration of existing programming sequences and alarms
- Installation
- Project management
- Programming & Check-out of ACS
- **Eight (8)** hours of onsite end user training

SCOPE OF WORK

1. Perform backup and extract existing INET ACS SQL Database
2. Demolition of **sixteen (16)** existing MCI control boards and **sixteen (16)** 527 NPRs.
3. Provide and install **one (1)** copy of Security Expert Security Expert Software License. Includes Photo ID Badging, 50 Reader Licenses, 1 Camera License, Generic SOAP Web Service, 1 Thick Client, Web Clients, Unlimited Sites/Controllers/Users, Calendar Actions and Email on Events, on customer provided server.
4. Provide and install **sixteen (16)** SP-C intelligent door controller interface and associated SX-SP-PSU power supply next each SP-C location.
5. Migrate existing TFM ACS SQL Database to networked SP-C's.
6. Provide software integration to downstream existing SCU/DPU door controllers. Total of **one-hundred-forty (140)** access doors and devices to be integrated.
7. Clean up ACS database and adjust any access control schedules and alarms per coordination with TFM.
8. Provide new Security Expert graphics representing floor plans, garage areas, gate control, and elevator control.
9. Perform complete checkout of ACS to ensure proper functionality

CLARIFICATIONS

1. All work to be performed during normal business hours, Monday through Friday, 8 AM – 5 PM.
2. New ACS workstation to be provided by Town of Flower Mound.
3. Existing INET SCU/DPU controllers to be utilized for normal operation through SX Server.
4. Existing Access Control Permit to be utilized'
5. All existing Access Control peripheral devices to be utilized and in good working condition including Card Readers, REX's, Door Position Switches, Electrified Locking Hardware, etc.
6. Removal of existing 527/527-NPRs and MCI 7793/7798C to be removed.
7. Customer to provide any network drops necessary to connect to each SX-SP-C as required.
8. Pricing is valid for a period of 60 days and subject to escalation thereafter.
9. 1 year warranty new parts and labor included on Schneider Electric equipment. Existing INET equipment will not be covered under warranty

Schneider Electric Buildings

1650 W. Crosby Road
Carrollton, TX 75006

**EXCLUSIONS**

1. Any existing system repair labor, parts, or materials not specifically mentioned above.
2. Network equipment, IP addresses, or IP drops. (Existing network drops to 527 units to be reused.)
3. New control/communications wire. Existing com wire to be reused when possible.
4. Bonds, taxes, or permits of any type.
5. Any work associated with 120V power or higher.
6. Plastering, painting, or patching.

PRICING

Town of Flower Mound – INET Access Upgrade to SecurityXpert (excluding tax)	\$77,603.00
--	--------------------

We would like to thank you for the opportunity to present our company's proposal and look forward to working with you to address your facility's security needs. Additional information about Security Expert's benefits and transition strategy, detailed in the following pages. If you have any questions regarding this proposal, please do not hesitate to reach out.

Respectfully,

Mark A Boyd

SCHNEIDER ELECTRIC BUILDINGS AMERICAS, INC.

Mark Boyd

Buildings Systems Integrator

Cell: 214-882-8398

mark.a.boyd@se.com

The above pricing is valid for sixty (60) days from the date of this proposal. Your signature below will indicate your acceptance of the provisions of this proposal and our authorization to proceed. Executed acceptance can be emailed to mark.a.boyd@se.com

Town of Flower Mound

*Accepted by:

Printed Name _____

Title: _____

Date: _____

Purchase Order Number: _____

Schneider Electric

*Accepted by:

Printed Name: _____

Title: _____

Date: _____

TERMS AND CONDITIONS OF SALE

900512PITC R05/19/15

This quotation and any exhibits and attachments hereto (collectively, "Agreement") and any information contained herein, is the property of Schneider Electric Buildings Americas Inc. ("Seller") and shall constitute proprietary and confidential information unless given to a public entity and required by law to be public information. The party to whom this quotation is addressed ("Buyer") acknowledges the confidential nature of this Agreement and agrees to take all commercially reasonable and necessary precautions to ensure the confidential treatment of this Agreement and all information contained herein. This Agreement will not be used, copied, reproduced, disclosed or otherwise disseminated or made available, directly or indirectly, to any third party for any purpose whatsoever without the prior written consent of Seller. The parties agree to be bound by the following terms and conditions.

1. **Quotations and Acceptance.** The quotation is based solely on the bid documents, which consist of the project drawings, specifications and/or instructions of the Buyer only modified by written agreement or Seller objection. Significant deviations between the actual conditions and circumstances of the work and those specified in the bid documents shall be cause for an adjustment in work scope, price and time allowed for performance. Written quotations shall be valid for no more than thirty (30) days from the date of issue, unless specifically stated otherwise herein. Buyer may accept the quotation by signing and returning a copy to Seller or by returning Buyer's own written instrument or order expressly acknowledging the quotation and terms set forth herein, provided, however, Seller hereby gives notice of its objection to any different or additional terms or conditions contained or referenced in Buyer's order, which will be of no force or effect except as may be expressly agreed to by Seller in writing. It is the intent of the parties that these Terms and Conditions of Sale shall govern the sale of goods delivered and services performed. Upon acceptance, this Agreement constitutes the entire understanding between the parties respecting the goods or services delineated herein and supersedes all prior oral or written understandings or representations relating to such goods or services. This Agreement may not be discharged, extended, amended or modified in any way except by a written instrument signed by a duly authorized representative of each party. Seller assumes that the Subcontract Agreement offered will contain terms that are substantively similar to the AIA provisions that are in accordance with the provisions of the prime contract, including any supplements. Upon award, Seller assumes that contract provisions will be reviewed and negotiated in good faith to reach a mutual acceptance of both parties.
2. **Payment.** Absent a contrary provision herein, Buyer will pay Seller monthly progress payments on a net thirty (30) days basis from date of invoice for materials delivered (or stored at an off-site storage facility) and services performed, less any retained reserve which will be mutually agreed upon in writing by the parties. The aggregate amount of any such retained reserves shall be paid by Buyer to Seller within thirty (30) days after the date of substantial completion. If Seller provides a Certificate of Substantial Completion, such certificate shall conclusively establish such date. All invoices due and payable to Seller, less any applicable retained reserve, shall accrue interest at a compounded per annum rate not to exceed 1½% per month (18% per annum) or the maximum rate permitted by law. Acceptance and endorsement by Seller of an instrument for less than the full amount which Seller claims to be due shall not be deemed to be an admission of payment in full and any conditions to the contrary which are noted on such an instrument shall not be binding on Seller. If Buyer does not pay Seller, through no fault of Seller, within seven (7) days from the time payment was due, Seller may, without prejudice to any other remedy it may have, upon seven (7) additional days' written notice to Buyer, stop its work until payment of the amount owing has been received and the contract sum shall be equitably adjusted for reasonable costs of shutdown, delay and startup or in the alternative Seller may terminate this contract for material breach and all monies due Seller for services performed and materials delivered shall be paid upon demand. Seller shall be entitled to recover from Buyer all costs for collection, including reasonable attorneys' and professionals' fees. To the extent payments are received and as required by law, and upon Buyer's request, Seller will furnish mechanics lien waivers as the work progresses.

Seller reserves a security interest in any goods sold to the extent of the invoiced amount to secure payment of Buyer's obligation. In event of payment default, Seller may repossess such goods and a copy of the invoice may be filed with appropriate authorities as a financing statement to event or perfect Seller's security interest in the goods. At Seller's request, Buyer will execute any necessary instrument to perfect Seller's security interest.
3. **Price and Taxes.** The price for the goods and services hereunder are those shown on the face of this Agreement. The price of this Agreement does not include sales, use, excise, duties or other similar taxes, unless otherwise expressly provided herein. Any taxes (other than taxes due on Seller's net income) that are payable hereunder shall be the responsibility of Buyer. If applicable, Buyer shall provide Seller a copy of any appropriate tax exemption certificate for the state(s) into which the goods are to be shipped.
4. **Changes and Claims.** All materials and labor furnished hereunder shall be in accordance with shop drawings submitted by Seller and approved by Buyer. Any changes in the work as set forth in approved shop drawings, or from the scope of work as described herein, will require a written change order submitted to Seller by Buyer. An equitable adjustment will be made in the contract price or delivery dates or both, and this Agreement will be modified accordingly in writing. The cost or credit to Buyer for performance of such change order shall be determined by mutual written agreement prior to the commencement of any work under such change order. Buyer shall notify Seller promptly in writing of any circumstances arising from the performance of the work herein described which reasonably may be anticipated to result in a claim or back charge to Seller. Upon Seller's receipt of such notification, Seller shall have five (5) working days in which to remedy such circumstances and to avoid the imposition of such claim or back charge. Seller will not be liable for any claim or back charge where Seller has not been notified in the manner as set forth above.
5. **Access and Overtime.** This Agreement is based upon the use of straight time labor only during regular working hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Seller's holidays). If Buyer requests Seller to perform any work outside of regular working hours, overtime and other additional expense occasioned thereby will be charged to and paid by Buyer. If Seller's work is to be performed on the project site, Buyer will afford unrestricted access to Seller and its employees and agents to all work areas.
6. **Damage or Loss to Equipment.** In the case of equipment not to be installed by or under supervision of Seller, Seller shall not be liable for damage to or loss of equipment after delivery of such equipment to the point of shipment. In the case of equipment to be installed by or under supervision of Seller, Seller shall not be liable for damage or loss after delivery by the carrier to the site of installation; if thereafter,

pending installation or completion of installation or full performance by Seller, any such equipment is damaged or destroyed by any cause whatsoever, other than by the fault of Seller, Buyer agrees to promptly pay or reimburse Seller an amount equal to the damage or loss which Seller incurs as a result thereof, in addition to or apart from, any and all other sums due or to become due hereunder.

7. **Delays.** Buyer shall prepare all work areas so as to be acceptable for Seller's work required hereunder. Buyer acknowledges that the contract sum is based upon Seller being able to perform the work in an orderly and sequential manner, as Seller so determines. If Seller's performance is delayed, interfered with, suspended, or otherwise interrupted, in whole or in part, by Buyer, other contractors on the project site, or by any other third party or by any act within the power and/or duty of Buyer to control, then Buyer agrees that it will be liable to Seller for all increased costs and damages which Seller incurs as a result thereof. Furthermore, if Seller is delayed at any time in the progress of the work by any act or neglect of Buyer, or by any separate contractor employed by Buyer, or by changes ordered in the work or by labor disputes, fire, delay in transportation, adverse weather conditions, casualties, or any other causes beyond Seller's control, then the time for completion of the work shall be extended for a period equal to the time lost by reason of such delay.
8. **Warranty.** Seller warrants to Buyer that all tangible articles manufactured by Seller will be free of defects in workmanship and material and that the work performed will be of good quality and will conform to the requirements of the bid documents. If the article is installed by Seller, Seller's sole obligation under this warranty shall be to provide, without charge, parts and labor necessary to remedy defects which appear within twelve (12) months from the date of beneficial use or occupancy, as applicable. If Seller provides a Certificate of Substantial Completion, such certificate shall conclusively establish such date. If article is not installed by Seller, the warranty period shall be within twelve (12) months of shipment of said article. Warranty claim must be made to Seller in writing within such twelve (12) month period. All transportation charges incurred in connection with the warranty for equipment not installed by Seller shall be borne by Buyer. Seller warrants that for equipment furnished and or installed, but not manufactured by Seller, Seller will extend the same warranty terms and conditions which Seller receives from the manufacturer of said equipment.

This warranty is the sole and exclusive warranty given with respect to any articles delivered or services performed by Seller. THE WARRANTIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED (EXCEPT WARRANTIES OF TITLE), INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. This warranty is subject to proper installation of the articles (if installation is not performed by Seller or authorized subcontractors of the Seller) and maintenance and storage of the articles in accordance with the specifications and directions supplied by Seller. This warranty does not apply to any defect, malfunction or failure caused by repairs made by other than or without the consent of Seller or the article has been subject to abuse, misuse, neglect, tampering, accident or damage by circumstances beyond Seller's control, including without limitation, acts of God, war, acts of government, corrosion, power fluctuations, freeze-ups, labor disputes, differences with workmen, riots, explosions, vandalism, or malicious mischief, nor to defective associated equipment or use of the articles with equipment for which they were not sold. All of Seller's obligations under this warranty will immediately terminate and be of no further force or effect if all or any part of the purchase price (including any installment payment) with respect to any article covered by this warranty is not paid to Seller when due. If cause of defect is found not to be Seller's responsibility, standard rates for repair or replacement and labor shall apply.
9. **Limitation of Liability.** In no event will Seller's total aggregate liability in warranty or contract exceed the contract price paid for the specific product or service that gives rise to the claim excluding third party claims for personal injury, death or property damage or as may be required by law. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF GOODWILL, BUSINESS INTERRUPTION OR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Laws and Permits.** Seller shall comply with all applicable federal, state, and local laws and regulation and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Buyer. This contract shall be interpreted and governed under and in accordance with the laws of the jurisdiction in which the goods are delivered or services are performed without regard to its choice of law provisions.
11. **Disputes.** Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by good faith consultation and negotiation. If those attempts fail, either party shall provide written notice within thirty (30) days to the other to mutually agree on an arbitration process. If a process is not agreed upon within thirty (30) days, final and binding arbitration in accordance with the then current Construction Industry Arbitration Rules of the American Arbitration Association shall commence and judgment upon the award rendered may be entered in any court having jurisdiction thereof. The arbitration shall be held in the federal, state or municipal courts serving the county in which the project is located unless the parties mutually agree otherwise. The prevailing party shall recover all reasonable legal costs and attorney's fees incurred as a result, which shall be promptly paid by the non-prevailing party. Any dispute or demand for arbitration must be commenced within one (1) year after the cause of action has accrued. Nothing herein shall limit any rights Seller may have under construction mechanic or materialmen lien laws. Seller shall have the right to suspend affected services pending resolution of disputes.
12. **Insurance.** The parties shall each maintain insurance coverage including without limitation, Workers' Compensation and Employer's Liability at statutory limits, Automobile Liability covering all owned, hired and other non-owned vehicles, and Commercial General Liability covering public liability and property damage with limits generally required for its respective industry with not less than \$1,000,000 minimum coverage per occurrence. Such insurance shall be with reputable and financially responsible carriers authorized to transact business in the state in which the project and services are being performed. No credit will be given or premium paid by Seller for insurance afforded by others.
13. **Clean Up.** Seller agrees to keep the job site clean of debris arising out of its operations. Buyer shall not back charge Seller for any costs or expenses for clean up or otherwise without prior written notice and Seller's written consent.
14. **Severability.** The invalidity or unenforceability of any provision herein shall in no way affect the validity or enforceability of any other provision.

Why Security Expert?



1.2 Schneider Electric Overview

Schneider Electric is the global specialist in energy management and automation and is a manufacturer of commercial, industrial, and institutional Integrated HVAC Control Systems, Access Control Systems, and Digital Video Management Systems and Services. Through acquisitions, we have purchased the following controls product lines; Robert Shaw/Barber-Colman, Siebe, Invensys, I/A Series, Andover Controls, Controls Systems International, Can2Go, Viconics, Veris and TAC Vista.

With revenues of \$26 billion US dollars (25 billion euros) in FY2016, our 160,000+ employees serve customers in over 100 countries, helping them to manage their energy and process in ways that are safe, reliable, efficient and sustainable. From the simplest of switches to complex operational systems, our technology, software and services improve the way our customers manage and automate their operations. Our connected technologies reshape industries, transform cities and enrich lives.

At Schneider Electric, we call **this Life Is On.**

1.3 Why Security Expert?

Secure.

Evolving Security Technology to the Next Level

Faced with increased security risks, big data and greater bottom line responsibilities, today's building manager needs a solution to ensure the security of their people and their environment. Welcome to the evolution. Welcome to EcoStruxure™ Security Expert from Schneider Electric.

Security Expert is a new, integrated security offer that combines innovative software and hardware with the latest IP technology to help meet the security challenges of today's building environment. It is Access Control. It is Intrusion Detection. Security Expert technology provides visualization and control of the entire building enterprise. It ensures building security systems perform precisely as intended. No interruptions. Building occupants are safe, assets are protected, information is available; risk is reduced and efficiency is maximized.

Security Expert's integrated solution unites disparate applications of a security infrastructure to deliver a single, intelligent platform - one that ensures optimal security with clear, real-time actionable information that creates the most secure business environment possible.

Schneider Electric Speaks "Security"

- Access Control
- Intrusion Detection
- Visitor Management
- Custom Time & Attendance
- HID formats
- Biometrics credentials
- Near Field Communications
- Bluetooth
- Compliance to global agency listings
- Regulatory certification approval

Why Security Expert?

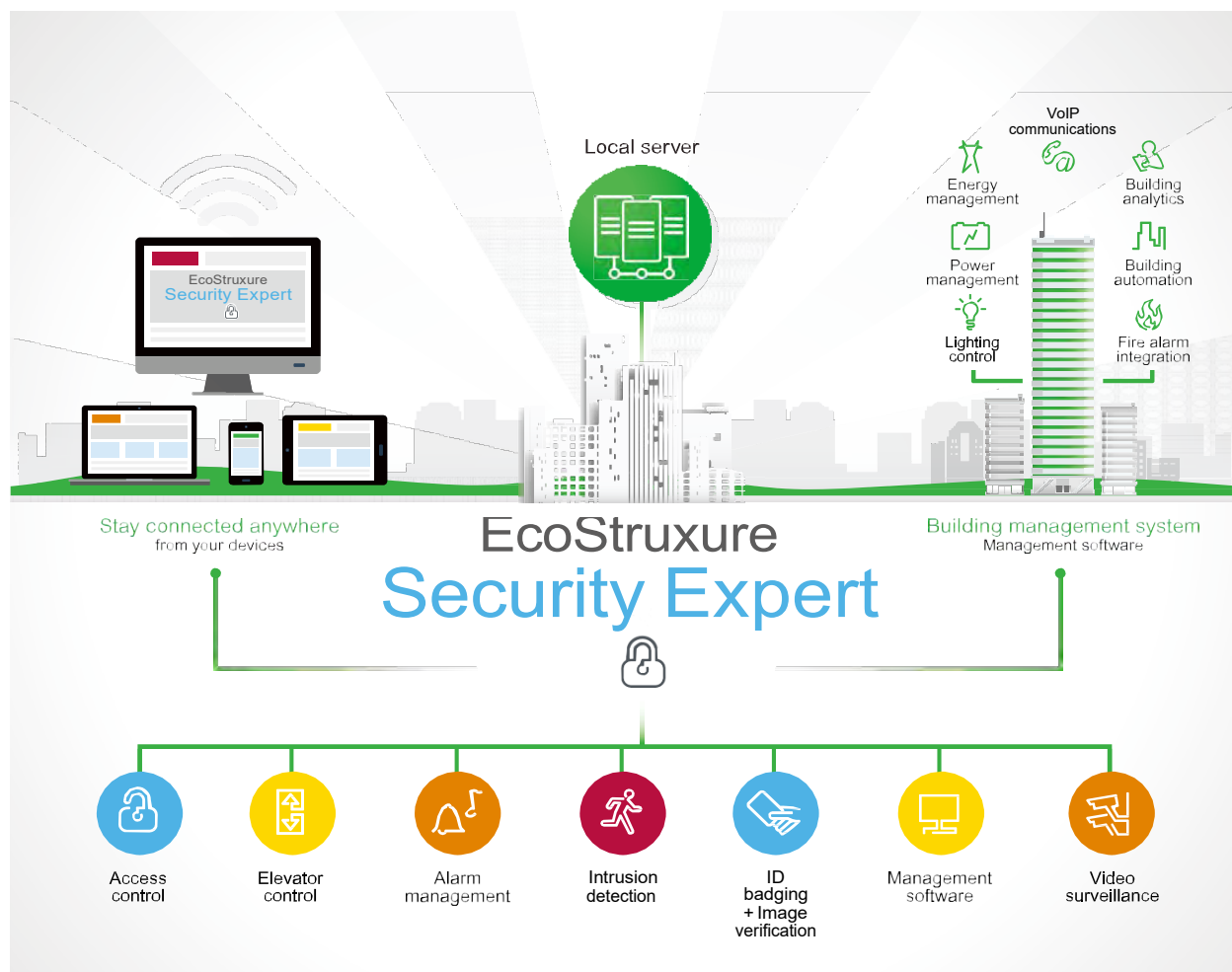


Security Expert delivers:

- Reliability
- Connectivity
- Mobility
- Scalability
- Regulatory compliance
- Enterprise-wide integration

Driving Efficiency Across the Enterprise

Security Expert not only unites all components of a security infrastructure, it seamlessly integrates with other building management systems including lighting, energy management, and IT to deliver significant efficiencies across the enterprise. Various integration suites are available out of the box to significantly improve business processes and enhance workplace efficiency.



Why Security Expert?



Inform.

Unlocking the Power of Data

Security Expert's technology can help tackle the demands of an ever more digitally-centric workforce.

Security Expert technology unlocks the power of data with a one-of-a-kind graphical user interface

that delivers information to a myriad of users for multiple tasks including sharing, analysis and reporting. Built-in reporting templates enable data analysis in custom formats that fit the unique needs of the business, its people and their workflow.

Administrators and engineers have full visibility into the security system and its functions at all times to ensure optimal system performance. Data encryption and authentication protect communication between controllers, workstations and mobile devices. Security Expert also enables "big picture" visibility across the enterprise that is scalable locally or regionally

Collaborate.

Empowering People with Technology

Security Expert offers comprehensive security management as part of a holistic, integrated approach to building control.

Security Expert provides end-to-end connectivity, connecting people to clear, real-time, actionable information the way they want - on any mobile device, anywhere, anytime. This high level of connectivity facilitates collaboration and better, faster decision-making. Collaboration and integration between:

- Data Center Monitoring
- Network Connectivity
- Renewables/Solar
- Fire/Safety
- Workplace Efficiency
- Power Monitoring

5.5m



New IoT Devices/
Daily

6.4k

2015 Security
Incidents



35%



of Data is SSL
Encrypted = More Invisible
Data

150gb



New Data Per Person/Per
Day by 2020

Why Security Expert?



Innovate

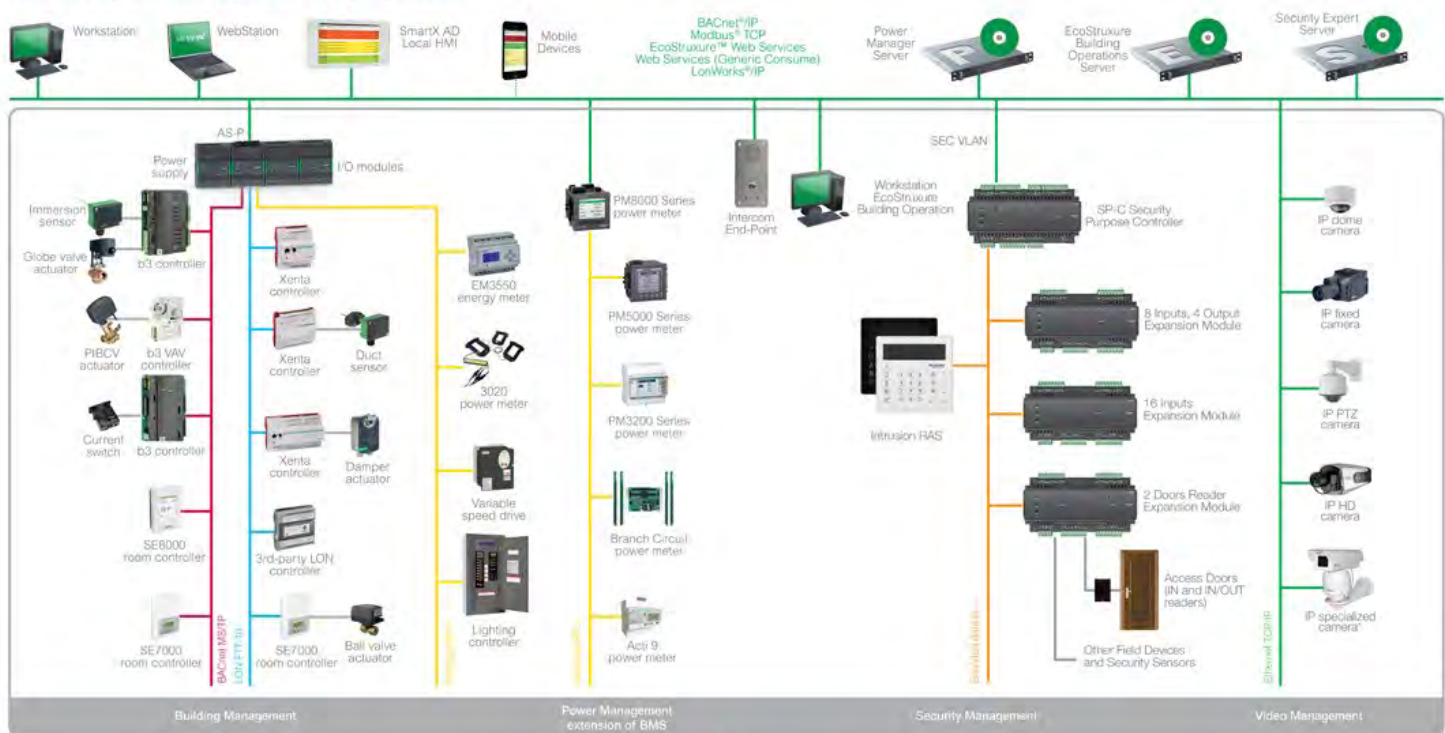
Translating Technology into Customer Benefits

Security Expert technology introduces new possibilities in security management. These new innovations focus not only on the security system itself, but the people who use and interact with it. People access information how they want and from where they want in ways that fit their work environment. As a global leader in the buildings domain, Schneider Electric has the knowledge and experience to deliver technology to meet the demands of today's workforce and their digitally driven world.

As the global specialist in energy management, only Schneider Electric can deliver a powerful combination of security, energy, power, process, IT room and building management solutions that work together to drive down energy costs and provide safety and security for people and assets. Our industry leading technologies and systems integration expertise combine to deliver solutions that help you address your business, environmental and regulatory challenges

One Global Platform

SmartStruxure™ solution architecture, with Building, and Security Management Powered by StruxureWare™ Building Operation v1.8.1

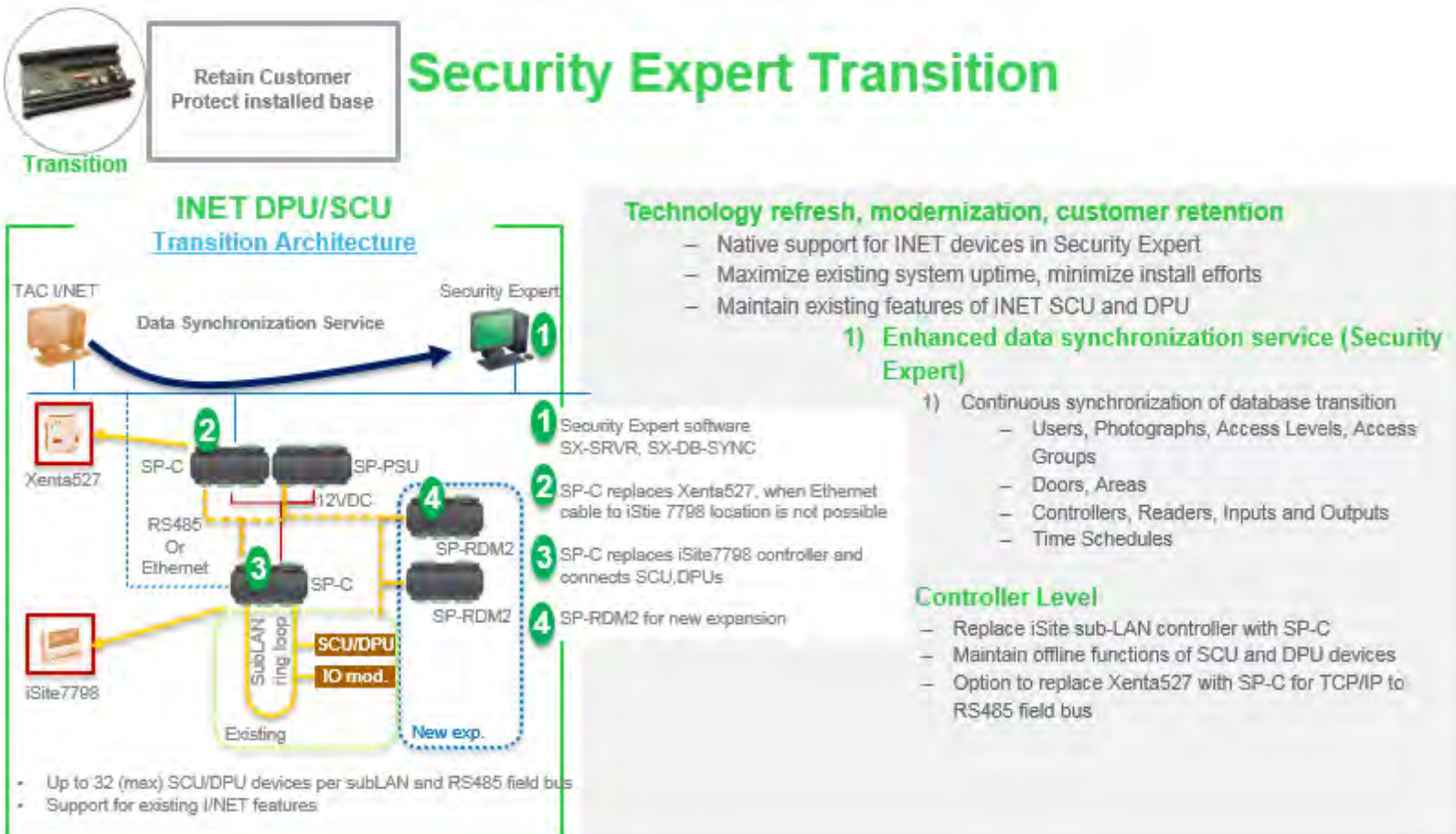


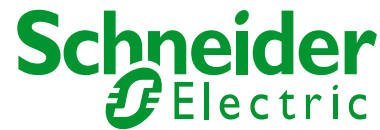
*IP CCTV video management system utilizes dedicated video recording servers

INET to Security Expert Transition Architecture



1.4 INET to Security Expert Transition Architecture





July 24, 2017

Mr. Jeff Garner
Director of Facilities
Town of Flower Mound
1001 Cross Timbers Rd. #2330
Flower Mound, TX 75028
Phone#214-679-3866

Dear Mr. Garner,

Subject: Schneider Electric\TAC-Inet & SmartStruxure Control System Sole Source Affidavit of Manufacturer and factory training.

Schneider Electric\TAC is the sole manufacture of the Inet DDC controllers and Inet Seven EMS software that provide controls throughout the Town of Flower Mound (TFM). The Schneider DDC controls, Inet Seven software, Inet hardware, SmartStruxure software's and SXWT hardware's provided to TFM are designed and manufactured by Schneider Electric.

Schneider is the only source for the products and training that are required to design, engineer, service and support legacy Inet Seven. The Transition (assimilation) process of Inet software and hardware into EcoStruxure (SmartStruxure), the next generation Schneider BMS software and hardware is already well into the fifth phase. These past and next generation are being implemented into the TFM has wholly been executed through Schneider Electric's specially trained employees.

Schneider has been providing the technical and maintenance support with the legacy Inet BMS. Schneider has been implementing the present and past Transition phases of each building one by one as planned in order of priority importance. These Transition phases have gone very well directly because of the factory trained employees of Schneider Electric. Schneider employees trained to work on Inet are all 10 year plus Inet BMS veterans, who are provided with the necessary tools and years of hands on with the Inet BMS system in each building and the Transition process.

Should you have any questions, please contact our office.

Best Regards,

Mark A. Boyd

Mark Boyd
Account Manager\Systems Design Engineering
SCHNEIDER ELECTRIC BUILDINGS AMERICAS, INC.
Voice (972) 323-5396
Cell (214) 882-8398
Fax (972) 245-0996



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: October 7, 2019

FROM: Jon Olson, Meter Services Manager

ITEM: Consider a request to amend the Town's Code of Ordinances by amending Appendix A, "Fee Schedule," Referenced in Chapter 70: Utilities by adding a new Section 70-55, 70-57, 70-58, and 70-59 and repealing an existing Section 70-362 and to consider adopting an ordinance for said amendment.

BACKGROUND INFORMATION: This item will address proposed amendments to the current Water Services Ordinance by clarifying the content along with adding new criteria in each category.

Update - Section 70-55, entitled "Water Meter Re-reads, Testing, Water Meter Equipment Replacement, Check for Leak, Data Logging," there are currently no fees listed in Appendix A, Fee Schedule for meter testing cost, equipment damages, multiple check for leak and data logging request. The fee will increase on multiple re-read request from \$5.00 to \$15.00. The \$15.00 fee will also include multiple check for leak and data logging request.

Update - Section 70-57, entitled "Town-issued fire hydrant meter(s)," there currently are no fees listed in Appendix A, Fee Schedule for any penalties stated in the "fire hydrant meter use agreement."

New - Section 70-58, entitled "Residential and Commercial water meter installation policy," There are currently no fees listed in Appendix A to cover the trip charge of \$25.00 and an Admin fee of \$25.00 for water meters installed at the wrong service address.

New - Section 70-59, entitled "Use of town-issued water meter(s) mandatory." This section is an existing Section, 70-56, "use of town meter mandatory," there are currently no penalty fees listed in Appendix A for contractors, builders, and/or customers for installing meters not purchased through the Town. Recommendation is a \$150.00 penalty fee be added for each occurrence.

Omit – Section 70-362, entitled "Meter rereads and test," The fees listed in this section only list a \$5.00 reread fee. Fees are mentioned for the following but not listed, meter, labor, and admin fee for swapping the meter for test purposes. All new fees are now referenced in the new Section 70-55, entitled "water meter re-reads, testing, water meter equipment replacement, check for leak, data logging information."

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Ordinance

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

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

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY AMENDING APPENDIX A, "FEE SCHEDULE;" ADOPTING UTILITY FEES RELATED TO WATER METER RE-READS, TESTING, WATER METER EQUIPMENT REPLACEMENT, CHECK FOR LEAK, DATA LOGGING, FIRE HYDRANT METERS, ADMINISTRATIVE MATTERS AND TRIP CHARGES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas (the "Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter adopted November 3, 1981; and,

WHEREAS, the Town possesses all the rights, powers, and authority possessed by a home rule municipality pursuant of Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the Town's Home Rule Charter, to regulate utility meter services and the fees for the services provided; and,

WHEREAS, in order to recoup the anticipated administrative costs associated with the performance of the governmental functions described herein and in furtherance of the public health, safety and general welfare, the Town Council of the Town of Flower Mound desires to adopt the amendments contemplated herein.

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

SECTION 1

That Appendix "A" of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding sections 70-55, 70-57, 70-58 and 70-59, which said sections read as follows:

<i>Code Section Number</i>	<i>Description</i>
<u>70-55</u>	Water Meter Re-reads, Testing, Water Meter Equipment Replacement, Check for Leak, Data Logging.

- (a) Any request, beyond the initial request, of any combination to include a re-read, check for leak or a data logger pull request within a twelve-month period shall be

charged a \$15.00 trip charge. If it is determined that a continuous leak exists on either the customer and/or the Town side of the service line at the time of the request, then the trip charge will not be assessed. For purposes of this section the term "Town side" is any leak at the rear meter tail/coupling gasket or before the water meter.

- (b) Water meter test fees – 5/8" x 3/4" through two-inch (2") meters shipped out to an independent contractor, shall be charged the test fees per the Town's current "water meter testing and repair" contract plus shipping. All compound meters two-inch (2") through six-inch (6") and High Performance Turbine (HPT) meters three-inch (3") through six-inch (6"), tested on site by an independent contractor, shall be charged the Town's current "water meter testing and repair" contract.
- (c) Water meter replacement due to damages, willfully or accidentally destroyed or for testing purposes shall be charged a fee as follows:
 - 1) A charge equal to the cost of the new water meter, see Section 70-56(d) "Water meter fee schedule" of Appendix A of this Code.
 - 2) Labor charge 5/8" x 3/4" through 1" \$ 45.00
 - 3) Labor charge 1.5" though 2" \$200.00
 - 4) Labor charge – all compound meters \$625.00
 - 5) Labor charge – all HPT meters 3" and larger \$625.00
 - 6) Trip charge \$ 25.00
 - 7) Administrative fee \$ 25.00
- (d) Water meter pro-read register replacement due to damages, willfully or accidentally destroyed shall be charged a fee as follows: A charge equal to the cost of a new data logger register, plus \$35.00 labor charge, \$25.00 trip charge, and a \$25.00 administrative fee.
- (e) Radio Read and/or Data Logger Register replacement due to damages, willfully or accidentally destroyed shall be charged a fee as follows: a charge equal to the cost of a new data logger unit, plus \$35.00 labor charge, \$25.00 trip charge, and a \$25.00 administrative fee.
- (f) Water meter box replacement due to damages, willfully or accidentally destroyed shall be charged a fee as follows: small water meter box \$100.00; large water meter box \$275.00, plus \$35.00 labor charge, \$25.00 trip charge, and a \$25.00 administrative fee.
- (g) Barrel Lock replacement for damaged or destroyed barrel lock after meter has been disconnected for non-payment shall be charged a fee as follows: barrel lock \$15.00, plus \$25.00 trip charge, and a \$25.00 administrative fee.
- (h) All fees related to this section will be billed to the customer's active account.

- (i) All replacement of meter equipment will be charged pursuant to the Town's contracted pricing.

<i>Code Section Number</i>	<i>Description</i>
<u>70-57</u>	Town-issued Fire Hydrant Meter(s).

- (a) All readings must be faxed, emailed, or the equipment physically brought to the Customer Service Department during regular business hours for a meter reading between the 20th and 25th of each month. If the contractor, builder, and/or customer fails to fax, email, or physically bring the meter in for a reading between the 20th and 25th of each month, the account shall be assessed a non-read penalty of \$150.00.
- (b) The Town does not allow a garden hose to be connected to a three-inch (3") fire hydrant meter; only large-diameter hoses will be allowed to be connected to the meter for large bulk-type watering, such as filling storage water tanks. Any contractor, builder, customer, and/or person found to be in violation of this section shall be assessed a penalty of \$250.00 and billed to the water account.
- (c) The inspection form with the fire hydrant meter parts costs is on file in the office of the Utility Billing Division. Listed below are the labor and administrative fees for repairing damaged fire hydrant meters:

1)	Labor fee	\$ 35.00
2)	Administrative fee	\$ 25.00

<i>Code Section Number</i>	<i>Description</i>
<u>70-58</u>	Residential and Commercial Installation Policy.

Water meters shall be installed at the address indicated on the water meter(s) to prevent billing errors. If a water meter is installed at the wrong location, an administrative fee and a trip charge will be billed to the contractor and/or builder(s) water account for correcting the information in the Town's billing system for each address.

•	Administrative fee	\$25.00
•	Trip Charge	\$25.00

<i>Code Section Number</i>	<i>Description</i>
<u>70-59</u>	Town-issued Water Meter(s) Mandatory.

Any contractor and/or builder found to be installing water meters not purchased through the Town shall be considered in violation of this section and a penalty fee of \$150.00 for each occurrence will be assessed.

SECTION 2

That "Code Section Number 70-362" described as "Meter rereads and tests," of Appendix A of the Code of Ordinances, Town of Flower Mound, Texas, is hereby deleted in its entirety. This action shall apply to Appendix A only and not to Section 70-362, found in Division 4 of Article V, Chapter 70 of the Code of Ordinances, Town of Flower Mound, Texas, which section shall remain in place without revision.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5

This ordinance shall take effect and be in full force immediately after its date of passage.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 7TH DAY OF
OCTOBER, 2019.**

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: October 7, 2019

FROM: Jon Olson, Meter Services Manager

ITEM: Consider approval of an ordinance amending Chapter 70: Utilities by replacing Section 70-55, 70-56, and 70-57, and adding a new section 70-58, and 70-59 of Article II, entitled “Water Services,” and to consider adopting an ordinance for said amendment.

BACKGROUND INFORMATION: This item will address proposed amendments to the current Water Services Ordinance by clarifying the content along with adding new criteria in each category.

Update - Section 70-55, entitled “Water Meter Re-reads, Testing, Water Meter Equipment Replacement, Check for Leak, Data Logging,” last updated in 1989. Amendment distinguishes section in to eight (8) different categories to include section (a) re-reads, (b) water meter testing, (c) non-registering meters, (d) damaged meter equipment, (e) damaged water meter boxes, (f) barrel locks, (g) check for leak request, and (h) data logging request.

Update - Section 70-56, entitled “Use of Town meter mandatory,” last updated in 2005. Section 70-56 of the Appendix A Fee Schedule, is being relocated to a new Section 70-59 “Use of Town-issued water meter(s) mandatory.” This will align the ordinance to Appendix A Fee Schedule.

New - Section 70-56, entitled “Water meter fee schedule,” is being created to match Section 70-56 “Water meter fee schedule in Appendix A, notifying contractors, builders, and/or customer of the fee schedule and informing them that all impact fees must be paid prior to paying for the water meter fees.

Update - Section 70-57, entitled “Town-issued fire hydrant meter(s) was last updated in 2007 to include Exhibit A “Fire Hydrant Meter Use Agreement.” The ordinance and agreement are amended to include a non-read penalty and increases the required deposit for lost and/or stolen fire hydrant meters.

New - Section 70-58, entitled “Residential and Commercial water meter installation policy,” This is currently part of existing sub-section (b) 70-56 “use of Town meter mandatory” and will now be designated a section. This policy hasn’t been updated since 2005. Amendment includes guidance to developers and/or builders for town supplied materials, setting water meter requirements, damaged or destroyed meters, water meter box and vault requirements, along with looped and/or multiple water source connections.

New - Section 70-59, entitled “Use of town-issued water meter(s) mandatory.” Amendment adds Section 70-59 “use of Town-issued water meter(s) mandatory as previously stated in Section 70-56.

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Ordinance
2. Ordinance highlighting proposed additions and deletions

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

TOWN OF FLOWER MOUND**ORDINANCE – NO. _____**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 70: UTILITIES BY REPLACING SECTION 70-55, 70-56, AND 70-57 AND ADDING A NEW SECTION 70-58, AND 70-59, OF ARTICLE II, ENTITLED “WATER SERVICES;” PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas (the “Town”) is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter adopted November 3, 1981; and,

WHEREAS, the Town possesses all the rights, powers, and authority possessed by a home rule municipality pursuant of Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the Town’s Home Rule Charter, to regulate utility meter services and the fees for the services provided; and,

WHEREAS, the Town Council of the Town of Flower Mound has recognized that due to an advance in technological updates in meter reading and the Meter Services Division’s procedures, the Town has determined that it is necessary to amend sections 70-55, 70-56, and 70-57 and add two new sections, 70-58, and 70-59; and,

WHEREAS, the proposed standards will allow the Town of Flower Mound to continue to operate in a more efficient manor by clarifying the content of each section.

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

SECTION 1

That Sections 70-55, 70-56, and 70-57 of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to read as follows:

§70-55. Re-reading; Testing; Water meter and Equipment Replacements; Check for leak and Data Logging Information.

- (a) Upon the request of any water customer, the Town will re-read such customer's water meter at no charge; provided, however, that such re-read shall not be done more often than once in a twelve-month period. Any re-read request of such customer’s meter, more often than once in a twelve-month period, shall be charged a fee for each additional re-read, as provided for in the fee schedule found in Appendix A of this Code. Upon the second re-read request within the

allotted time frame if it is determined that the meter read was incorrect, there shall be no re-read fee charged to the water customer.

- (b) If a property owner suspects that a water meter is registering improperly and requests that the water meter be tested, the water meter, which is the property of The Town of Flower Mound, will be tested. The water meter will be removed and a new water meter installed. The removed water meter shall be tested by an outside testing facility chosen by the Town. If, upon testing, the water meter reads below or within the approved standards of the American Water Works Association (A.W.W.A), the customer shall be charged according to the water meter testing fees as provided for in the fee schedule found in Appendix A of this Code. If the water meter test indicates that the water meter is testing above the A.W.W.A standard, no such charges will be made and the water customer's bill will be adjusted for the previous three (3) months from the last bill received using the percentage that is above the A.W.W.A standard.
- (c) If a water meter stops registering usage for any reason, so that the actual amount of water used cannot be determined, the Town will replace the water meter and bill the customer by taking a three (3) year average of the water used for the same billing period. If no prior history is available, the system average will be used.
- (d) If any water meter reading equipment, including but not limited to, the water meter register and the radio read unit, is damaged, or willfully or accidentally destroyed, the contractor, builder and/or water customer will be billed for the replacement of the equipment as provided for in the fee schedule found in Appendix A of this Code.
- (e) If a water meter box is damaged, or willfully or accidentally destroyed, the contractor, builder and/or water customer will be billed for the replacement of the water meter box as provided for in the fee schedule found in Appendix A of this Code.
- (f) If a water customer damages, or willfully or accidentally destroys the barrel lock after the water service has been disconnected due to non-payment and/or prior to establishing water service or prior to a Town Official reconnecting the water service after payment has been made, the water customer will be billed for the barrel lock, trip charge, and administrative fees as provided for in the fee schedule found in Appendix A of this Code.
 - (1) Any other damage caused to the Town's water system, such as cutting off the locking tabs on the angle stop, will also be billed to the customer's account to cover the cost of parts, labor, trip charge, and administrative fees for work completed by the Public Works Department.
- (g) Upon the request of any water customer, the Town will check for a leak at the customer's water meter at no charge, provided, however, that such leak check shall not be done more often than once in a twelve-month period. Any check for

leak request of such customer's meter, more often than once in a twelve-month period, shall be charged a fee for each additional leak check, as provided for in the fee schedule found in Appendix A of this Code. If it is determined that there is a water leak on either the Town's side and/or customer's side of the meter, the customer will not be billed a trip charge. For this paragraph the term "Town's side" is any leak at the rear meter tail/coupling gasket or before the water meter.

- (h) Upon the request of any water customer's water meter that is equipped with a data logging device, the Town will pull the data logging information on such customer's water meter at no charge; provided, however, that such data pull shall not be done more often than once in a twelve-month period. Any data pull request of such customer's meter, more often than once in a twelve-month period, shall be charged a fee for each additional data pull, as provided for in the fee schedule found in Appendix A of this Code. If it is determined that there is a water leak on either the Town's side and/or customers side of the meter, the customer will not be billed a trip charge. For this paragraph the term "Town's side" is any leak at the rear meter tail/coupling gasket or before the water meter.

§70-56. Water Meter Fee Schedule.

- (1) The water meter fee schedule for the Town is as set forth in the fee schedule found in Appendix A of this Code.
 - (a) The Town will not furnish a water meter or allow connection to the Town's water or wastewater system until the applicant for such connection provides proof of receipt to the Customer Service Department that the water and/or wastewater impact fees required by Section 42-37, entitled "Fee calculation," have been paid in full.

§70-57. Town-issued Fire Hydrant Meter(s).

- (1) For the use of a Town-issued fire hydrant water meter(s) and backflow prevention assembly, the Town has implemented a conditional agreement between the contractor, builder, and/or customer to be used on the Town's water system for a short-term basis only.
 - (a) The "Fire Hydrant Meter Use Agreement" which is available on the Town's website and is on file in the office of the Town Secretary and fully incorporated in this section by reference as Exhibit A.

Section 2

That chapter 70 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by adding section 70-58 and section 70-59, which said sections read as follows:

§70-58. Residential and Commercial Water Meter Installation Policy.

- (1) Residential and Commercial water meters 5/8-inch x 3/4-inch – 2-inch non-compound HPT/T-10 water meters.
 - (a) The Town of Flower Mound has implemented a water meter installation procedure, which provides for the installation of water meters by individual contractors and/or builders. This procedure requires all contractors and/or builders engaged in new construction of residential or commercial building to install water meters using their own labor resources.
 - (b) Notice of Non-Compliance
 - (1) All contractors and/or builders are hereby notified that during the entire construction process, all installation procedures shall be followed. If any procedure is violated at any time during the construction process, an employee of the Town of Flower Mound shall issue a warning notifying the contractor and/or builder of the violation. The contractor and/or builder will then have three (3) business days to have the violation corrected. If the violation is not corrected within three (3) business days it shall result in all inspections of that contractor and/or builder to be suspended by the Town, until such problem is corrected.
 - (c) Town Supplied Water Meter Materials
 - (1) All water meters 5/8-inch x 3/4-inch through 1-inch are supplied with the following materials:
 - (a) One non-lead meter coupling; and
 - (b) Two rubber meter gaskets.
 - (2) All non-compound water meters 1.5-inch through 2-inch HPT/T-10 are supplied with the following materials:
 - (a) One non-lead meter flange;
 - (b) Two flange gaskets; and
 - (c) Four nuts and four bolts.
 - (3) All materials supplied with the water meter must be used in conjunction with the installation of the water meter. It is the contractor and/or builder(s) responsibility to supply all other materials required in the installation of the water meter. On all commercial and residential curb stops 1-inch up to 2-inches that need to be reduced, the plumber shall use a meter adapter made of non-lead domestic brass (PVC reducers are not allowed in between the angle stop and the water meter). When connecting a 5/8-inch x 3/4-inch water meter to a 1-inch curb stop, the plumber must use a non-lead brass reducer bushing with washers, no

foreign brass products are allowed on the Town's water system. See the Town's "Construction Standards" for a list of approved manufactures.

(d) Setting Water Meter Requirements

- (1) After the water meter is purchased, the contractor and/or builder(s) are required to set the water meter(s) within ten (10) working days. After ten (10) working days, if the water meter(s) is not installed, Town personnel may ask the contractor and/or builder to return any such meter(s) to the Customer Service Department until the meter(s) is ready to be installed.
- (2) When installing a T-10 or an HP Turbine water meter, the following installation instructions shall be followed:
 - (a) All water meter(s) shall be installed by a licensed utility contractor, irrigator, and/or plumber at or before the plumbing rough in a horizontal position with the register dial facing upward.
 - (b) Water meters shall be installed by connecting the inlet side of the water meter to the Town's angle stop, no meter tails and/or couplings are allowed in between the water meter and the angle stop.
 - (c) The line opening for the meter in between the curb stop and the customer's service line should match the lay length, allowing slight additional spacing for coupling gaskets.
 - (d) The service line should be axially aligned with the inlet and outlet sides of the meter so that the coupling and meter threads can engage without binding or cross-threading.
 - (e) The water meter coupling and/or flange must be attached to the outlet side of the water meter.
 - (f) After the water meter has been installed, a water meter box/lid must be kept around the water meter at all times to help prevent the water meter from being damaged.
 - (g) The curb stop and the water meter coupling nut and/or flange must be accessible without any obstructions from inside of the water meter box.
 - (h) Water meters shall be installed at the address indicated on the water meter to prevent billing errors. If a water meter is installed at the wrong location, an administrative fee and a trip charge as set forth in Appendix A of the Code of Ordinances will be charged to the contractor and/or builder(s) account for correcting the information in the Town's billing system for each address.

- (i) Any contractor and/or builder found to be installing water meters not purchased through the Town shall be in violation of Section 70-59, entitled, "Town-issued water meter(s) mandatory." The meter(s) will be confiscated, the contractor and/or builder will be billed for the consumption that has registered on the meter, using a starting read of ten (10) and all inspections for said contractor and/or builder may be halted until such violation is corrected and a penalty fee will be assessed for each occurrence as set forth in the fee schedule found in Appendix A of this Code.
- (j) Streets with or without curbs must be marked with a straight saw-cut and painted blue at each service location to include domestic and irrigation meters.

(e) Damaged and/or Destroyed Water Meters

- (1) If a water meter is installed backwards, the contractor and/or builder must have the water meter reinstalled in the correct position at their expense within three (3) business days. If there is any negative usage on the meter, the account will be billed the negative usage and a trip charge, along with an administrative fee will be billed to the account as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
- (2) If a water meter freezes during cold weather and becomes nonfunctional before the Meter Services Technician takes the beginning read for the new occupant, it shall be the contractor and/or builder(s) responsibility to purchase and install a new water meter from the Town at their expense. The Town does not allow plumbers, utility contractors, and/or irrigators to install refurbished and/or repaired meters. The water meter fee schedule is as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
- (3) If the water meter data logger register is damaged and/or destroyed during the construction process, the contractor and/or builder shall be billed the cost of the data logger register, labor charge, trip charge, and an administrative fee as set forth in the fee schedule found in Appendix A of the Code of Ordinances. If the water meter is damaged beyond repair, it is the responsibility of the contractor and/or builder to purchase and install a new water meter at their expense. The Town has the right to lock the service until the repairs are made.
- (4) Prior to purchasing a replacement water meter(s) that has been damaged or destroyed, the contractor and/or builder must return the damaged or

destroyed water meter(s) to the Customer Service Department before a new water meter(s) is issued.

- (5) The contractor and/or builder shall have all water, mud, and/or debris cleaned out of the water meter box on the day the new home owner has scheduled an occupant change for new water service. This will allow the Meter Services Technician to perform the final water meter inspection. If the water meter installation to include the water meter, water meter box and curb/angle stop, do not meet the water meter installation policies and/or construction standards the water service will stay in the contractor and/or builder(s) name until the issue has been corrected. Not correcting the deficiency within 3 business days may result in all inspections for said contractor and/or builder to be put on hold until the violation is corrected.

(f) Water Meter Box Requirements

- (1) All new subdivisions that have been developed are supplied with a water meter box by the developer, located at the property line near the curb. All existing residential lots that have not been developed must provide a Town approved water meter box. If at any time during the construction process the water meter box becomes damaged, it is the contractor and/or builder(s) responsibility to purchase and install a new water meter box at their expense. If a water meter box becomes damaged and must be replaced in an area that was approved prior to the effective date of this ordinance, the contractor and/or builder must comply with the most current Town "Construction Standards."
- (2) Water meter boxes/lids for all angle stops up to 1 inch shall be DFW37C-SBSM series or approved equal and all water meter boxes/lids for all angle stops 1.5 inches through 2 inches for non-compound HPT or T-10 water meters shall be DFW65C-12-SBSM or approved equal.
- (3) Approved equal – Any water meter box/lid other than a DFW37/65 series meter box/lid, will require a detail spec sheet of the meter box/lid and it shall be submitted during the planning process and must be approved by the Meter Services Division.
- (4) When setting a water meter box, the correct placement of the box shall be centered over the water meter and in line with the service. The top of the water meter box shall match the surrounding surface elevation (example – curb or sidewalk).
- (5) Prior to the water meter box being set, there shall be a 3-inch (3") minimum of pea gravel placed under the water meter box as a base. Pouring the pea gravel into the water meter box will result in the water

meter and water meter box setting to fail inspection. The pea gravel must not cover the water meter or couplings/flanges at any time.

- (6) All water meter boxes and services shall be located in a utility easement dedicated to the Town. The water meter box shall be installed with a minimum clearance of 6-inches (6") behind the back of curb and shall not be installed in any sidewalk, drive, or parking area. The center of the meter swivel nut and/or flange on the angle stop shall be located within the meter box no less than 8 inches below grade or 10 inches deeper than grade. Any location variances will need to be preapproved. All other additional water meter box requirements not referenced within this ordinance must reference the Town's "Construction Standards."
- (7) The landscaper and/or irrigator shall not install any irrigation lines within 2 feet of the water meter box and at no time shall any irrigation lines be ran over the top of the water meter box.

(g) Looped and/or multiple water source connections

- (1) All residential and/or commercial facilities that require two different sources of water or are on a looped system shall install a back flow preventer after the water meter.
 - (2) The back flow preventer shall be installed after the water meter and before the two water sources are connected – this will prevent any reverse flows along with any cross contamination of the Town's water system.
 - (3) The back flow preventer shall not be installed within 2 feet of the meter box.
 - (4) The back flow preventer shall be owned, operated, and tested annually by the facility owner at the facility owner's expense.
 - (5) If it is determined that any reverse flows have occurred the builder and/or contractor shall install a back flow preventer at their expense.
- (2) Residential and Commercial water meters 2-inch – 6-inch Compound and/or 3-inch – 6-inch HP Turbine water meters.
- (a) The Town of Flower Mound has implemented a water meter installation procedure, which provides for the installation of water meters by individual contractors and/or builders. This procedure requires all contractors and/or builders engaged in new construction of residential or commercial building to install water meters using their own labor resources.
 - (b) Notice of Non-Compliance

- (1) All contractors and/or builders are hereby notified that during the entire construction process, all installation procedures shall be followed. If any procedure is violated at any time during the construction process, an employee of the Town of Flower Mound may issue a warning notifying the contractor and/or builder of the violation. The contractor and/or builder will then have three (3) business days to have the violation corrected. If the violation is not corrected within three (3) business days it shall result in all inspections of that contractor and/or builder to be suspended, until such problem is corrected.
- (c) Town Supplied Water Meter Materials
- (1) Compound meters two-inches (2") and larger or three-inch (3") and larger HP-Turbine meters are supplied with the following materials:
 - (a) Two flange gaskets;
 - (b) Four nuts and four bolts for large meters under 4 inches; and
 - (c) Six nuts and six bolts for large meters over 6 inches.
 - (2) All materials supplied with the water meter must be used in conjunction with the installation of the water meter. It is the contractor and/or builder(s) responsibility to supply all other materials required in the installation of the water meter. At no time shall any foreign brass products be allowed on the Town's water system. See the Town's "Construction Standards" for a list of approved manufactures.
- (d) Damaged or Destroyed Water Meters
- (1) If a water meter is installed backwards, the contractor and/or builder must have the water meter reinstalled in the correct position at their expense within three (3) business days. The account will be billed the negative usage and a trip charge, and an administrative fee will be billed to the account as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
 - (2) If a water meter freezes during cold weather and is non-functional it shall be the contractor and/or builder(s) responsibility to purchase a new water meter from the Town and have it installed at their expense. The water meter fee schedule is as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
 - (3) If a water meters data logger register(s) is damaged or destroyed during the construction process, the contractor and/or builder shall be billed the cost of the register, labor charge, trip charge, and an administrative fee as

set forth in the fee schedule found in Appendix A of the Code of Ordinances. If the water meter is damaged beyond repair, it is the responsibility of the contractor and/or builder to purchase and install a new water meter from the Town at their expense. The Town has the right to lock the service until the repairs are made.

- (4) Prior to purchasing a replacement water meter(s) that has been damaged or destroyed, the contractor and/or builder must return the damaged or destroyed water meter(s) to the Meter Services Division before a new water meter(s) is issued. The Town does not allow refurbished and/or repaired meters to be installed while under construction and/or prior to the certificate of occupancy.
 - (5) All water meters purchased by contractor(s) and/or builder(s) for new construction are the sole property of the Town of Flower Mound and must remain at the address to which the meter is assigned. Water meters in this class size take approximately 45 plus days after the order is received to be delivered.
- (e) Water Meter Vault Requirements
- (1) The Town of Flower Mound requires all vaults to be pre-fabricated and all walls shall be a monolithic pour with no seams or extensions. All side walls shall be 6-inches thick with 4,500 psi concrete reinforced with #4 re-bar on 8-inch centers both ways. All vaults shall be Park, Brooks, and American and/or approved equal. These are minimum specifications.
 - (2) The bottom of the vault shall be 6 inches thick with 4,500 psi concrete with #4 re-bar on 12-inch centers both ways. A 4-inch deep with a 12 inch x 12-inch sump with a cast iron grate shall be installed on the bottom of the slab. A 4-inch cushion of sand shall be installed under the slab.
 - (3) The vault shall not be installed in any drive or parking area and must be located in a utility easement dedicated to the Town of Flower Mound. The top of the vault shall match the surrounding surface elevation (example – curb or sidewalk).
 - (4) The lid shall be a J-4AL Bilco door (3-feet x 3-feet) for 2-inch – 4-inch meter vaults and JD-2AL Bilco (4-feet x 4-feet) door for 6-inch – 8-inch meter vaults. The design loads for the lid shall consist of dead, live, impact loads, and in addition loads due to water table and any other loads which may be imposed upon the structure. Live loads shall be for H-20 per AASHTO standard specifications for highway bridges. Design wheel load shall be 16 kips. The live load shall be that which produces the maximum shear and bending movements in the structure. The lids shall be equipped with a hold-open mechanism and flush locking devices. The access door must have (2) 2-inch holes drilled 6-inches apart in the center

of the lid for AMR reading devices. The aluminum must be protected from the concrete during casting.

- (5) All vaults must have a galvanized steel ladder with Bilco Ladder-up Safety posts. The ladder must be in line with the access lid for easy entrance in to the vault for repairs and/or testing.
- (6) All piping inside the vault must be ductile iron pipe with flanged fittings. Town Standards – American National Standard for ductile iron AWWA standard C151 (ANSI A21.51).
- (7) The contractor shall make the by-pass and meter test tap inside of the vault. The by-pass line must be the same pipe size as the main line. If the service is strictly to be used as irrigation, a by-pass will not be necessary. The test tap must be installed at least 2 pipe diameters downstream from the meter and all test taps shall be 2-inches and the contractor shall install an approved service saddle with non-lead brass nipple and non-lead brass gate valve. The test tap gate valve must have a threaded end discharge pipe.
- (8) The main line and by-pass gate valves shall be resilient wedge. All main line and by-pass valves shall be flanged on both ends and have hand wheels. All gate valves must be one of the approved manufactures listed in the Towns “construction standards” or approved equal.
- (9) The contractor shall have a choice of having link seal or wall sleeves (model WS-6-28-5-6 for 3-inch pipe; model WS-8-32-5-6 for 4-inch pipe; model WS-10-38-5-6 for 6-inch pipe; model WS-12-37-5-6 for 8-inch pipe. The above mentioned wall sleeves shall use the following Link Seal: for a 3-inch pipe – 5 #LS325-C; for 4-inch pipe-5 #LS400-C; for 6-inch pipe-7 #LS400-C; for 8-inch pipe-9 #LS400-C. Breaking the wall with a jackhammer or using a pre-cast knockout panels is not permitted.
- (10) Pipe and fittings shall be constructed a minimum of 1-foot above the vault floor and there shall be a minimum of 2-feet from the side walls. The by-pass tees shall be a minimum of 1-foot from the side wall. There shall be a concrete and/or galvanized steel support under each valve.
- (11) Minimum depth of any vault shall be 4-foot 6-inches.
- (12) The contractor and/or builder must purchase the water meter from the Town. All other parts will be supplied by the contractor at the contractor's expense.
- (13) Documentation shall be provided to the Town's Engineering Department showing that the vault meets the required specs listed above.

(14) Vault detail – W-12 Town Construction Standards.

(15) Water meter vault sizes.

(a) Vault sizes are: length x width x height

(1) 2" compound meter w/2" by-pass	6', 0" x 6', 0" x 6', 0"
(2) 3" compound meter w/3" by-pass	9', 0" x 6', 0" x 6', 0"
(3) 3" HP Turbine meter	6', 0" x 6', 0" x 6', 0"
(4) 4" compound meter w/4" by-pass	9', 0" x 6', 0" x 6', 0"
(5) 4" HP Turbine meter	6', 0" x 6', 0" x 6', 0"
(6) 6" compound meter w/6" by-pass	13', 0" x 7', 0" x 6', 0"
(7) 6" HP Turbine meter	9', 0" x 6', 0" x 6', 0"

(f) Setting and Putting the Water Meter into Service Requirements.

(1) After the water meter is purchased, the contractor and/or builder(s) are required to set the water meter(s) within ten (10) working days. After ten (10) working days, if the water meter(s) is not installed, Town personnel may ask the contractor and/or builder to return any such meter(s) to the Customer Service Department until the meter(s) is ready to be installed.

(2) When installing a Tru/Flo Compound or an HP Turbine meter, the following installation instructions shall be followed:

(a) The meter manufacturer along with the Town requires that all Tru/Flo Compound and/or HP Turbine meters be installed with a plate strainer at the meter inlet. The strainer, in addition to protecting the meter from debris in the line, also corrects the velocity profile of the flow to the meter.

(b) Install the Tru/Flo Compound and/or HP Turbine water meter horizontally with all registers facing upwards.

(c) Do not install pressure reducing or check valves before the inlet-side of the water meter.

(d) Do not open or connect any service pipe to the plugs located on the side of the Tru/Flo Compound water meter. These plugs are designed for the multi-jet meter low flow, allowing factory installation of a low flow water meter.

(e) When installing a TRU/FLO Compound and/or HP Turbine meter, normal good piping practice should always be followed. In particular, all gaskets should be centrally located on their flanges with no overlap

or interference with the pipe diameter. This is particularly important at the inlet connection to the meter where a gasket protruding into the flow stream will cause unpredictable velocity conditions.

- (f) Caution should be exercised to avoid air in the line, sudden flow surges, or excessive flow rates since these conditions may cause severe damage to the meter.
 - (g) Water meters shall be installed at the address indicated on the water meter to prevent billing errors. If a water meter is installed at the wrong location, an administrative fee and a trip charge as set forth in Appendix A of the Code of Ordinances will be charged to the contractor and/or builder(s) account for correcting the information in the Town's billing system for each address.
 - (h) Any contractor and/or builder found to be installing water meters not purchased through the Town shall be in violation of Section 70-59, entitled, "Town-issued water meter(s) mandatory." The meter(s) will be confiscated, the contractor and/or builder will be billed for the consumption that has registered on the meter, using a starting read of ten (10) and all inspections for said contractor and/or builder may be halted until such violation is corrected and a penalty fee will be assessed for each occurrence as set forth in the fee schedule found in Appendix A of this Code.
 - (i) Streets with or without curbs must be marked with a straight saw-cut and painted blue at each service location to include domestic and irrigation meters.
- (g) Before Operation
- (1) Before putting the TRU/FLO Compound meter in service follow these steps:
 - (a) Before opening the valve at the main, make sure the by-pass, inlet and outlet valves are in the "fully closed" position.
 - (b) Slowly open the valve at the main and let it pressurize the service line from the main to the in-let valve on the water meter.
 - (c) Before opening the inlet valve, turn air bleed on meter cover counter-clockwise one to two turns.
 - (d) With outlet-side gate valve closed, SLOWLY open inlet-side valve to pressurize meter.

- (e) Close air bleed screw (clockwise) when air is completely vented and no “spitting” occurs.
- (f) SLOWLY open outlet-side gate valve until downstream is pressurized.
- (2) After installation, it is important that the upstream (inlet) valve be put in the “full open” condition during service. A partially throttled upstream valve will cause flow profile distortion which will adversely affect meter accuracy. All throttling should be done ONLY on the downstream (outlet) side of the meter.
- (3) Before leaving the site, check for any possible leaks. If any leaks are discovered, shut the inlet-side valve down followed by the outlet-side valve slowly and make the necessary repairs.
- (4) At all times during the construction process the water meter vault shall be clean and free of debris.
- (5) If at any time during the construction process the water meter registers any negative usage, the contractor and/or builder will be required to install a backflow preventer device after the meter vault and before any usable water source at their expense.
- (h) Looped and/or multiple water source connections.
 - (1) All residential and/or commercial facilities that require two different sources of water or are on a looped system shall install a back flow preventer after the meter.
 - (a) The back flow preventer shall be installed after the water meter and before the two water sources are connected – this will prevent any reverse flows along with any cross contamination of the Town’s water system.
 - (b) The back flow preventer shall not be installed within 2 feet of the meter vault.
 - (c) The back flow preventer shall be owned, operated, and tested annually by the facility at their expense.

§70-59. Town-issued Water Meter(s) Mandatory.

- (a) All contractors and/or builders installing water meters shall purchase all water meter(s) from the Town. The Town reserves the right to determine the size, type, and right to own and control all water meters installed or used by customers of its water or wastewater system.

- (b) Contractors, builders and/or water customers shall not purchase any replacement meter(s) and/or equipment that has been damaged and/or destroyed from any other vendor, website and/or person. All replacement meter(s) and/or equipment shall be purchased from the Town.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5

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

SECTION 6

That any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances as amended hereby shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed the applicable general penalty fine amount as provided by Section 1-13 of the Flower Mound Code for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 7

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by

Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 7

This Ordinance shall take effect and be in full force from and after the date of its passage and publication.

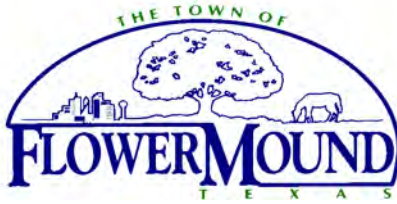
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 7TH DAY OF OCTOBER, 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

**EXHIBIT A**

**STATE OF TEXAS
COUNTY OF DENTON
TOWN OF FLOWER MOUND**

FIRE HYDRANT METER USE AGREEMENT**(Revised 10/07/2019)**

This Fire Hydrant Meter Use Agreement ("Agreement") is made between _____ (hereinafter called the "CONTRACTOR") and the Town of Flower Mound, Texas, a municipal corporation (hereinafter called the "Town").

In consideration of the mutual covenants contained in this Agreement and other valuable considerations, the receipt of which is acknowledged, the parties do hereby agree as follows:

1. Pursuant to the terms and conditions set out in this Agreement and subject to Section 70-57, "Town-issued Fire Hydrant Water Meter(s)," of the Code of Ordinances, Town of Flower Mound, Texas ("Code"), the Town grants a revocable license to CONTRACTOR to use the following fire hydrant meter number _____ and the backflow prevention assembly (hereafter called "Equipment").
2. The CONTRACTOR shall use the Equipment only in the manner for which it was designed and intended, subjecting the Equipment to ordinary wear and tear only. The CONTRACTOR shall not permit any Equipment to be used in violation of any federal, state, or municipal laws, ordinances, rules or regulations, or in a manner that is contrary to the provisions of this Agreement. **THE CONTRACTOR AGREES TO INDEMNIFY AND HOLD THE TOWN HARMLESS FROM ANY AND ALL FINES, FORFEITURES, DAMAGES OR PENALTIES RESULTING FROM USAGE OF THE EQUIPMENT OR VIOLATIONS OF THE TOWN'S ORDINANCE AND/OR THEIR AGREEMENT BY THE CONTRACTOR.**
3. Only Town-issued fire hydrant meter(s) for water usage on projects for contractors, builders, and/or customers are to be used and operated on the Town's water system and such use shall be on a short-term basis only. Fire hydrant meters may not be used for long-term irrigation or other uses where a permanently installed water meter would be appropriate.
 - (a) All readings must be faxed, emailed, or the Equipment physically brought to the Customer Service Department during regular business hours for a meter reading between the 20th and 25th of each month. If the CONTRACTOR fails to fax, email, and/or physically bring the meter in for a reading between the 20th and 25th of each month, the account shall be assessed a non-read penalty as provided for in the fee schedule found in Appendix A of the Code.
 - (b) If a negative reading is turned in, the CONTRACTOR will be billed the negative usage from the last read turned in.
 - (c) The Town has the right, at a time and date of the Town's choosing, to inspect all fire hydrant meters on a monthly basis.

4. The use of a garden hose adaptor will not be allowed to be connected to a three-inch (3") fire hydrant meter; only large diameter hoses will be allowed to be connected to the fire hydrant meter for large bulk-type watering, such as filling storage water tanks. If a CONTRACTOR is in violation of section four of this Agreement, a penalty as set forth in the fee schedule found in Appendix A of the Code will be assessed and added to the CONTRACTOR'S current water bill, which Contractor agrees to pay. If a CONTRACTOR requires the use of a small temporary meter for completing stone and/or brickwork or for any other purpose and a garden hose would be required, one may be checked out upon submitting the applicable fee, completing an application for service and executing a new fire hydrant meter use agreement.
5. The Town reserves the right to recall a fire hydrant meter due to Stage Two (2) Water Conservation Measures or higher. During Stage Two (2) Water Conservation Measures or higher, it will be necessary to obtain the approval of the Director of Public Works and/or the Director's designee, for the issuance of a fire hydrant water meter.
6. The term of this Agreement shall commence on this the _____ day of, _____, _____, and ends when the Equipment is returned in good condition, excepting normal wear and tear or as otherwise provided herein.
7. The CONTRACTOR agrees to pay the water bill to the Town on or before the twenty-fifth day of each month starting on the 25th day of _____, _____. The current minimum fee for a fire hydrant meter will be charged each month for the possession and use of the Equipment during the term of this Agreement along with all monthly water rates billed to the fire hydrant meter.
8. Encumbrances. Nothing herein shall affect the Town's absolute title ownership of the Equipment.
9. Return of Equipment. The CONTRACTOR shall at the end of this Agreement or at the earlier expiration or other termination of this Agreement as provided herein or as set forth in Section 70-57 of the Code, deliver the Equipment to the Town in good working order and repair, reasonable wear and tear excepted, free and clear of all liens, charges and encumbrances of any nature excepting only those granted by or arising through the Town.
10. **INDEMNIFICATION. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, THE CONTRACTOR HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR AND AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE TOWN AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF A PERSON OR DAMAGE TO PROPERTY, ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE USE OF THE EQUIPMENT. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.**
11. Damage of Equipment. If any of the Equipment is willfully or accidentally damaged or destroyed, the CONTRACTOR shall notify the Town immediately in writing. All damaged parts will be billed to the CONTRACTOR'S account at the time of inspection. If the Equipment is damaged beyond repair, the CONTRACTOR will forfeit the deposit to recover the cost of the Equipment. The CONTRACTOR will also be required to submit a new deposit, which will be double the minimum deposit, before a new meter is issued.

12. Lost or stolen Equipment. If any of the Equipment is lost or stolen, the CONTRACTOR will notify the Town immediately in writing, (file a police report if stolen,) reporting the Equipment lost or stolen and use all reasonable efforts, at the CONTRACTOR'S sole expense, to recover the Equipment. If the Equipment is not recovered within thirty (30) days of reporting the loss or theft to the Town, the CONTRACTOR will forfeit the deposit. The CONTRACTOR will also be required to submit a new deposit, which will be double the minimum deposit, before a new meter is issued and the CONTRACTOR shall be billed the highest prior month's consumption or, if the consumption is zero, the CONTRACTOR will be billed the average rate of consumption of a comparable job.
13. Deposit. The CONTRACTOR has this day deposited with the Town of Flower Mound the sum of \$ _____, the receipt of which is hereby acknowledged by the Town, as security for the payment of use for the Equipment, and for the faithful performance of this Agreement and all the other obligations hereunder, and for the payment of any and all sums of money for which it may be, or become, liable hereunder. Said sum of \$ _____ or so much thereof as shall not be applied for the purposes aforesaid, shall be returned to the CONTRACTOR, its successors or assigns, at the expiration of this Agreement, and upon the surrender of the Equipment, provided all the terms, conditions, covenants and agreements herein mentioned have been performed by the said CONTRACTOR, its successors and assigns.
14. Default.
- (a) Contractor shall be in default if, during the term of this Agreement one or more of the following events ("Events of Default") shall occur:
- i. Default shall occur if any payment due to be made by the CONTRACTOR is more than 15 days late and the non-payment shall continue for 30 days after written notice from the Town to the CONTRACTOR of the default and demand that it be remedied;
 - ii. Default shall occur in the failure to perform any of the covenants, conditions and agreements on the part of the CONTRACTOR contained herein and the event of default shall continue for 30 days after written notice from the Town to the CONTRACTOR, specifying the event of default and demanding that it be remedied; then in any such case the Town, at its option, may exercise any or all of the following rights:
 - (A) Proceed by appropriate court action, either at law or in equity, to enforce performance by the CONTRACTOR of this Agreement or to recover damages for breach; or
 - (B) By notice in writing to the CONTRACTOR, terminate this Agreement, at which time all rights of the CONTRACTOR for the use of the Equipment shall terminate as though this Agreement had never been made, but the CONTRACTOR shall remain liable as provided below; and the Town may then by its agents confiscate the Equipment and take possession of all or any of the Equipment and possess the Equipment free from any rights of the CONTRACTOR, or its successors or assigns, to use the Equipment for any purpose whatsoever, but the Town shall, nevertheless, have a right to recover from the CONTRACTOR all amounts which under the term of this Agreement may be then due or which may have accrued to the date of the termination; or

- (C) Pay any expense or charges, which the CONTRACTOR has failed to timely pay. These amounts shall then be immediately due and payable by the CONTRACTOR to the Town.
 - (b) The remedies in this Agreement provided in favor of the Town shall not be deemed exclusive, but shall be in addition to all other remedies in its favor existing at law or in equity. The CONTRACTOR waives any mandatory requirements of law, now or subsequently in effect, which might limit or modify any of the remedies here, to the extent that the waiver is permitted by law.
 - (c) The failure or delay of the Town to exercise the rights granted it here upon any occurrence of any of the events set out shall not constitute a waiver of any right upon the continuation or recurrence of those or similar events.
 - (d) The CONTRACTOR shall promptly advise the Town of all correspondence, notices, accident reports and other documents, received by the CONTRACTOR and asserting any claim or demand involving or relating to title to, or liens upon, the Equipment and will notify the Town of any claim of personal injury or property damage involving the Equipment during the term of this Agreement.
15. Warranty Disclaimer. **THE TOWN, NOT BEING THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT, MAKES NO EXPRESSED OR IMPLIED WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO THE EQUIPMENT. THE TOWN DISCLAIMS ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO: THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE DESIGN OR CONDITION OF THE EQUIPMENT, THE WORKMANSHIP IN THE EQUIPMENT, AND COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING TO THE EQUIPMENT, PATENT INFRINGEMENT, LATENT DEFECTS, AND TITLE.** The Town and the CONTRACTOR shall cooperate for the purpose of obtaining the full benefit of any manufacturers' warranties with respect to the Equipment.
16. Disclaimer of Liability. Neither the Mayor nor any individual Councilmember of the Town Council or its employees or agents shall be personally liable to the CONTRACTOR in any way by reason or any clause of the Agreement.
17. Governing Law. This Agreement shall be construed in accordance with and shall be governed by the laws of the State of Texas. Venue for any action arising from this Agreement shall be in Denton County, Texas.
18. Notices. Any notice required or permitted by this Agreement shall be in writing and may be either delivered in person or delivered by depositing in the United States Mail, postage paid addressed to the following:

MAILING ADDRESS:

The Town of Flower Mound, Texas

**Customer Services Department
2121 Cross Timber Rd
Flower Mound, Texas 75028**

RETURN ADDRESS:

_____**Company name:**

Attention:

Address:

_____**City:** _____**State:** _____**Zip Code:** _____

19. Assignment. The CONTRACTOR agrees that this Agreement may not be assigned or transferred without the prior written consent of the Town and that any successor to the CONTRACTOR'S rights under this Agreement will be required to accede to all of the terms, conditions and requirements of this Agreement as a condition precedent to succession.
20. No change or modification to this Agreement shall be of any force or effect unless the change or modification is embodied in an amendment, which is dated and is reduced to writing executed by both parties. No costs or obligations shall be incurred in consequence of any amendment to this Agreement unless and until such a written amendment has been executed.
21. Severability. The parties agree that if any provision of this Agreement shall be held invalid for any reason, the remaining provisions shall not be affected if the remaining provisions may continue to conform to the purposes of this Agreement and the requirements of applicable law.
22. Headings. The headings of the Agreement are for convenience and reference only, and in no way limit or describe the scope or intent of this Agreement.

SIGNED on this the _____ day of _____,
_____.

TOWN OF FLOWER MOUND AGENT:

Name:

(Sign)

Name:

_____ (Print)

Title:

CONTRACTOR:

Name:

(Sign)

Name:

(Print)

Title:

TOWN OF FLOWER MOUND

ORDINANCE – NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 70: UTILITIES BY REPLACING SECTION 70-55, 70-56, AND 70-57 AND ADDING A NEW SECTION 70-58, AND 70-59, OF ARTICLE II, ENTITLED “WATER SERVICES,” PROVIDING A REPEALING CLAUSE; PROVIDING A SERVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas (the “Town”) is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter adopted November 3, 1981; and,

WHEREAS, the Town possesses all the rights, powers, and authority possessed by a home rule municipality pursuant of Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the Town’s Home Rule Charter, to regulate utility meter services and the fees for the services provided; and,

WHEREAS, the Town Council of the Town of Flower Mound has recognized that due to an advance in technological updates in meter reading and meter services’ procedures, the Town has determined that it is necessary to amend Section 70-55, 70-56, and 70-57 and add two new sections, 70-58, and 70-59; and,

WHEREAS, the proposed standards will allow the Town of Flower Mound to continue to operate in a more efficient manor by clarifying the content of each section;

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

SECTION 1

The Code of Ordinances, Chapter 70: Utilities be and is hereby amended by replacing Section 70-55, entitled “Rereading and testing; replacement;” Section 70-56, entitled “Use of Town meter mandatory;” and Section 70-57, entitled “Town-issued Fire Hydrant Meter(s) and adding a new Section 70-58, entitled “Residential and Commercial Water Meter Installation Policy;” and Section 70-59, entitled “Use of Town-Issued Water Meter(s) Mandatory;” of Article II, entitled “Water Services,” with the following Article II, which reads as follows:

ARTICLE II. WATER SERVICES

DIVISION 2. METERS

§70-55. Re-reading; Testing; Water meter and Equipment Replacements; Check for leak and Data Logging Information.

(a)

- (a) Upon the request of any water customer, the Town will re-read such customer's water meter at no charge; provided, however, that such re-read shall not be done more often than once in a twelve-month period. Any re-read request of such customer's meter, more often than once in a twelve-month period, shall be charged a fee for each additional re-read, as provided for in the fee schedule found in Appendix A of this Code. Upon the second re-read request within the allotted time frame if it is determined that the meter read was incorrect, there shall be no re-read fee charged to the water customer.
- (b) If a property owner suspects that a water meter is registering improperly and requests that the water meter be tested, the water meter, which is the property of The Town of Flower Mound, will be tested. The water meter will be removed and a new water meter installed. The removed water meter shall be tested by an outside testing facility chosen by the Town. If, upon testing, the water meter reads below or within the approved standards of the American Water Works Association (A.W.W.A), the customer shall be charged according to the water meter testing fees as provided for in the fee schedule found in Appendix A of this Code. If the water meter test indicates that the water meter is testing above the A.W.W.A standard, no such charges will be made and the water customer's bill will be adjusted for the previous three (3) months from the last bill received using the percentage that is above the A.W.W.A standard.
- (c) If a water meter stops registering usage for any reason, so that the actual amount of water used cannot be determined, the Town will replace the water meter and bill the customer by taking a three (3) year average of the water used for the same billing period. If no prior history is available, the system average will be used.
- (d) If any water meter reading equipment, to include, but is not limited to, the water meter register and the radio read unit, is damaged, willfully or accidentally destroyed, the contractor, builder and/or water customer will be billed for the replacement of the equipment as provided for in the fee schedule found in Appendix A of this Code.
- (e) If a water meter box is damaged, willfully or accidentally destroyed, the contractor, builder and/or water customer will be billed for the replacement of the water meter box as provided for in the fee schedule found in Appendix A of this Code.
- (f) If a water customer damages, willfully, or accidentally destroys the barrel lock after the water service has been disconnected due to non-payment and/or prior to establishing water service or prior to a Town Official reconnecting the water service after payment has been made, the water customer will be billed for the barrel lock,

trip charge, and administrative fees as provided for in the fee schedule found in Appendix A of this Code.

- (1) Any other damages caused to the Town's water system, such as cutting off the locking tabs on the angle stop, will also be billed to the customer's account to cover the cost of parts, labor, trip charge, and administrative fees for work completed by the Public Works Department.
- (g) Upon the request of any water customer, the Town will check for a leak at the customers water meter at no charge, provided, however, that such leak check shall not be done more often than once in a twelve-month period. Any check for leak request of such customer's meter, more often than once in a twelve-month period, shall be charged a fee for each additional leak check, as provided for in the fee schedule found in Appendix A of this Code. If it is determined that there is a water leak on either the Town's side and/or customers side of the meter, the customer will not be billed a trip charge. For this paragraph the term "Town's side" is any leak at the rear meter tail/coupling gasket or before the water meter.
- (h) Upon the request of any water customer's water meter that is equipped with a data logging device, the Town will pull the data logging information on such customer's water meter at no charge; provided, however, that such data pull shall not be done more often than once in a twelve-month period. Any data pull request of such customer's meter, more often than once in a twelve-month period, shall be charged a fee for each additional data pull, as provided for in the fee schedule found in Appendix A of this Code. If it is determined that there is a water leak on either the Town's side and/or customers side of the meter, the customer will not be billed a trip charge. For this paragraph the term "Town's side" is any leak at the rear meter tail/coupling gasket or before the water meter.

§70-56.. Water meter fee schedule.

- (1) The water meter fee schedule for the Town is as set forth in the fee schedule found in Appendix A of this Code.
 - (a) The Town will not furnish a water meter or allow connection to the Town's water or wastewater system until the applicant for such connection provides proof of receipt to the Customer Service Department that the water and/or wastewater impact fees required by Section 42-37, entitled "Fee calculation," have been paid in full.

§70-57. Town-issued Fire Hydrant Meter(s).

- (1) For the use of a Town-issued fire hydrant water meter(s) and backflow prevention assembly, the Town has implemented a conditional agreement between the contractor, builder, and/or customer to be used on the Town's water system for a short-term basis only.
 - (a) The "Fire Hydrant Meter Use Agreement" which is available on the Town's website and is on file in the office of the Town Secretary and fully incorporated in this section by reference as Exhibit A.

§70-58. Residential and Commercial Water Meter Installation Policy.

- (1) Residential and Commercial water meters 5/8-inch x 3/4-inch – 2-inch non-compound HPT/T-10 water meters.
 - (a) The Town of Flower Mound has implemented a water meter installation procedure, which provides for the installation of water meters by individual contractors and/or builders. This procedure requires all contractors and/or builders engaged in new construction of residential or commercial building to install water meters using their own labor resources.
 - (b) Notice of Non-Compliance
 - (1) All contractors and/or builders are hereby notified that during the entire construction process, all installation procedures shall be followed. If any procedure is violated at any time during the construction process, an employee of the Town of Flower Mound shall issue a warning notifying the contractor and/or builder of the violation. The contractor and/or builder will then have three (3) business days to have the violation corrected. If the violation is not corrected within three (3) business days it shall result in all inspections of that contractor and/or builder to be suspended by the Town, until such problem is corrected.
 - (c) Town Supplied Water Meter Materials
 - (1) All water meters 5/8-inch x 3/4-inch through 1-inch are supplied with the following materials:
 - (a) One non-lead meter coupling; and
 - (b) Two rubber meter gaskets.
 - (2) All non-compound water meters 1.5-inch through 2-inch HPT/T-10 are supplied with the following materials:

- (a) One non-lead meter flange;
 - (b) Two flange gaskets; and
 - (c) Four nuts and four bolts,
- (3) All materials supplied with the water meter must be used in conjunction with the installation of the water meter. It is the contractor and/or builder(s) responsibility to supply all other materials required in the installation of the water meter. On all commercial and residential curb stops 1-inch up to 2-inches that need to be reduced, the plumber shall use a meter adapter made of non-lead domestic brass (PVC reducers are not allowed in between the angle stop and the water meter). When connecting a 5/8-inch x 3/4-inch water meter to a 1-inch curb stop, the plumber must use a non-lead brass reducer bushing with washers, no foreign brass products are allowed on the Town's water system. See the Town's "Construction Standards" for a list of approved manufactures.

(d) Setting Water Meter Requirements

- (1) After the water meter is purchased, the contractor and/or builder(s) are required to set the water meter(s) within ten (10) working days. After ten (10) working days, if the water meter(s) is not installed, Town personnel may ask the contractor and/or builder to return any such meter(s) to the Customer Service Department until the meter(s) is ready to be installed.
- (2) When installing a T-10 or an HP Turbine water meter, the following installation instructions shall be followed:
- (3) All water meter(s) shall be installed by a licensed utility contractor, irrigator, and/or plumber at or before the plumbing rough in a horizontal position with the register dial facing upward.
- (4) Water meters shall be installed by connecting the inlet side of the water meter to the Town's angle stop, no meter tails and/or couplings are allowed in between the water meter and the angle stop.
- (5) The line opening for the meter in between the curb stop and the customer's service line should match the lay length, allowing slight additional spacing for coupling gaskets.
- (6) The service line should be axially aligned with the inlet and outlet sides of the meter so that the coupling and meter threads can engage without binding or cross-threading.

- (7) The water meter coupling and/or flange must be attached to the outlet side of the water meter.
- (8) After the water meter has been installed, a water meter box/lid must be kept around the water meter at all times to help prevent the water meter from being damaged.
- (9) The curb stop and the water meter coupling nut and/or flange must be accessible without any obstructions from inside of the water meter box.
- (10) Water meters shall be installed at the address indicated on the water meter to prevent billing errors. If a water meter is installed at the wrong location, an administrative fee and a trip charge as set forth in Appendix A of the Code of Ordinances will be charged to the contractor and/or builder(s) account for correcting the information in the Town's billing system for each address.
- (11) Any contractor and/or builder found to be installing water meters not purchased through the Town shall be in violation of Chapter 70-59, entitled, "Town-issued water meter(s) mandatory." The meter(s) will be confiscated, the contractor and/or builder will be billed for the consumption that has registered on the meter, using a starting read of ten (10) and all inspections for said contractor and/or builder may be halted until such violation is corrected and a penalty fee will be assessed for each occurrence as set forth in the fee schedule found in Appendix A of this Code.
- (12) Streets with or without curbs must be marked with a straight saw-cut and painted blue at each service location to include domestic and irrigation meters.

(e) Damaged and/or Destroyed Water Meters

- (1) If a water meter is installed backwards, the contractor and/or builder must have the water meter reinstalled in the correct position at their expense within three (3) business days. If there is any negative usage on the meter, the account will be billed the negative usage and a trip charge, along with an administrative fee will be billed to the account as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
- (2) If a water meter freezes during cold weather and becomes nonfunctional before the Meter Services Technician takes the beginning read for the new occupant, it shall be the contractor and/or builder(s) responsibility to purchase and install a new water meter from the Town at their expense. The Town does not allow plumbers, utility contractors, and/or irrigators to

install refurbished and/or repaired meters. The water meter fee schedule is as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.

- (3) If the water meter data logger register is damaged and/or destroyed during the construction process, the contractor and/or builder shall be billed the cost of the data logger register, labor charge, trip charge, and an administrative fee as set forth in the fee schedule found in Appendix A of the Code of Ordinances. If the water meter is damaged beyond repair, it is the responsibility of the contractor and/or builder to purchase and install a new water meter at their expense. The Town has the right to lock the service until the repairs are made.
- (4) Prior to purchasing a replacement water meter(s) that has been damaged or destroyed, the contractor and/or builder must return the damaged or destroyed water meter(s) to the Customer Service Department before a new water meter(s) is issued.
- (5) The contractor and/or builder shall have all water, mud, and/or debris cleaned out of the water meter box on the day the new home owner has scheduled an occupant change for new water service. This will allow the Meter Services Technician to perform the final water meter inspection. If the water meter installation to include the water meter, water meter box and curb/angle stop, do not meet the water meter installation policies and/or construction standards the water service will stay in the contractor and/or builder(s) name until the issue has been corrected. Not correcting the deficiency within 3 business days may result in all inspections for said contractor and/or builder to be put on hold until the violation is corrected.

(f) Water Meter Box Requirements

- (1) All new subdivisions that have been developed are supplied with a water meter box by the developer, located at the property line near the curb. All existing residential lots that have not been developed must provide a Town approved water meter box. If at any time during the construction process the water meter box becomes damaged, it is the contractor and/or builder(s) responsibility to purchase and install a new water meter box at their expense. If a water meter box becomes damaged and must be replaced in an area that was approved prior to this policy, at the time of platting, the contractor and/or builder must comply with the most current Town "Construction Standard."

- (2) Water meter boxes/lids for all angle stops up to 1 inch shall be DFW37C-SBSM series or approved equal and all water meter boxes/lids for all angle stops 1.5 inches through 2 inches for non-compound HPT or T-10 water meters shall be DFW65C-12-SBSM or approved equal.
- (3) Approved equal – Any water meter box/lid other than a DFW37/65 series meter box/lid, will require a detail spec sheet of the meter box/lid and it shall be submitted during the planning process and approved by the Meter Services Division.
- (4) When setting a water meter box, the correct placement of the box shall be centered over the water meter and in line with the service. The top of the water meter box shall match the surrounding surface elevation (example – curb or sidewalk).
- (5) Prior to the water meter box being set, there shall be a 3-inch (3”) minimum of pea gravel placed under the water meter box as a base. Pouring the pea gravel into the water meter box will result in the water meter and water meter box setting to fail inspection. The pea gravel must not cover the water meter or couplings/flanges at any time.
- (6) All water meter boxes and services shall be located in a utility easement dedicated to the Town. The water meter box shall be installed with a minimum clearance of 6-inches (6”) behind the back of curb and shall not be installed in any sidewalk, drive, or parking area. The center of the meter swivel nut and/or flange on the angle stop shall be located within the meter box no less than 8 inches below grade or 10 inches deeper than grade. Any location variances will need to be preapproved. All other additional water meter box requirements not referenced within this policy must reference the Town’s “Construction Standards.”
- (7) The landscaper and/or irrigator shall not install any irrigation lines within 2 feet of the water meter box and at no time shall any irrigation lines be ran over the top of the water meter box.

(g) Looped and/or multiple water source connections

- (1) All residential and/or commercial facilities that require two different sources of water or are on a looped system shall install a back flow preventer after the water meter.

- (2) The back flow preventer shall be installed after the water meter and before the two water sources are connected – this will prevent any reverse flows along with any cross contamination of the Town's water system.
 - (3) The back flow preventer shall not be installed within 2 feet of the meter box.
 - (4) The back flow preventer shall be owned, operated, and tested annually by the facility at their expense.
 - (5) If it is determined that any reverse flows have occurred the builder and/or contractor shall install a back flow preventer at their expense.
- (2) Residential and Commercial water meters 2-inch – 6-inch Compound and/or 3-inch – 6-inch HP Turbine water meters.
 - (a) The Town of Flower Mound has implemented a water meter installation procedure, which provides for the installation of water meters by individual contractors and/or builders. This procedure requires all contractors and/or builders engaged in new construction of residential or commercial building to install water meters using their own labor resources.
 - (b) Notice of Non-Compliance
 - (1) All contractors and/or builders are hereby notified that during the entire construction process, all installation procedures shall be followed. If any procedure is violated at any time during the construction process, an employee of the Town of Flower Mound may issue a warning notifying the contractor and/or builder of the violation. The contractor and/or builder will then have three (3) business days to have the violation corrected. If the violation is not corrected within three (3) business days it shall result in all inspections of that contractor and/or builder to be suspended, until such problem is corrected.
 - (c) Town Supplied Water Meter Materials
 - (1) Compound meters two-inches (2") and larger or three-inch (3") and larger HP-Turbine meters are supplied with the following materials:
 - (a) Two flange gaskets;
 - (b) Four nuts and four bolts for large meters under 4 inches; and
 - (c) Six nuts and six bolts for large meters over 6 inches.

- (2) All materials supplied with the water meter must be used in conjunction with the installation of the water meter. It is the contractor and/or builder(s) responsibility to supply all other materials required in the installation of the water meter. At no time shall any foreign brass products be allowed on the Town's water system. See the Town's "Construction Standards" for a list of approved manufactures.

(d) Damaged or Destroyed Water Meters

- (1) If a water meter is installed backwards, the contractor and/or builder must have the water meter reinstalled in the correct position at their expense within three (3) business days. The account will be billed the negative usage and a trip charge, along with an administrative fee will be billed to the account as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
- (2) If a water meter freezes during cold weather and is non-functional it shall be the contractor and/or builder(s) responsibility to purchase a new water meter from the Town and have it installed at their expense. The water meter fee schedule is as set forth in the fee schedule found in Appendix A of the Code of Ordinances. The Town has the right to lock the service until the repairs are made.
- (3) If a water meters data logger register(s) is damaged or destroyed during the construction process, the contractor and/or builder shall be billed the cost of the register, labor charge, trip charge, and an administrative fee as set forth in the fee schedule found in Appendix A of the Code of Ordinances. If the water meter is damaged beyond repair, it is the responsibility of the contractor and/or builder to purchase and install a new water meter from the Town at their expense. The Town has the right to lock the service until the repairs are made.
- (4) Prior to purchasing a replacement water meter(s) that has been damaged or destroyed, the contractor and/or builder must return the damaged or destroyed water meter(s) to the Meter Services Division before a new water meter(s) is issued. The Town does not allow refurbished and/or repaired meters to be installed while under construction and/or prior to the certificate of occupancy.
- (5) All water meters purchased by contractor(s) and/or builder(s) for new construction are the sole property of the Town of Flower Mound and must remain at the address the meter is assigned too. Water meters in this class

size take approximately 45 plus days after the order is received to be delivered.

(e) Water Meter Vault Requirements

- (1) The Town of Flower Mound requires all vaults to be pre-fabricated and all walls shall be a monolithic pour with no seams or extensions. All side walls shall be 6-inches thick with 4,500 psi concrete reinforced with #4 re-bar on 8-inch centers both ways. All vaults shall be Park, Brooks, and American and/or approved equal. These are minimum specifications.
- (2) The bottom of the vault shall be 6 inches thick with 4,500 psi concrete with #4 re-bar on 12-inch centers both ways. A 4-inch deep with a 12 inch x 12-inch sump with a cast iron grate shall be installed on the bottom of the slab. A 4-inch cushion of sand shall be installed under the slab.
- (3) The vault shall not be installed in any drive or parking area and must be located in a utility easement dedicated to the Town of Flower Mound. The top of the vault shall match the surrounding surface elevation (example – curb or sidewalk).
- (4) The lid shall be a J-4AL Bilco door (3-feet x 3-feet) for 2-inch – 4-inch meter vaults and JD-2AL Bilco (4-feet x 4-feet) door for 6-inch – 8-inch meter vaults. The design loads for the lid shall consist of dead, live, impact loads, and in addition loads due to water table and any other loads which may be imposed upon the structure. Live loads shall be for H-20 per AASHTO standard specifications for highway bridges. Design wheel load shall be 16 kips. The live load shall be that which produces the maximum shear and bending movements in the structure. The lids shall be equipped with a hold-open mechanism and flush locking devices. The access door must have (2) 2-inch holes drilled 6-inches apart in the center of the lid for AMR reading devices. The aluminum must be protected from the concrete during casting.
- (5) All vaults must have a galvanized steel ladder with Bilco Ladder-up Safety posts. The ladder must be in line with the access lid for easy entrance in to the vault for repairs and/or testing.
- (6) All piping inside the vault must be ductile iron pipe with flanged fittings. Town Standards – American National Standard for ductile iron AWWA standard C151 (ANSI A21.51).
- (7) The contractor shall make the by-pass and meter test tap inside of the vault. The by-pass line must be the same pipe size as the main line. If the service

is strictly to be used as irrigation, a by-pass will not be necessary. The test tap must be installed at least 2 pipe diameters down-stream from the meter and all test taps shall be 2-inches and the contractor shall install an approved service saddle with non-lead brass nipple and non-lead brass gate valve. The test tap gate valve must have a threaded end discharge pipe.

- (8) The main line and by-pass gate valves shall be resilient wedge. All main line and by-pass valves shall be flanged on both ends and have hand wheels. All gate valves must be one of the approved manufactures listed in the Towns "construction standards" or approved equal.
- (9) The contractor shall have a choice of having link seal or wall sleeves (model WS-6-28-5-6 for 3-inch pipe; model WS-8-32-5-6 for 4-inch pipe; model WS-10-38-5-6 for 6-inch pipe; model WS-12-37-5-6 for 8-inch pipe. The above mentioned wall sleeves shall use the following Link Seal: for a 3-inch pipe – 5 #LS325-C; for 4-inch pipe-5 #LS400-C; for 6-inch pipe-7 #LS400-C; for 8-inch pipe-9 #LS400-C. Breaking the wall with a jackhammer or using a pre-cast knockout panels is not permitted.
- (10) Pipe and fittings shall be constructed a minimum of 1-foot above the vault floor and there shall be a minimum of 2-feet from the side walls. The by-pass tees shall be a minimum of 1-foot from the side wall. There shall be a concrete and/or galvanized steel support under each valve.
- (11) Minimum depth of any vault shall be 4-foot 6-inches.
- (12) The contractor and/or builder must purchase the water meter from the Town. All other parts will be supplied by the contractor at the contractor's expense.
- (13) Documentation shall be provided to the Town's Engineering Department showing that the vault meets the required specs listed above.
- (14) Vault detail – W-12 Town Construction Standards
- (15) Water meter vault sizes
 - (a) Vault sizes are length x width x height

(1) 2" compound meter w/2" by-pass	6' – 0" x 6' – 0" x 6' – 0"
(2) 3" compound meter w/3" by-pass	9' – 0" x 6' – 0" x 6' – 0"
(3) 3" HP Turbine meter	6' – 0" x 6' – 0" x 6' – 0"
(4) 4" compound meter w/4" by-pass	9' – 0" x 6' – 0" x 6' – 0"
(5) 4" HP Turbine meter	6' – 0" x 6' – 0" x 6' – 0"
(6) 6" compound meter w/6" by-pass	13' – 0" x 7' – 0" x 6' – 0"
(7) 6" HP Turbine meter	9' – 0" x 6' – 0" x 6' – 0"

(f) Setting and Putting the Water Meter into Service Requirements

- (1) After the water meter is purchased, the contractor and/or builder(s) are required to set the water meter(s) within ten (10) working days. After ten (10) working days, if the water meter(s) is not installed, Town personnel may ask the contractor and/or builder to return any such meter(s) to the Customer Service Department until the meter(s) is ready to be installed.
- (2) When installing a Tru/Flo Compound or an HP Turbine meter, the following installation instructions shall be followed:
 - (a) The meter manufacturer along with the Town requires that all Tru/Flo Compound and/or HP Turbine meters be installed with a plate strainer at the meter inlet. The strainer, in addition to protecting the meter from debris in the line, also corrects the velocity profile of the flow to the meter.
 - (b) Install the Tru/Flo Compound and/or HP Turbine water meter horizontally with all registers facing upwards.
 - (c) Do not install pressure reducing or check valves before the inlet-side of the water meter.
 - (d) Do not open or connect any service pipe to the plugs located on the side of the Tru/Flo Compound water meter. These plugs are designed for the multi-jet meter low flow, allowing factory installation of a low flow water meter.
 - (e) When installing a TRU/FLO Compound and/or HP Turbine meter, normal good piping practice should always be followed. In particular, all gaskets should be centrally located on their flanges with no overlap or interference with the pipe diameter. This is particularly important at the inlet connection to the meter where a gasket protruding into the flow stream will cause unpredictable velocity conditions.

- (f) Caution should be exercised to avoid air in the line, sudden flow surges, or excessive flow rates since these conditions may cause severe damage to the meter.
 - (g) Water meters shall be installed at the address indicated on the water meter to prevent billing errors. If a water meter is installed at the wrong location, an administrative fee and a trip charge as set forth in Appendix A of the Code of Ordinances will be charged to the contractor and/or builder(s) account for correcting the information in the Town's billing system for each address.
 - (h) Any contractor and/or builder found to be installing water meters not purchased through the Town shall be in violation of Chapter 70-59, entitled, "Town-issued water meter(s) mandatory." The meter(s) will be confiscated, the contractor and/or builder will be billed for the consumption that has registered on the meter, using a starting read of ten (10) and all inspections for said contractor and/or builder may be halted until such violation is corrected and a penalty fee will be accessed for each occurrence as set forth in the fee schedule found in Appendix A of this Code.
 - (i) Streets with or without curbs must be marked with a straight saw-cut and painted blue at each service location to include domestic and irrigation meters.
- (g) Before Operation
- (1) Before putting the TRU/FLO Compound meter in service follow these steps:
 - (a) Before opening the valve at the main, make sure the by-pass, inlet and outlet valves are in the "fully closed" position.
 - (b) Slowly open the valve at the main and let it pressurize the service line from the main to the in-let valve on the water meter.
 - (c) Before opening the inlet valve, turn air bleed on meter cover counter-clockwise one to two turns.
 - (d) With outlet-side gate valve closed, SLOWLY open inlet-side valve to pressurize meter.

- (e) Close air bleed screw (clockwise) when air is completely vented and no “spitting” occurs.
 - (f) SLOWLY open outlet-side gate valve until downstream is pressurized.
- (2) After installation, it is important that the upstream (inlet) valve be put in the “full open” condition during service. A partially throttled upstream valve will cause flow profile distortion which will adversely affect meter accuracy. All throttling should be done ONLY on the downstream (outlet) side of the meter.
 - (3) Before leaving the site, check for any possible leaks. If any leaks are discovered, shut the inlet-side valve down followed by the outlet-side valve slowly and make the necessary repairs.
 - (4) At all times during the construction process the water meter vault shall be clean and free of debris.
 - (5) If at any time during the construction process the water meter registers any negative usage, the contractor and/or builder will be required to install a backflow preventer device after the meter vault and before any usable water source at their expense.
- (h) Looped and/or multiple water source connections
 - (1) All residential and/or commercial facilities that require two different sources of water or are on a looped system shall install a back flow preventer after the meter.
 - (a) The back flow preventer shall be installed after the water meter and before the two water sources are connected – this will prevent any reverse flows along with any cross contamination of the Town’s water system.
 - (b) The back flow preventer shall not be installed within 2 feet of the meter vault.
 - (c) The back flow preventer shall be owned, operated, and tested annually by the facility at their expense.

§70-59. Town-issued Water Meter(s) Mandatory.

- (a) All contractors and/or builders installing water meters shall purchase all water meter(s) from the Town. The Town reserves the right to determine the size, type, and right to own and control all water meters installed or used by customers of its water or wastewater system.
- (b) Contractors, builders and/or water customers shall not purchase any replacement meter(s) and/or equipment that has been damaged and/or destroyed from any other vendor, website and/or person. All replacement meter(s) and/or equipment that has been damaged and/or destroyed shall be purchased from the Town.
- (c) The water meter fee schedule for the Town is as set forth in Sec. 70-56 of Appendix A Fee Schedule of this Code.

SECTION 2

That any provision of the Code of Ordinances of the Town of Flower Mound in conflict with the provisions of this Ordinance be, and same is hereby, repealed and all other provisions of the Code of Ordinances of the Town of Flower Mound not in conflict with this ordinance shall remain in full force and effect.

SECTION 3

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4

That any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances as amended hereby shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 5

This ordinance shall take effect and be in full force immediately after its passage and publication as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 16TH DAY OF SEPTEMBER, 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: October 7, 2019

FROM: Julie Taylor, Director of Treasury Operations

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

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

The Town plans to issue debt during fiscal year 2019-2020 to fund improvements to the water and wastewater system within the Town and fund the costs of issuance of the debt. **This debt is not supported/included in the debt portion of the ad valorem tax rate.** In order to begin this project prior to the issuance of debt, it is necessary to pass this resolution declaring intent to reimburse expenditures. The proposed reimbursement resolution provides the funding source to satisfy the procurement requirements for the projects as included and approved on the fiscal year 2019-2020 Five-Year Capital Improvement Program ("CIP").

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$10,215,000

Proposed Expenditure:	Account Number(s):
\$10,215,000	To satisfy the funding requirements and begin the capital project prior to the issuance of debt under federal tax law.

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

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

ATTACHMENTS:

1. Resolution

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. _____

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

WHEREAS, the Town of Flower Mound, Texas (the "Town"), intends to issue debt for the construction and improvement of the projects listed on Exhibit A (collectively, the "Projects"); and

WHEREAS, the Town further intends to make certain capital expenditures with respect to the Projects and currently desires and expects to reimburse the capital expenditures with proceeds of such debt; and

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

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

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

SECTION 1

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

SECTION 2

The Town reasonably expects to reimburse capital expenditures with respect to the Projects with proceeds of debt hereafter to be incurred by the Town, and this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Projects is \$10,215,000.

SECTION 3

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

SECTION 4

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

RESOLUTION NO. _____

PAGE 2

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ON THIS 7th DAY OF OCTOBER 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

RESOLUTION NO. _____**EXHIBIT A****Utility Capital Projects****Water Projects:**

Garden Ridge Blvd. Water Line Ph. II Water Line (South of Kirkpatrick)	\$	300,000	
High Road Water Line Replacement Phase II		2,710,000	
Hillside Water Line Connection		200,000	
Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff)		2,300,000	
Morriss Road Water Lines Phase II (Milford to Eaton)		350,000	
Stonehill 10MG Ground Storage Tank Rehabilitation		600,000	
Timber Creek Water Line Replacement Phase I		1,000,000	
Utility Asset Management & Utility Replacement		300,000	\$ 7,760,000

Wastewater Projects:

Inflow-Infiltration/Evaluation and Repair	\$	250,000	
Lift Station Improvements and Decommissioning Phase II		1,800,000	
Timber Creek Trunk Line (Morriss Road to Rawlings Street)		300,000	\$ 2,350,000

Total Utility			\$ 10,110,000
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Estimated financing costs			\$ 105,000
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Grand Total of Debt Issuance			\$ 10,215,000
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TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: October 7, 2019

FROM: Brittnei Barnett, Grants & Financial Analyst

ITEM: Consider approval of a resolution authorizing the Town Manager to accept the 2019 Public Works Emergency Response Team (PWERT) Equipment Cache Enhancement Response Trailer grant under the 2019 Homeland Security Grant Program (HSGP).

BACKGROUND INFORMATION: The Town of Flower Mound applied for and was awarded a grant in the amount of \$43,000.00 through the Office of the Governor as part of the Homeland Security Grant Program.

The grant funds will be used to purchase an emergency response trailer and equipment that can be utilized regionally to aid in emergency responses as well as incidents within the Town of Flower Mound. Once the trailer and the equipment are procured, they will become Town of Flower Mound property and will be maintained and stored by the Town. The project will be fully funded by the Homeland Security Grant Program.

A Council resolution accepting the grant is required before the release of award funds. Additionally, a formal designation of an Authorized Official (AO) is required. The Town Manager will be designated the AO, because he currently has access through the Office of the Governor's eGrants web portal and can electronically accept the grant award.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$43,000.00

Proposed (Revenue):	Account Number(s):
(\$43,000.00)	Grant Fund
Proposed Expenditure:	Account Number(s):
\$43,000.00	Grant Fund

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

LEGAL REVIEW: Ben Gibbs, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the attachments as to form and legality.

ATTACHMENTS:

1. Resolution
2. HSGP Statement of Grant Award
3. Grantee Standard Conditions and Responsibilities

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

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

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF THE 2019 PUBLIC WORKS EMERGENCY RESPONSE TEAM (PWERT) EQUIPMENT CACHE ENHANCEMENT RESPONSE TRAILER GRANT UNDER THE 2019 HOMELEAND SECURITY GRANT PROGRAM; EXECUTING AN AGREEMENT WITH THE OFFICE OF THE GOVERNOR; AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN.

WHEREAS, The Town Council of the Town of Flower Mound finds it in the best interest of the Town of Flower Mound that the 2019 Public Works Emergency Response Team Equipment Cache Enhancement Response Trailer be implemented under the 2019 Homeland Security Grant Program; and

WHEREAS, the Town Council agrees that in the event of loss or misuse of the Office of the Governor funds, the Town Council assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, the Town Council designates the Town Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

SECTION 1

The Town Council of the Town of Flower mound hereby approves acceptance of awarded funds in the amount of \$43,000.00 for the 2019 Public Works Emergency Response Team Equipment Cache Enhancement Response Trailer.

SECTION 2

The Town Council of the Town of Flower Mound hereby designates the Town Manager as the Town's official with the authority to enter into an agreement on behalf of the Town regarding the 2019 Public Works Emergency Response Team Equipment Cache Enhancement Response Trailer. The Town authorizes the Town Manager to agree to all understandings and assurances contained in the application. The Town Manager is directed and authorized to act in connection with the application and to provide any additional information that may be required.

SECTION 3

The terms, provisions, and conditions of the 2019 Homeland Security Grant Program will be adhered to.

RESOLUTION NO. _____

SECTION 4

The Town Manager is authorized to take those steps necessary to comply with the intent of this Resolution.

SECTION 5

This Resolution shall be effective upon its adoption.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Grant Number:	3735501	Award Amount:	\$43,000.00
Date Awarded:	PREVIEW - AWARD NOT ACTIVE	Grantee Cash Match:	\$0.00
Grant Period:	10/01/2019 - 09/30/2020	Grantee In Kind Match:	\$0.00
Liquidation Date:	12/29/2020	Total Project Cost:	\$43,000.00
Program Fund:	HS-Homeland Security Grant Program (HSGP)		
Grantee Name:	Flower Mound, Town of		
Project Title:	2019 SHSP - Flower Mound - PWERT Equipment Cache Enhancement Response Trailer		
Grant Manager:	Chelssie Lopez		
DUNS Number:	027941160		
CFDA:	97.067 - Homeland Security Grant Program (HSGP)		
Federal Awarding Agency:	U.S. Department of Homeland Security, Federal Emergency Management Agency		
Federal Award Date:			

Federal/State EMW-2019-XX-XXXXX**Award ID****Number:****Total Federal****Award/State** \$100.00
Funds**Appropriated:****Pass Thru****Entity Name:** Texas Office of the Governor – Homeland Security Grants Division (HSGD)**Is the Award****R&D:** No**Federal/State**
Award**Description:**

The purpose of the HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 31 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community.



Office of the Governor

Public Safety Office

Criminal Justice Division &
Homeland Security Grants Division

Grantee Standard Conditions and Responsibilities

September 2018

About This Document

In this document, grantees (also referred to as subrecipients) will find state and federal requirements and conditions applicable to grant funds administered by the Office of the Governor (OOG). These requirements and conditions are incorporated into the Grant Agreement accepted by a grant's Authorized Official.

These requirements are in addition to those that can be found on the eGrants system – including the Grant Application and Grant Award – or in documents identified there, to which grantees agreed when applying for and accepting the grant. Other state and federal requirements and conditions may apply to your grant, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code; Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code; the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made; for federal funding, the Funding Announcement or Solicitation under which OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice (DOJ), the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the grantee.

It is important for grantees to review all of these policies to successfully manage their grant, maintain eligibility for funding, and avoid violating the terms of the Grant Agreement, any of which could result in the revocation of funding or other actions.

For clarification or further information, please see the Guide to Grants and other support materials at <http://eGrants.Gov.Texas.Gov> or contact the grant manager assigned to the relevant grant. If no grant manager has been assigned, please contact the eGrants help desk via email at: eGrants@gov.texas.gov, or via telephone at: (512) 463-1919 or dial 7-1-1 for relay services.

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1 Grant Agreement Requirements and Conditions

1.1 Applicability of Grant Agreement and Provisions

The Grant Agreement is intended to be the full and complete expression of and constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and all prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this Grant Agreement.

If any term or provision of this Grant Agreement is found to be invalid or unenforceable, such construction shall not affect the legality or validity of any of its other provisions. The invalid term or invalid provision shall be deemed severable and stricken from the Grant Agreement as if it had never been incorporated herein, but all other provisions shall continue in full force and effect.

Notwithstanding any expiration or termination of this Grant Agreement, the rights and obligations pertaining to the grant close-out, maximum liability of OOG, cooperation and provision of additional information, return of grant funds, audit rights, records retention, public information, disclaimers and limitation of liability, indemnification, and any other provision implying survivability shall remain in effect after the expiration or termination of this Grant Agreement.

1.2 Legal Authority to Apply

The grantee certifies that it possesses legal authority to apply for the grant. A resolution, motion or similar action has been or will be duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or their designee of the organization to act in connection with the application and to provide such additional information as may be required. State agencies are not required to adopt a resolution.

1.3 Amendments and Changes to the Grant Agreement

OOG and the grantee may agree to make adjustments to the grant budget and detailed budget as documented in eGrants. Adjustments include, but are not limited to, modifying the scope of the grant project, adding funds to previously un-awarded cost items or categories, or changing funds in any awarded cost items or category or changing grant officials. OOG, at its sole discretion, and upon written notice by OOG to the grantee of any proposed adjustment, and after the grantee has had an opportunity to respond to the proposed adjustment, may adjust the grantee's Budget, Grant Narrative, Special Conditions, and/or any other items as deemed appropriate by OOG, at any time, during the term of this Grant Agreement.

The grantee has no right or entitlement to reimbursement with grant funds. OOG and grantee agree that any act, action or representation by either Party, their agents or employees that purports to waive or alter the terms of the Grant Agreement or increase the maximum liability of OOG is void unless a written amendment to this Grant Agreement is first executed and documented in eGrants. The grantee agrees that nothing in this Grant Agreement will be interpreted to create an obligation or liability of OOG in excess of the "Maximum Liability of the OOG" as set forth in the Statement of Grant Award (SOGA).

Any alterations, additions, or deletions to the terms of this Grant Agreement must be documented in eGrants to be binding upon the Parties.

1.4 General Responsibility

The grantee is responsible for the integrity of the fiscal and programmatic management of the grant project; accountability for all funds awarded; and compliance with OOG administrative rules, policies and procedures, and applicable federal and state laws and regulations.

Grant funds may be used only for the purposes in the grantee's approved application. The recipient shall not undertake any work or activities that are not described in the grant application, and that use staff, equipment, or other goods or services paid for with grant funds, without prior written approval from OOG.

The grantee will maintain an appropriate grant administration system to ensure that all terms, conditions and specifications of the grant are met. The Texas Uniform Grant Management Standards has more guidance on this topic.

1.5 Terms and Conditions

The grantee will comply with the terms and conditions as set forth and required in the funding announcement under which the approved application was submitted, the application, and award in eGrants. Notwithstanding the imposition of corrective actions, financial hold, and/or sanctions, the grantee remains responsible for complying with these terms and conditions. Corrective action plans, financial hold and/or sanctions do not excuse or operate as a waiver of prior failure to comply with the grant agreement. The failure of OOG to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time of such failure, shall not be a waiver of OOG's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this grant agreement shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation of this grant agreement.

To the extent the terms and conditions of this grant agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this grant agreement and in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed this grant agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this grant agreement. Any vague, ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the grant agreement.

1.6 Special Conditions

Special Conditions may be imposed by OOG, at its sole discretion and at any time, without amending this Grant Agreement. Failure by OOG to provide notice does not absolve grantee of compliance with any special conditions. OOG may place grantee on immediate financial hold, without further notice, until all Special Conditions, if any, are met.

1.7 Public Information

Notwithstanding any provisions of this Grant Agreement to the contrary, the grantee acknowledges that the State of Texas, OOG, and this Grant Agreement are subject to the Texas Public Information Act,

Texas Government Code Chapter 552 (the “PIA”). The grantee acknowledges that OOG will comply with the PIA, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas.

The grantee acknowledges that information created or exchanged in connection with this Grant Agreement, including all reimbursement documentation submitted to OOG, is subject to the PIA, whether created or produced by the grantee or any third party, and the grantee agrees that information not otherwise excepted from disclosure under the PIA, will be available in a format that is accessible by the public at no additional charge to OOG or State of Texas. The grantee will cooperate with OOG in the production of documents or information responsive to a request for information.

Information provided by or on behalf of the grantee under, pursuant to, or in connection with this Grant Agreement that the grantee considers proprietary, financial, trade secret, or otherwise confidential information (collectively “Confidential Information”) shall be designated as such when it is provided to OOG or State of Texas or any other entity in accordance with this Grant Agreement. Merely making a blanket claim that the all documents are protected from disclosure because they may contain some proprietary or confidential information may not render the whole of the information confidential. Any information which is not clearly identified as proprietary or confidential is subject to release in accordance with the Act. OOG agrees to notify the grantee in writing within a reasonable time from receipt of a request for information covering the grantee’s Confidential Information. OOG will make a determination whether to submit a Public Information Act request to the Attorney General.

The grantee agrees to maintain the confidentiality of information received from OOG or State of Texas during the performance of this Grant Agreement, including information which discloses confidential personal information particularly, but not limited to, personally identifying information, personal financial information and social security numbers.

The grantee must immediately notify and provide a copy to OOG of any Public Information Request or other third-party request for the disclosure of information it receives related to this Grant award.

1.8 Remedies for Non-Compliance

If OOG determines that the grantee materially fails to comply with any term of this grant agreement, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or any other applicable requirement, OOG, in its sole discretion and consistent with any applicable OOG Administrative Rules, may take actions including:

1. Temporarily withholding cash payments pending correction of the deficiency or more severe enforcement action by OOG;
2. Disallowing or denying use of funds for all or part of the cost of the activity or action not in compliance;
3. Disallowing claims for reimbursement;
4. Wholly or partially suspending or terminating this grant;
5. Requiring return or offset of previous reimbursements;
6. Prohibiting the grantee from applying for or receiving additional funds for other grant programs administered by OOG until repayment to OOG is made and any other compliance or audit finding is satisfactorily resolved;
7. Reducing the grant award maximum liability of OOG;

8. Terminating this Grant Agreement;
9. Imposing a corrective action plan;
10. Withholding further awards; or
11. Taking other remedies or appropriate actions.

The grantee costs resulting from obligations incurred during a suspension or after termination of this grant are not allowable unless OOG expressly authorizes them in the notice of suspension or termination or subsequently.

OOG, at its sole discretion, may impose sanctions without first requiring a corrective action plan.

1.9 False Statements by Grantee

By acceptance of this grant agreement, the grantee makes all the statements, representations, warranties, guarantees, certifications and affirmations included in this grant agreement. If applicable, the grantee will comply with the requirements of 31 USC § 3729, which set forth that no grantee of federal payments shall submit a false claim for payment.

If any of the statements, representations, certifications, affirmations, warranties, or guarantees are false or if the grantee signs or executes the grant agreement with a false statement or it is subsequently determined that the grantee has violated any of the statements, representations, warranties, guarantees, certifications or affirmations included in this grant agreement, then OOG may consider this act a possible default under this grant agreement and may terminate or void this grant agreement for cause and pursue other remedies available to OOG under this grant agreement and applicable law. False statements or claims made in connection with OOG grants may result in fines, imprisonment, and debarment from participating in federal grants or contract, and/or other remedy available by law, potentially including the provisions of 38 USC §§ 3801-3812, which details the administrative remedies for false claims and statements made.

1.10 Conflict of Interest Safeguards

The grantee will establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain, whether for themselves or others, particularly those with whom they have family, business, or other ties. The grantee will operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to its performance under this Grant Agreement.

The grantee must disclose, in writing, within fifteen (15) calendar days of discovery, any existing, actual or potential conflicts of interest relative to its performance under this Grant Agreement.

The grantee is and shall remain in compliance during the term of this Grant Agreement with Texas Government Code, Section 669.003, Contracting with Executive Head of State Agency; and Section 572, Employment of Former State Officer or Employee of State Agency. The grantee certifies that it is not ineligible to receive this Grant Agreement under Texas Government Code, section 2155.004, regarding the financial participation by a person who received compensation from OOG or another state agency to participate in preparing the specifications or request for proposals on which the bid or contract is based, and acknowledges that this Grant Agreement may be terminated and payment withheld if this certification is inaccurate.

The grantee has not given or offered to give, nor does the grantee intend to give at any time hereafter,

any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or employee of OOG, at any time during the award of this grant or in connection with this Grant Agreement, except as allowed under relevant state or federal law. The grantee nor its personnel or entities employed in rendering services under this grant agreement have, nor shall they knowingly acquire, any interest that would be adverse to or conflict in any manner with the performance of the grantee's obligations under this grant agreement.

1.11 Fraud, Waste, and Abuse

- A. The grantee understands that OOG does not tolerate any type of fraud, waste, or misuse of funds received from OOG. OOG's policy is to promote consistent, legal, and ethical organizational behavior, by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, OOG policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. The grantee understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal and state grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

In the event grantee becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from OOG that is made against the grantee, the grantee is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The grantee must also promptly refer to OOG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Grantees must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. Grantees must notify the local prosecutor's office of any possible criminal violations. Grantees must immediately notify OOG in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the grantee must immediately forward a copy of any demand, notices, subpoenas, lawsuits, or indictments to OOG. If a federal or state court or administrative agency renders a judgement or order finding discrimination by a grantee based on race, color, national origin, sex, age, or handicap, the grantee agrees to immediately forward a copy of the judgement or order to OOG.

The grantee is expected to report any possible fraudulent or dishonest acts, waste, or abuse to OOG's Fraud Coordinator or Ethics Advisor at (512) 463-1788 or in writing to: Ethics Advisor, Office of the Governor, P.O. Box 12428, Austin, Texas 78711.

- B. Restrictions and certifications regarding non-disclosure agreements and related matters. No grantee or subgrantee under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a state or federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a

federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient:
 - a. Represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - b. Certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to OOG, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that federal agency.
2. If the recipient does or is authorized under this award to make subawards ("subgrants") or procurement contracts, or both:
 - a. It represents that:
 - i. It has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - ii. It has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - b. It certifies that, if it learns or is notified that any subgrantee, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to OOG, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by OOG.

These provisions apply to all grantees and subgrantees or subcontractors.

1.12 Dispute Resolution

The Parties' representatives will meet as needed to implement the terms of this Grant Agreement and will make a good faith attempt to informally resolve any disputes.

Notwithstanding any other provision of this Grant Agreement to the contrary, unless otherwise requested or approved in writing by OOG, the grantee shall continue performance and shall not be excused from performance during the period any breach of Grant Agreement claim or dispute is pending.

The laws of the State of Texas govern this Grant Agreement and all disputes arising out of or relating to this Grant Agreement, without regard to any otherwise applicable conflict of law rules or requirements.

Venue for any grantee-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Grant Agreement shall be commenced exclusively in the Travis County District Court or the United States District Court, Western District of Texas - Austin Division. Venue for any OOG-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Grant Agreement may be commenced in a Texas state district court or a United States District Court selected by OOG in its sole discretion.

The grantee hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the courts referenced above for the purpose of prosecuting and/or defending such litigation. The grantee hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that the grantee is not personally subject to the jurisdiction of the above-named courts; the suit, action or proceeding is brought in an inconvenient forum; and/or the venue is improper.

1.13 Funds Limited by Agreement and Subject to Availability

The grantee agrees that nothing in this grant will be interpreted to create an obligation or liability of OOG in excess of the funds delineated in this grant. The grantee agrees that funding for this grant is subject to the actual receipt by OOG of grant funds (state and/or federal) appropriated to OOG for the grant program. The grantee agrees that the grant funds, if any, received from OOG may be limited by the term of each state biennium and by specific appropriation authority to and the spending authority of OOG for the purpose of this grant. The grantee agrees that notwithstanding any other provision of this grant, if OOG is not appropriated the funds or if OOG does not receive the appropriated funds for this grant program, or if the funds appropriated to OOG for this grant program are required to be reallocated to fund other federal or state programs or purposes, OOG is not liable to pay the grantee the maximum liability amount specified in the SOGA or any other remaining balance of unpaid funds. If OOG or the program fund becomes subject to legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render performance under this grant agreement impossible, this grant agreement may be immediately terminated without recourse, liability, or penalty against OOG upon written notice to grantee.

1.14 Termination of the Agreement

OOG may, at its sole discretion, terminate this Grant Agreement, without recourse, liability or penalty against OOG, upon written notice to grantee. In the event grantee fails to perform or comply with an obligation or a term, condition or provision of this Grant Agreement, OOG may, upon written notice to grantee, terminate this agreement for cause, without further notice or opportunity to cure. Such notification of Termination for Cause will state the effective date of such termination, and if no effective date is specified, the effective date will be the date of the notification.

OOG and grantee may mutually agree to terminate this Grant Agreement. OOG in its sole discretion will determine if, as part of the agreed termination, grantee is required to return any or all of the disbursed grant funds.

Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Grant Agreement. Following termination by OOG, grantee shall continue to be obligated to OOG for the return of grant funds in accordance with applicable provisions of this Grant Agreement. In the event of termination under this Section, OOG's obligation to reimburse grantee is limited to allowable costs incurred and paid by the grantee prior to the effective date of

termination, and any allowable costs determined by OOG in its sole discretion to be reasonable and necessary to cost-effectively wind up the grant. Termination of this Grant Agreement for any reason or expiration of this Grant Agreement shall not release the Parties from any liability or obligation set forth in this Grant Agreement that is expressly stated to survive any such termination or expiration.

1.15 Communication with Grantee

Notice may be given to the grantee via eGrants, email, hand-delivery, or United States Mail. Notices to the grantee will be sent to the name and address supplied by grantee in eGrants.

1.16 Limitation of Liability

To the extent allowed by law, the grantee agrees to indemnify and hold harmless OOG, the State of Texas and its employees, agents, officers, representatives, contractors, and/or designees from any and all liability, actions, claims, demands or suits whatsoever, including any litigation costs, attorneys' fees, and expenses, relating to tax liability, unemployment insurance and/or workers' compensation in grantee's performance under this grant agreement. The grantee shall be liable to pay all costs of defense including attorneys' fees. The defense shall be coordinated by grantee with OOG and the Office of the Attorney General when OOG, the State of Texas or its employees, agents, officers, representatives, contractors and/or designees are named defendants in any lawsuit and grantee may not agree to any settlement without first obtaining the concurrence from OOG and the Office of the Attorney General. The grantee and OOG agree to furnish timely written notice to each other of any such claims.

The grantee further agrees to indemnify and hold harmless, to the extent allowed by law, the OOG, the State of Texas and its employees, agents, officers, representatives, contractors, and/or designees from any and all liability, actions, claims, demands, or suits, whatsoever, including any litigation costs, attorneys' fees, and expenses, that arise from any acts or omissions of grantee or any of its officers, employees, agents, contractors, and assignees, relating to this grant agreement regardless of whether the act or omission is related to this grant agreement. The defense shall be coordinated by grantee, OOG and the Office of the Attorney General when OOG, the State of Texas or its employees, agents, officers, representatives, contractors and/or designees are named defendants in any lawsuit and grantee may not agree to any settlement without first obtaining the concurrence from OOG and the Office of the Attorney General. The grantee and OOG agree to furnish timely written notice to each other of any such claims.

The grantee agrees that no provision of this Grant Agreement is in any way intended to constitute a waiver by OOG, its officers, employees, agents, or contractors or the State of Texas of any privileges, rights, defenses, remedies, or immunities from suit and liability that OOG or the State of Texas may have by operation of law.

1.17 Liability for Taxes

The grantee agrees and acknowledges that grantee shall be entirely responsible for the liability and payment of grantee's and grantee's employees' taxes of whatever kind, arising out of the performances in this Grant Agreement. The grantee agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. OOG and/or the State of Texas shall not be liable to the grantee, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any

benefit available to a state employee or employee of OOG.

1.18 Force Majeure

Neither the grantee nor OOG shall be required to perform any obligation under this Grant Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, natural disaster, or interruption of utilities from external causes. Each Party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

1.19 Debt to State

The grantee agrees, to the extent grantee owes any debt (child support or other obligation) or delinquent taxes to the State of Texas, any payments grantee is owed under this Grant Agreement may be applied by the Comptroller of Public Accounts toward any such debt or delinquent taxes until such debt or delinquent taxes are paid in full.

1.20 Grantee an Independent Contractor

The grantee expressly agrees that it is an independent contractor and under no circumstances shall any owner, incorporator, officer, director, employee, or volunteer of grantee be considered an employee, agent, servant, joint venturer, joint enterpriser or partner of OOG or the State of Texas. The grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. All persons furnished, used, retained, or hired by or on behalf of the grantee or any of the grantee's contractors shall be considered to be solely the employees or agents of the grantee or the grantee's contractors. The grantee or grantee's contractors shall be responsible for ensuring that any and all appropriate payments are made, such as unemployment, workers compensation, social security, any benefit available to a state employee as a state employee, and other payroll taxes for such persons, including any related assessments or contributions required by law. The grantee agrees to take such steps as may be necessary to ensure that each contractor of the grantee will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of OOG or the State of Texas. The grantee is responsible for all types of claims whatsoever due to actions or performance under this Grant Agreement, including, but not limited to, the use of automobiles or other transportation, taken by its owners, incorporators, officers, directors, employees, volunteers or any third parties.

1.21 No Assignment of Rights or Obligations

The grantee may not assign this Grant Agreement or any of its rights or obligations under this Grant Agreement to any third party or entity. Any attempted assignment without OOG's prior written consent is void and may result in the termination of this Grant Agreement.

1.22 Funds Are for Sole Benefit of Grantee

It is expressly agreed that any solicitation for or receipt of funds of any type by the grantee is for the

sole benefit of the grantee and is not a solicitation for or receipt of funds on behalf of OOG or the Governor of the State of Texas.

1.23 Permission for Use of OOG Name and Labeling

Other than the required statements listed in this document, grantee shall not use OOG's name or refer to OOG directly or indirectly in any media release, public service announcement, or public service disclosure relating to this Grant Agreement or any acquisition pursuant hereto, including in any promotional or marketing materials, without first obtaining written consent from OOG. This Section is not intended to and does not limit the grantee's ability to comply with its obligations and duties under the Texas Open Meetings Act and/or the Texas Public Information Act. This Section is not intended to and does not limit OOG's duties and obligations to report this Grant Agreement, any grant payments made under this Grant Agreement, any contract compliance or performance information or other state or federal reporting requirements applicable to OOG.

1.24 Acknowledgement of Funding and Disclaimer

All publications, including websites, produced in full or in part with grant funds awarded by OOG must include an acknowledgement of the funding and a disclaimer of non-endorsement by the funding agency. In general, no publication may convey OOG's or any federal funding agency's (i.e. DOJ or FEMA) official recognition or endorsement of the recipient's project simply based on having received funding. For websites, the acknowledgement should be present somewhere on all major entry pages. Acknowledgement language for grants made through state fund sources is below and language for grants made through specific federal fund sources is included within the fund specific conditions memo.

For any state grant program: "This [website/report/study/project/etc.] is funded [insert "in part", if applicable] through a grant from the Public Safety Office of the Texas Office of the Governor. Neither the Office of the Governor nor any of its components operate, control, are responsible for, or necessarily endorse, this website (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)."

1.25 Royalty-Free License

Pursuant to 2 CFR 200.315(b), the grantee may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this award. OOG (and the federal funding agency, if the work is funded with a federal grant) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes:

- A. Any work subject to copyright developed under an award or subaward; and
- B. Any rights of copyright to which a grantee or subgrantee or subcontractor purchases ownership with state (or Federal) support.

The recipient acknowledges that OOG (and the federal funding agency) have the right to:

- A. Obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and
- B. Authorize others to receive, reproduce, publish or otherwise use such data for state (or federal) purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision

52.22714 (Rights in Data-general).

It is the responsibility of the grantee (and of each subgrantee or subcontractor if applicable) to ensure that this condition is included in any subaward under this award. The grantee has the responsibility to obtain from subgrantees, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subgrantee contractor, or subcontractor refuses to accept terms affording the Government such rights, the grantee shall promptly bring such refusal to the attention of the OOG program manager for the award and not proceed with the agreement in question without further authorization from OOG.

1.26 *Project Period*

The performance period for this Grant is listed on the Statement of Grant Award. All goods must be obligated and all services must be received within the performance period. OOG will not be obligated to reimburse expenses incurred after the performance period.

1.27 *Project Commencement*

The grantees must take reasonable steps to commence project activities upon receiving notice of a grant award:

- **Commencement within 60 days.** If a project is not operational within 60 days of the original start date of the award period or grant award date as noted on this memorandum, whichever is later, the grantee must report by letter to OOG the steps taken to initiate the project, the reasons for the delay, and the expected revised start date.
- **Commencement within 90 days.** If a project is not operational within 90 days of the original start date of the award period or grant award date as noted on this memorandum, whichever is later, the grantee must submit a second statement to OOG explaining the implementation delay. Upon receipt of the 90-day letter, OOG may cancel the project and redistribute the funds to other project areas. OOG may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period.

1.28 *Project Close Out*

OOG will close-out the grant award when it determines that all applicable administrative actions and all required work of the Grant have been completed by the grantee.

The grantee must submit all financial, performance, and other reports as required by the terms and conditions of the grant award. Submission of the final Financial Status Report will initiate grant close out with OOG.

The grantee must promptly refund any balances of unobligated cash that OOG paid in advance or paid and that are not authorized to be retained by the grantee for use in other projects.

1.29 *Federal Program Laws, Rules, and Guidelines*

The grantee must comply with applicable provisions of federal and state law and regulations, terms and conditions applicable to the federal awards providing funding for the grant award, and any applicable program guidelines, which may include:

- A. Office of Juvenile Justice and Delinquency Prevention (OJJDP) Formula Grants Program requirements as outlined in the Juvenile Justice and Delinquency Prevention Act of 2002, the applicable guidelines, the OJJDP Certified Assurances, and the most recent OJJDP Formula Grants Consolidated Regulation (28 CFR Part 31), to the extent that those regulations are not in conflict with the grant agreement;
- B. The Omnibus Crime Control and Safe Streets Act of 1968 (as amended - 42 U.S.C 3711 et seq.);
- C. Victims of Crime Act (VOCA) program guidelines, including VOCA Final Program Guidelines FY 1997 Victim Assistance Program or those finalized in 2015 and included in 28 CFR 94, depending on applicability and the federal award under which the grant was made;
- D. Violence Against Women Act (VAWA) relevant statutory and regulatory requirements, including the Violence Against Women Act of 1994 (P.L. 103-322), the Violence Against Women Act of 2000 (P.L. 106-336), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162), the Violence Against Women Reauthorization Act of 2013 (P.L. 113- 4), the Office on Violence Against Women's (OVW) implementing regulations at 28 CFR Part 90, OVW's general terms and conditions available at <http://www.justice.gov/ovw/grantees> (these do not supersede any specific conditions in the grant agreement), and the financial and administrative requirements set forth in the current edition of the Office on Violence Against Women (OVW) Financial Grants Management Guide;
- E. The provisions of the current edition of the Department of Justice Grants Financial Guide;
- F. If the grantee uses grant funds to undertake research involving human subjects, the grantee may be subject to Department of Justice (DOJ) Office of Justice (OJP) policies and requirements adopted by OOG related to human subjects found in 28 CFR Part 46;
- G. Section 2002 of the Homeland Security Act of 2002, as amended (P.L. 107-296) (6 U.S.C. § 603);
- H. If grantee receives a grant award in excess of \$150,000, it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Any subgrants or contracts made by the grantee in excess of \$150,000 must contain this provision.
- I. All other applicable Federal laws, orders, circulars, or regulations.

1.30 Applicability of Part 200 Uniform Requirements for Department of Justice Awards

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 CFR Part 2800 (the "Part 200 Uniform Requirements") apply to any grants funded through Department of Justice awards made after their adoption by DOJ on December 26, 2014. They supersede, among other things, the provisions of 28 CFR Parts 66 and 70, as well as those of 2 CFR Parts 215, 220, 225, and 230. If any grant is funded through an earlier Department of Justice award supplemented by an award made after December 26, 2014, the Part 200 Uniform Requirements apply with respect to all award funds (whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of the supplemental award.

Potential availability of grace period for procurement standards: Under the Part 200 Uniform Requirements, a time-limited grace period may be available under certain circumstances to allow for

transition from policies and procedures that complied with previous standards for procurements under federal awards to policies and procedures that comply with the new standards (that is, to those at 2 CFR 200.317 through 200.326).

For more information on the Part 200 Uniform Requirements, including information regarding the potentially-available grace period described above, see the Office of Justice Programs (OJP) website at <http://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

1.31 Required State Assurances

The grantee must comply with the applicable State Assurances included within the State Uniform Grant Management Standards (UGMS), Section III, Subpart B, _14 which are incorporated here by reference in the award terms and conditions.

2 Organizational Eligibility

2.1 Good Standing for Eligible Grantees

- A. The grantee is in good standing under the laws of the State in which it was formed or organized, and has provided OOG with any requested or required documentation to support this certification.
- B. The grantee agrees to remain in good standing with any state or federal governmental bodies related to the grantee's right to conduct its business in Texas, including but not limited to the Texas Secretary of State and the Texas Comptroller of Public Accounts, as applicable.
- C. The grantee owes no delinquent taxes to any taxing unit of this State as of the effective date of this Grant Agreement.
- D. The grantee is non-delinquent in its repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.
- E. The grantee has or will obtain all licenses, certifications, permits, and authorizations necessary to perform its obligations under this Grant Agreement, without costs to OOG.
- F. The grantee is currently in good standing with all licensing, permitting or regulatory bodies that regulate any or all aspects of grantee's business or operations.
- G. The grantee agrees to comply with all applicable licenses, legal certifications, inspections, and any other applicable local ordinance or state or federal laws.
- H. The grantee shall comply with any applicable federal, state, county, local and municipal laws, ordinances, resolutions, codes, decisions, orders, rules, and regulations, in connection with its obligations under this Grant Agreement.
- I. The grantee does not have any existing claims against or unresolved audit exceptions with the State of Texas or any agency of the State of Texas.

2.2 *System for Award Management (SAM) Requirements*

- A. The grantee agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and, if applicable, the federal funding agency). These requirements include maintaining current registrations and the currency of the information in SAM. The grantee will review and update information at least annually until submission of the final financial report required under the award or receipt of final payment, whichever is later, as required by 2 CFR Part 25.
- B. Applicable to this Grant Agreement is the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing - Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective September 24, 2001, and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's System for Award Management (SAM), <https://www.sam.gov>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.
- C. The grantee will comply with Executive Orders 12549 and 12689 that requires "a contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM)", in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. The grantee certifies it will verify each vendor's status to ensure the vendor is not debarred, suspended, otherwise excluded or declared ineligible by checking the SAM before doing/renewing business with that vendor.
- D. The grantee certifies that it and its principals are eligible to participate in this Grant Agreement and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the grantee is in compliance with the State of Texas statutes and rules relating to procurement and that the grantee is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

2.3 *Criminal History Reporting*

Counties or other governmental entities required to maintain and report criminal history records per the Texas Code of Criminal Procedure, Ch. 60, must maintain compliance with that statute in order to obtain or maintain eligibility for OOG grant funds.

2.4 *Uniform Crime Reporting*

Local units of governments receiving funds from OOG must comply with all requirements for uniform crime reporting and must ensure that prompt reporting will remain current throughout the grant period.

2.5 *Immigration Related Matters*

Compliance with 8 USC §§ 1373 & 1644 – In order to foster state and local cooperation in the enforcement of our nation's immigration laws, federal law provides that a government entity or

official may NOT prohibit or otherwise restrict any government entity or official from exchanging information with federal immigration authorities about the immigration or citizenship status of any individual.

Furthermore, no individual or entity may prohibit or otherwise restrict a government entity from: (1) sending or receiving citizenship or immigration related information to and from federal immigration authorities; (2) maintaining the information; or (3) exchanging the information with any other federal, state, or local government entity. Any grant applicant or recipient that has policies or practices (written or unwritten) that contravene the restrictions outlined above is not eligible for a grant that is awarded by or through the Office of the Governor.

2.6 E-Verify

- A. The grantee shall comply with the requirements of the Immigration Reform and Control Acts of 1986 and 1990 ("IRCA") regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services in the United States of America under this Grant Agreement, if any, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") enacted on September 30, 1996.
- B. The grantee certifies and ensures that it utilizes and will continue to utilize, for the term of this Grant Agreement, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:
 - 1. All persons employed to perform duties within Texas, during the term of the Grant; and
 - 2. All persons employed or assigned by the grantee to perform work pursuant to the Grant Agreement, within the United States of America.

If this certification is falsely made, the Grant Agreement may be terminated.

- C. If applicable, grantee will comply with Executive Order RP-80 regarding the U.S. Department of Homeland Security's E-Verify system.

2.7 Deceptive Trade Practices Violations

The grantee represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that the grantee has not been found to be liable for such practices in such proceedings. The grantee certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings. The grantee shall notify OOG in writing within five (5) calendar days if grantee or any of its officers are subject to allegations of Deceptive Trade Practices or are the subject of alleged violations of any unfair business practices in an administrative hearing or court suit, and that the grantee or officers have been found to be liable for such practices in such proceedings.

2.8 Hurricane Contract Violations

Texas law prohibits OOG from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief

for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under section 2155.006 of the Texas Government Code, the grantee is not ineligible from entering into this Grant Agreement and acknowledges that this Grant Agreement may be terminated and payment withheld or return of grant funds required if this certification is inaccurate or false.

2.9 Terminated Contracts

The grantee has not had a contract terminated or been denied the renewal of any contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited from contracting with a governmental agency. If the grantee does have such a terminated contract, the grantee shall identify the contract and provide an explanation for the termination. The grantee acknowledges that this Grant Agreement may be terminated and payment withheld or return of grant funds required if this certification is inaccurate or false.

2.10 Special Requirements for Units of Local Government

Grant funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

- A. Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
- B. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using grant funds to pay dues to an organization with a registered lobbyist;
- C. Texas Government Code, Sections 2113.012 and 2113.101, which prohibits using grant funds to compensate any employee who uses alcoholic beverages on active duty and grantee may not use grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
- D. Texas General Appropriations Act, Art. IX, Section 6.13, which requires grantee to make every effort to attain key performance target levels associated with this Grant, including performance milestones, milestone time frames, and related performance reporting requirements; and
- E. General Appropriations Act, Ar. IX, Sections 7.01 and 7.02, and Texas Government Code § 2102.0091, which requires that this Grant may only be expended if grantee timely completes and files its reports.

2.11 Special Requirements for Non-Profit Grantees

Each non-profit corporation receiving funds from OOG must obtain and have on file a blanket fidelity bond that indemnifies OOG against the loss or theft of the entire amount of grant funds, including matching funds. The fidelity bond should cover at least the OOG grant period.

By accepting funds under this award, any non-profit grantee certifies and affirmatively asserts that it is

a non-profit organization and that it keeps on file, and is available upon audit, either:

- A. A copy of the recipient's 501(c)(3) designation letter;
- B. A letter from the State of Texas stating that the recipient is a non-profit organization operating within Texas; or
- C. A copy of the grantee's Texas certificate of incorporation that substantiates its non-profit status.

Grantees that are local non-profit affiliates of state or national non-profits should have available proof of (1), (2), or (3), and a statement by the state or national parent organization that the recipient is a local non-profit affiliate.

Non-profit recipients of Victims of Crime Act (VOCA) funding that are not a 501(c)(3) organization finally certified by the Internal Revenue Service must make their financial statements available online.

Non-profit recipients of funds provided under the Juvenile Justice and Delinquency Prevention Act must have 501(c)(3) status recognized by the Internal Revenue Service.

Church, mosque, and synagogue recipients of Nonprofit Security Grant Program funding are not required to apply for and receive a recognition of exemption under section 501(c)(3). Such organizations are automatically exempt if they meet the requirements of section 501(c)(3).

3 Civil Rights

3.1 *Compliance with Civil Rights and Nondiscrimination Requirements*

- A. The grantee will comply with all State and Federal statutes relating to civil rights and nondiscrimination and ensure, in accordance with federal civil rights laws, that the grantee shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.
- B. The grantee will comply, and all its contractors and subgrantees will comply, with all federal statutes and rules relating to civil rights and nondiscrimination. These include but are not limited to:
 - 1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
 - 2. Title IX of the Education Amendments of 1972, as amended (20 USC §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
 - 3. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of handicaps and the Americans With Disabilities Act of 1990 (42 USC § 12131-34);
 - 4. The Age Discrimination Act of 1974, as amended (42 USC §§ 6101-6107), which prohibits discrimination on the basis of age;
 - 5. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - 6. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on

the basis of alcohol abuse or alcoholism;

7. Sections §§ 523 and 527 of the Public Health Service Act of 1912 (42 USC 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
8. Title VIII of the Civil Rights Act of 1968 (42 USC § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
9. Any other nondiscrimination provisions in the specific statute(s) or the state or federal solicitation or funding announcement under which application for grant funds is being made, including but not limited to:
 - i. **Section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968** (codified at 34 U.S.C. 10228(c); see also 34 U.S.C. 11182(b)),
 - ii. **Section 1407(e) of the Victims of Crime Act of 1984** (codified at 34 U.S.C. 20110(e))
 - iii. **Section 40002(b)(13) of the Violence Against Women Act of 1994** (codified at 34 U.S.C. 12291(b)(13))
- C. A nondiscrimination provision that deals with discrimination in employment on the basis of religion is read *together* with the pertinent provisions of the Religious Freedom Restoration Act of 1993. As a result, even if an otherwise-applicable nondiscrimination provision states that a recipient or subrecipient may not discriminate in employment based on religion, an OJP recipient or subrecipient that is a faith-based organization *may* consider religion in hiring, *provided* it satisfies particular requirements. Additional information on those requirements can be found at <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm#4>.
- D. Collectively, these federal laws prohibit a grantee from discriminating either in employment (subject to the exemption for certain faith-based organizations discussed in C. above”) or in the delivery of services or benefits on the basis of race, color, national origin, sex, religion, or disability. More information on Civil Rights and Nondiscrimination requirements for grantees receiving funding originating from the Department of Justice can be found at <https://ojp.gov/about/ocr/statutes.htm>.
- E. In the event any federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin (including limited English proficiency), or sex against the grantee, or the grantee settles a case or matter alleging such discrimination, the grantee must forward a copy of the complaint and findings to OOG and, as applicable, the Office of Justice Programs Office for Civil Rights (OCR), or the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.
- F. **All recipients of Department of Justice Grants** must review the Information on Civil Rights for CJD grantees posted on the eGrants website available at: https://egrants.gov.texas.gov/FileDirectory/Civil_Rights_Presentation_11-2013.pdf.

3.2 Limited English Proficiency

The grantee will comply with Title VI of the Civil Rights Act of 1964, which prohibits grantees from discriminating on the basis of national origin in the delivery of services or benefits, entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. Meaningful access may entail providing

language assistance services, including oral interpretation and written translation, where necessary. In order to facilitate compliance with Title VI, grantees are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. More information can be found at <http://www.LEP.gov>.

3.3 Equal Employment Opportunity Plan

All recipients of Department of Justice grants must 1) develop and file an Equal Employment Opportunity Plan (EEOP) with the Department of Justice; AND/OR 2) file a certification of exemption from EEOP requirements, if eligible. The Department of Justice released a new EEOP Certification Form in late 2015.

Every recipient of a federal grant must now complete an EEOP Certification Form, even those that are exempt from filing an EEOP.

If a grantee is required to submit an EEOP, that grantee must also file a Certification Form declaring that submission. The grantee must keep a copy of both the EEOP and the Certification Form on-file and available at any time upon request from OOG. If a grantee is claiming an exemption from filing an EEOP, that grantee must complete the federal Certification Form for that exemption in order to be eligible for federal funds. Grantees must keep a copy of the Certification Form on-file and available at any time upon request from OOG.

EEOP guidance and the Certification Form for both filers and those claiming an exemption is available at: <http://ojp.gov/about/ocr/eeop.htm>. EEOP submissions must be prepared and filed electronically through the EEOP Reporting Tool available at the site referenced in this paragraph.

The grantee acknowledges that failure to submit an acceptable EEOP (if recipient is required to submit one), that is approved by the Office for Civil Rights, is a violation of the Grant Agreement and may result in suspension or termination of funding, until such time as the recipient is in compliance.

4 Personnel

4.1 Overtime

Overtime is allowable to the extent that it is included in the OOG-approved budget, the grantee agency has an overtime policy approved by its governing body, and both grant-funded and non-grant funded personnel are treated the same with regards to the application of overtime policy(ies). In addition, in no case is dual compensation allowable. That is, an employee of a grantee agency may not receive compensation for hours worked (including paid leave) from his/her agency AND from an award for a single period of time, even though such work may benefit both activities. Overtime payments issued outside of these guidelines are the responsibility of the grantee agency.

4.2 Notification of Grant-Contingent Employees

Staff whose salaries are supported by this award must be made aware that continued funding is contingent upon the availability of appropriated funds as well as the outcome of the annual application review conducted by OOG.

5 Travel

5.1 Travel Policies

The grantee must follow their established policies and good fiscal stewardship related to travel expenses. If the grantee does not have established written policies regarding in-state and out-of-state travel, grantee must use the travel guidelines established for state employees.

6 Contracts and Procurement

6.1 Procurement Practices and Policies

The grantee must follow applicable Federal and State law, Federal procurement standards specified in regulations governing Federal awards to non-Federal entities, their established policy, and best practices for procuring goods or services with grant funds. Contracts must be routinely monitored for delivery of services or goods.

- A. Procurement (contract) transactions should be competitively awarded unless circumstances preclude competition.
- B. When any contractual or equipment procurement is anticipated to be in excess of \$150,000, grantees must submit a Procurement Questionnaire <https://eGrants.gov.texas.gov/updates.aspx> to OOG for approval prior to procurement. Grantees must ensure these contracts address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.
- C. When contractual or equipment procurement is anticipated to be in excess of \$10,000, grantees must address termination for cause and for convenience by the grantee including the manner by which it will be affected and the basis for settlement.

6.2 Subcontracting

The grantee may not subcontract any of its rights or duties under this Grant Agreement without the prior written approval of OOG. It is within OOG's sole discretion to approve any subcontracting. In the event OOG approves subcontracting by the grantee, the grantee will ensure that its contracts with others shall require compliance with the provisions of this Grant Agreement to the extent compliance is needed to support the grantee's compliance with this Grant Agreement. The grantee, in subcontracting for any performances specified herein, expressly understands and agrees that it is not relieved of its responsibilities for ensuring that all performance is in compliance with this Grant Agreement and that OOG shall not be liable in any manner to any grantee subcontractor.

6.3 Buy Texas

If applicable with respect to any services purchased pursuant to this Grant Agreement, the grantee will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and within a comparable period of time when compared to non-Texas products and materials.

6.4 *Contract Provisions Under Federal Awards*

All contracts made by a grantee under a federal award must contain the provisions outlined in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Appendix II to Part 200 Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

7 **Equipment Requirements**

7.1 *Property Management and Inventory*

The grantee must ensure equipment purchased with grant funds is used for the purpose of the Grant and as approved by OOG. The grantee must develop and implement a control system to prevent loss, damage or theft of property and investigate and document any loss, damage or theft of property funded under this Grant.

The grantee must account for any real and personal property acquired with grant funds or received from the Federal Government in accordance with 2 CFR 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property. This documentation must be maintained by the grantee, according to the requirements listed herein, and provided to OOG upon request, if applicable.

When original or replacement equipment acquired under this award by the grantee is no longer needed for the original project or program or for other activities currently or previously supported by the federal awarding agency or OOG, the grantee must make proper disposition of the equipment pursuant to 2 CFR and/or the Uniform Grant Management Standards (UGMS), as applicable.

The grantee shall not give any security interest, lien or otherwise encumber any item of equipment purchased with grant funds

The grantee will maintain specified equipment management and inventory procedures for equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place, with a per-unit cost of \$5,000 or greater, any firearms, any items on the Prohibited or Controlled Expenditures list, and the following equipment with costs between \$500 and \$4,999: sound systems and other audio equipment, still and video cameras, TVs, video players/recorders, desktop computers, laptop computers, data projectors, smartphones, tablets, other hand held devices, and mobile/portable radios. (See Texas Government Code, Sec. 403.271(b) for further information. Users of these standards should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's State Property Accounting User Manual, available on the internet, for the most current listing.) The equipment and inventory procedures include:

- A. The grantee must keep an inventory report on file containing equipment purchased with any grant funds during the grant period. The inventory report must agree with the approved grant budget and the final Financial Status Report and shall be available to OOG at all times upon request.
- B. At least every two (2) years, grantee must take a physical inventory and reconcile the results with property records.
- C. The grantee must maintain property/inventory records which, at minimum, include a description of the property, a serial number or other identification number, the source of

property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

- D. The grantee shall permanently identify all such equipment by appropriate tags or labels affixed to the equipment.

Upon termination of this Grant Agreement, title, use, and disposal of equipment by the grantee shall be in conformity with the UGMS; however, as between OOG and the grantee title for equipment will remain with the grantee, unless UGMS requires otherwise.

7.2 Maintenance and Repair

The grantee will maintain, repair, and protect all equipment purchased in whole or in part with grant funds so as to ensure the full availability and usefulness of such equipment. In the event the grantee is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment purchased under this Grant Agreement, the grantee shall use the proceeds to repair or replace said equipment.

7.3 Automated License Plate Readers

Any grantee requesting funds for Automated License Plate Readers (ALPR) must have a written policy regarding use of the ALPR and related data retention. Subrecipients also must enter into a User Agreement with the Texas Department of Public Safety (DPS), Crime Records Division to gain access to the Texas Automated License Plate Reader (LPR) Database so that data may be shared among all participating local, state, and federal agencies. DPS Crime Records Division will provide written certification of your jurisdiction's participation upon request. Grantees must provide OOG with a copy of the certification received from DPS Crime Records Division.

8 Information Technology

8.1 Accessibility Requirements

If applicable, the grantee will comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in Title 1, Chapter 213 of the Texas Administrative Code when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. Likewise, if applicable, the grantee shall provide the Texas Department of Information Resources (DIR) with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). A company not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

8.2 *Criminal Intelligence System Operating Procedures*

Any information technology system funded or supported by these funds must comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies. Any grant-funded individual responsible for entering information into or retrieving information from an intelligence database must complete continuing education training on operating principles described by 28 CFR Part 23 at least once for each continuous two-year period that the person has responsibility for entering data into or retrieving data from an intelligence database.

8.3 *Blocking Pornographic Material*

The recipient understands and agrees that - (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

9 Indirect Costs

9.1 *Approved Indirect Cost Rate*

If indirect costs are allowable under an award, the Indirect Cost Budget Category will be available on the Budget tab. With the exception of grantees of federal awards who have never received a negotiated indirect cost rate as described in 2 CFR § 200.414(f), grantees choosing to apply indirect costs to the award must have an approved indirect cost rate agreement with their cognizant agency. A copy of the approval letter from the cognizant agency must be uploaded to the grant application for the grantee to be eligible for the indirect cost rate for the associated award.

Indirect cost rates are not generally allowed for state-funded grants, but may be approved by OOG at its sole discretion.

The indirect cost rate cited in the budget denotes the approved indirect rate at the time the grant was awarded. It is the grantee's responsibility to ensure the appropriate indirect rate is charged throughout the term of the grant award even if the approved indirect rate expires or changes during the grant period. Indirect costs are subject to monitoring and the grantee must be able to produce evidence of an approved indirect cost rate upon request.

9.2 *De Minimis Rate*

In accordance with 2 CFR § 200.414(f), grantees of federal funds that have never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs, which may be used indefinitely. A grantee that is eligible to use the de minimis indirect cost rate, and that elects to use the de minimis indirect cost rate, must advise OOG in writing, in the grant application, before any such funds are obligated of both its eligibility and its election, and must comply with all associated requirements in 2 CFR § 200.414(f).

10 Audit and Records Requirements

10.1 Grantee Subject to Audits

The grantee understands and agrees that grantee is subject to relevant audit requirements present in state or federal law or regulation or by the terms of this award. For federally funded grants, audit requirements can be found in 2 CFR Part 200 or OMB Circular A-133. For state funded awards, audit requirements can be found in the Uniform Grant Management Standards.

10.2 Single Audit Requirements

Any grantee expending more than a certain level of federal funds in a fiscal year are subject to Single Audit Requirements in 2 CFR, Part 200, Subpart F – Audit Requirements, at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. For grantees receiving a grant from a federal award whose effective date falls within a grantee's fiscal year that begins on or after December 26, 2014, that level is \$750,000. For grantees receiving a grant from a federal award whose effective date falls within a grantee's fiscal year that begins before December 26, 2014, that level is \$500,000.

The grantees expending more than \$750,000 in state funds in a fiscal year are subject to the requirements in the Texas Single Audit Circular, at <http://comptroller.texas.gov/procurement/catrad/ugms.pdf>.

The audit must be completed and the data collection and reporting package described in 2 CFR 200.512 must be submitted to the Federal Audit Clearinghouse (FAC) within 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, whichever is earlier.

Grantees who are not required to have an audit for the grantee's fiscal year in which the state or federal awards were made or expended, shall so certify in writing to OOG. The grantee's chief executive officer or chief financial officer shall make the certification within 60 days of the end of the grantee's fiscal year.

10.3 Cooperation with Monitoring, Audits, and Records Requirements

- A. In addition to and without limitation on the other audit provisions of this Grant Agreement, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office or successor agency, may conduct an audit or investigation of the grantee or any other entity or person receiving funds from the State directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement. The acceptance of funds by the grantee or any other entity or person directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, the grantee or another entity that is the subject of an audit or investigation by the State Auditor's Office shall provide the State Auditor's Office with prompt access to any information the State Auditor's Office considers relevant to the investigation or audit. The grantee further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. The grantee shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the

grantee and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the grantee related to this Grant Agreement. This Grant Agreement may be amended unilaterally by OOG to comply with any rules and procedures of the State Auditor's Office in the implementation and enforcement Section 2262.154 of the Texas Government Code.

- B. The grantee agrees to comply with the grant monitoring guidelines, protocols, and procedures established by OOG and any federal funding agency, and to cooperate with OOG and any relevant federal agency generally, including on any compliance review or complaint investigation conducted by the Federal sponsoring agency or OOG and on all grant monitoring requests, including requests related to desk reviews and/or site visits.
- C. The grantee shall maintain adequate records that enable OOG and any relevant federal agency to complete monitoring tasks, including to verify all reporting measures, requests for reimbursements, and expenditure of match funds related to this Grant Agreement. The grantee shall maintain such records as are deemed necessary by OOG, the State Auditor's Office, other auditors of the State of Texas, the federal government or such other persons or entities designated or authorized by OOG to ensure proper accounting for all costs and performances related to this Grant Agreement.
- D. OOG may request documented proof of payment. Acceptable proof of payment includes, but is not necessarily limited to, a receipt or other documentation of a paid invoice, a general ledger detailing the specific revenue and expenditures, a monthly bank statement evidencing payment of the specific expenditure, bank reconciliation detail, copies of processed checks, or a printed copy of an electronic payment confirmation evidencing payment of the specific expenditure to which the reimbursement relates.
- E. The grantee authorizes OOG, the State Auditor's Office, the Comptroller General, and any relevant federal agency, and their representatives, the right to audit, examine, and copy all paper and electronic records, books, documents, accounting procedures, practices, and any other requested records, in any form; relevant to the grant, the operation and management of the grantee, and compliance with this grant agreement and applicable state or federal laws and regulations; and will make them readily available upon request. The grantee will similarly permit access to facilities, personnel, and other individuals and information as may be necessary.
- F. If requested, the grantee shall submit to OOG a copy of its most recent independent financial audit. If requested, the grantee shall submit to OOG any audited financial statements, related management letters and management responses of grantee, and financial audit documents or portions thereof that are directly related to the grantee's performance of its obligations under this Grant Agreement.
- G. OOG may make unannounced monitoring visits at any time but will, whenever practical as determined at the sole discretion of OOG, provide the grantee with up to five (5) business days advance notice of any such examination or audit. Any audit of records shall be conducted at the grantee's principal place of business and/or the location(s) of the grantee's operations during the grantee's normal business hours. The grantee shall provide to OOG or its designees, on the grantee's premises (or if the audit is being performed of a subcontractor, the subcontractor's premises if necessary) private space, office furnishings (including lockable cabinets), telephone services and Internet connectivity, utilities, and office-related equipment and duplicating services as OOG or its designees may reasonably require to perform the audits described in this Grant Agreement.

- H. In addition to the information contained in the required reports, other information may be required as requested by OOG, including OOG asking for more information regarding project performance or funds expenditures. In the event OOG requires additional information regarding the information or data submitted, the grantee will promptly provide the additional information. The grantee also agrees to assist OOG in responding to questions and assisting in providing information responsive to any audit, legislative request, or other inquiry regarding the grant award. Upon the request of OOG, the grantee must submit to OOG any additional documentation or explanation OOG may desire to support or document the requested payment or report submitted under this Grant Agreement.
- I. If after a written request by OOG or a relevant federal agency, the grantee fails to provide required reports, information, documentation, or other information within reasonable deadlines set by OOG or the relevant federal agency, as required by this Grant Agreement, or fails to fulfil any requirement in this section, then OOG may consider this act a possible default under this Grant Agreement, and the grantee may be subject to sanctions including but not limited to, withholdings and/or other restrictions on the recipient's access to grant funds; referral to relevant agencies for audit review; designation of the recipient as a high-risk grantee; or termination of awards.
- J. The grantee agrees to hold any subcontractors or subgrantees to the provisions of this section and to require and maintain the documentation necessary to complete monitoring tasks performed by any subcontractor or subgrantee. The grantee shall ensure that this section concerning the authority to audit funds received indirectly by subcontractors through grantee and the requirement to cooperate is included in any subcontract it awards related to this grant. The grantee will direct any other entity, person, or contractor receiving funds directly under this Grant Agreement or through a subcontract under this Grant Agreement to likewise permit access to, inspection of, and reproduction of all books, records, and other relevant information of the entity, person, or contractor that pertain to this Grant Agreement.

10.4 Requirement to Address Audit Findings

If any audit, financial or programmatic monitoring, investigations, review of awards, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this Grant Agreement, applicable laws, regulations, or the grantee's obligations hereunder, the grantee agrees to propose and submit to OOG a corrective action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the grantee's receipt of the findings. The grantee's corrective action plan is subject to the approval of OOG.

OOG, at its sole discretion, may impose remedies as part of a corrective action plan, including, but not limited to: increasing monitoring visits; requiring that additional or more detailed financial and/or programmatic reports be submitted; requiring prior approval for expenditures; requiring additional technical or management assistance and/or making modifications in business practices; reducing the grant award amount; and/or terminating this Grant Agreement. The foregoing are not exclusive remedies, and OOG may impose other requirements that OOG determines will be in the best interest of the State.

The grantee understands and agrees that the grantee must make every effort to address and resolve all outstanding issues, findings, or actions identified by OOG (and/or, in the case of federally funded grant, a relevant federal agency) through the corrective action plan or any other corrective plan. Failure to promptly and adequately address these findings may result in grant funds being withheld, other

related requirements being imposed, or other sanctions and penalties. The grantee agrees to complete any corrective action approved by OOG within the time period specified by OOG and to the satisfaction of OOG, at the sole cost of the grantee. The grantee shall provide to OOG periodic status reports regarding the grantee's resolution of any audit, corrective action plan, or other compliance activity for which the grantee is responsible.

10.5 *Records Retention*

- A. The grantee shall maintain appropriate audit trails to provide accountability for all expenditures of grant funds, reporting measures, and funds received from OOG under this Grant Agreement. Audit trails maintained by the grantee will, at a minimum, identify the supporting documentation prepared by the grantee to permit an audit of its accounting systems and payment verification with respect to the expenditure of any funds awarded under this Grant Agreement. The grantee's automated systems, if any, must provide the means whereby authorized personnel have the ability to audit and to verify performance and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of payment information.
- B. The grantee must maintain fiscal records and supporting documentation for all expenditures resulting from this Grant Agreement pursuant to 2 CFR 200.333, UGMS, and state law.
 - 1. The grantee must retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit.
 - 2. Records related to real property and equipment acquired with grant funds shall be retained for three (3) years after final disposition.
 - 3. For all training and exercises paid for by this Grant, grantee must complete, deliver to the appropriate source, and then retain copies of all after-action reports and certificates of training completion for the time period specified in this Section.
 - 4. OOG or the Federal Funding Agency may direct a grantee to retain documents for longer periods of time or to transfer certain records to OOG or federal custody when OOG or the Federal Funding Agency determines that the records possess long term retention value.
 - 5. The grantee must give the Federal Funding Agency, the Comptroller General of the United States, the Texas State Auditor's Office, OOG, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by grantee pertaining to this Grant including records concerning the past use of grant funds. Such rights to access shall continue as long as the records are maintained.

The grantee must include the substance of this Section in all subcontracts.

- C. If the grantee collects personally identifiable information, it will have a publically-available privacy policy that describes what information it collects, how it uses the information, whether it shares the information with third parties, and how individuals may have their information corrected where appropriate. The grantee shall establish a method to secure the confidentiality of any records related to the grant program that are required to be kept confidential by applicable federal or state law or rules. This provision shall not be construed as limiting OOG's access to such records and other information under any provision of this Grant Agreement.

11 Prohibited and Regulated Activities and Expenditures

11.1 *Inherently Religious Activities*

A grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may, of course, engage in inherently religious activities; however, these activities must be separate in time or location from the federally assisted program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. Grantees must also not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief in the delivery of services or benefits funded by the grant. These requirements apply to all grantees, not just faith-based organizations.

11.2 *Political Activities*

Grant funds may not be used in connection with the following acts by agencies or individuals employed by grant funds:

- A. Unless specifically authorized to do so by federal law, grant recipients or their subgrantees or contractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for “political” activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.
- B. Grant officials or grant funded employees may not use official authority or influence or permit the use of a program administered by the grantee agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.
- C. Grant-funded employees may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.
- D. Grant funds will not be used, either directly or indirectly, in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, without the express prior approval of OOG and applicable federal funding agencies. If any non-grant funds have been or will be used in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, it will notify OOG to obtain the appropriate disclosure form.
- E. Grant funds may not be used to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 of the Government Code to register as a lobbyist. Furthermore, grant funds may not be used to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 of the Government Code to register as a

lobbyist.

- F. Grant funds – whether expended by the grantee or by any subgrantee or subcontractor – will not be used for political polling. This prohibition regarding political polling does not apply to a poll conducted by an academic institution as a part of the institution’s academic mission that is not conducted for the benefit of a particular candidate or party.
- G. As applicable, the grantee will comply with 31 USC § 1352, which provides that none of the funds provided under an award may be expended by the grantee to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

The grantee will include the language of this section in the award documents for all subawards at all tiers and will require all subrecipients to certify accordingly.

11.3 Generally Prohibited Expenditures

The following items and activities are specifically prohibited from being funded under this Grant Agreement:

- A. Costs of advertising and public relations designed solely to promote the governmental unit;
- B. Costs of international travel;
- C. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities);
- D. Fundraising;
- E. Lobbying;
- F. Alcoholic beverages;
- G. Costs to support any activity that has as its objective funding of sectarian worship, instruction, or proselytization; and
- H. Promotional items and memorabilia, including models, gifts, and souvenirs.

11.4 Acorn

The grantee understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OOG.

12 Financial Requirements

12.1 Financial Status Reports

Financial Status Reports must be submitted to OOG via eGrants. Unless otherwise specified by OOG, Reports may be submitted monthly but must be submitted at least quarterly. Reports are due after

each calendar quarter regardless of when the grant was awarded. Due dates are:

1. April 22 (January-March quarter)
2. July 22 (April-June quarter)
3. October 22 (July-September quarter)
4. January 22 (October-December quarter)

A grant liquidation date will be established in eGrants. The final Financial Status Report must be submitted to OOG on or before the liquidation date or the grant funds may lapse and OOG will provide them as grants to others who need the funding. Payments will be generated based on expenditures reported in the reports. Upon OOG approval of the report, OOG will issue a payment through direct deposit or electronic transfer.

12.2 Approval of Financial Status Report

Grant payments will be generated based on expenditures as reported in the Financial Status Reports in eGrants or, if authorized by OOG, through Advance Payment Requests. Upon OOG approval of a Financial Status Report or Advance Payment Request, a payment will issue through direct deposit or electronic transfer, though additional documentation may be required and this statement does not override other rules, laws or requirements. It is the policy of OOG to make prompt payment on the approval of a properly prepared and submitted Financial Status Report and any other required documentation.

12.3 Reimbursements

OOG will be obligated to reimburse the grantee for the expenditure of actual and allowable allocable costs incurred and paid by the grantee pursuant to this Grant Agreement. Each item of expenditure shall be specifically attributed to the eligible cost category as identified in the Grant Budget. The Grant Budget is established as provided in eGrants and is the approved budget for the planned expenditure of awarded grant funds, with expenditures identified by approved cost category. OOG is not obligated to pay unauthorized costs or to reimburse expenses that were incurred by the grantee prior to the commencement or after the termination of this Grant Agreement.

By submission of a Financial Status Report, the grantee is warranting the following: (1) all invoices have been carefully reviewed to ensure that all invoiced services or goods have been performed or delivered; (2) that the services or goods have been performed or delivered in compliance with all terms of this Grant Agreement; (3) that the amount of each new Financial Status Report added together with all previous Financial Status Reports do not exceed the Maximum Liability of OOG; and (5) the charges and expenses shown on the Request for Reimbursement are reasonable and necessary.

12.4 Generally Accepted Accounting Principles

The grantee shall adhere to Generally Accepted Accounting Principles (GAAP) promulgated by the American Institute of Certified Public Accountants, unless other recognized accounting principles are required by the grantee. The grantee shall follow OOG fiscal management policies and procedures in processing and submitting requests for reimbursement and maintaining financial records related to this Grant Agreement.

12.5 Program Income

"Program income" means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Unless otherwise required under the terms of this Grant Agreement, any program income shall be used by the grantee to further the program objectives of the project or activity funded by this grant, and the program income shall be spent on the same project or activity in which it was generated. Program income shall be used to offset the grant award. The grantee shall identify and report this income in accordance with OOG's reporting instructions. The grantee shall expend program income during the term of this Grant Agreement; program income not expended during the term of this Grant Agreement shall be refunded to OOG.

12.6 Refunds and Deductions

If OOG determines that the grantee has been overpaid any grant funds under this Grant Agreement, including payments made inadvertently or payments made but later determined to not be actual and allowable allocable costs, the grantee shall return to OOG the amount identified by OOG as an overpayment. The grantee shall refund any overpayment to OOG within thirty (30) calendar days of the receipt of the notice of the overpayment from OOG unless an alternate payment plan is specified by OOG.

12.7 Liquidation Period

The liquidation date is ninety (90) calendar days after the grant end date, unless otherwise noted in the original grant award or a grant adjustment. Funds not obligated by the end of the grant period and not expended by the liquidation date will revert to OOG.

12.8 Duplication of Funding

If grantees receive any funding that is duplicative of funding received under this grant, they will notify OOG as soon as possible. OOG may issue an adjustment modifying the budget and project activities to eliminate the duplication. Further, the grantee agrees and understands that any duplicative funding that cannot be re-programmed to support non-duplicative activities within the program's statutory scope will be de-obligated from this award and returned to OOG.

12.9 Supplanting

Awarded funds must be used to supplement existing funds for program activities and not replace (supplant) funds that have been appropriated, allocated or disbursed for the same purpose. Grant monitors and auditors will look for potential supplanting during reviews. Violations may result in a range of penalties, including suspension of future funds, suspension or debarment from receiving federal or state grants, recoupment of monies provided under the grant, and civil or criminal penalties. For additional information on supplanting, refer to the Guide to Grants at <https://eGrants.gov.texas.gov/updates.aspx>.

13 Required Reports

13.1 *Measuring, Reporting, and Evaluating Performance*

Grantees should regularly collect and maintain data that measure the performance and effectiveness of activities under this award, in the manner, and within the timeframes specified in the program solicitation, or as otherwise specified by OOG. This evaluation includes a reassessment of project activities and services to determine whether they continue to be effective.

Grantees must submit required reports regarding grant information, performance, and progress towards goals and objectives in accordance with the instructions provided by OOG or its designee. If requested by OOG, the grantee shall report on the progress towards completion of the grant project and other relevant information as determined by OOG. To remain eligible for funding, the grantee must be able to show the scope of services provided and their impact, quality, and levels of performance against approved goals, and that their activities and services effectively address and achieve the project's stated purpose.

13.2 *Report Formats, Submissions, and Timelines*

The grantee shall provide to OOG all applicable reports in a format specified by OOG. The grantee will submit reports in eGrants as instructed by OOG. The grantee shall ensure that it submits each report or document required by OOG in an accurate, complete, and timely manner to OOG or the Federal sponsoring agency, as specified by this Grant Agreement or OOG, and will maintain appropriate backup documentation to support the reports. Unless filing dates are given herein, all other reports and other documents that the grantee is required to forward to OOG shall be promptly forwarded.

13.3 *Failure to File Required Reports*

Failure to comply with submission deadlines for required reports, Financial Status Reports, or other requested information may result in OOG, at its sole discretion, placing the grantee on immediate financial hold without further notice to the grantee and without first requiring a corrective action plan. No reimbursements will be processed until the requested information is submitted. If the grantee is placed on financial hold, OOG, at its sole discretion, may deny reimbursement requests associated with expenses incurred during the time the grantee was placed on financial hold.



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: October 7, 2019

FROM: Jeff Garner, Director of Facilities Management

ITEM: Consider approval of the purchase and installation of furniture for the Flower Mound Central Fire Station Phase 2 from Plano Office Supply in the amount of \$122,534.24.

BACKGROUND INFORMATION: The Central Fire Station Phase II renovation project is nearing completion. During the FY 19-20 budget year Town Council approved the purchase of new furniture for some offices and new furniture for the renovated training room. The Town will utilize the HON Omnia Partners contract # R180403 for this purchase.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$122,534.24

Proposed Expenditure/(Revenue):	Account Number(s):
\$ 122,534.24	100-655-59200-6120

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Plano Office Supply pricing quote

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

**TOWN OF FLOWER MOUND -FIRE DEPT.
ATTN: DONNA HILL
HON OMNIA PARTNERS CONTRACT# R180403
APPROXIMATE DELIVERY IS SIX WEEKS**

PLANO
office supply

1405 E. PLANO PKWY
PLANO, TEXAS 75074
Phone 972-424-8561 Fax 972-422-9936
www.planoofficesupply.com

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Qty	Product	Description	List/Sell	Ext. List/Sell
1	HFTLD26	Flock 26 Cylinder Table Laminate	\$668.00	\$668.00
		.N No Grommet	\$293.25	\$293.25
		.0 No Ports		
		\$(L1STD) Grd L1 Standard Laminates		
		.PINC LAM: Pinnacle		
		.TR Tapered Round Leg		
		.P7A Textured Charcoal		
2	HML1SDF	Grove Single Seat Lounge Dual Fabric	\$1,481.00	\$2,962.00
		.N Arm: Armless	\$650.16	\$1,300.32
		\$(3) Grade 3 Upholstery		
		.SX Silvertex		
		23 COLOR: Carbon		
		\$(3) Grade 3 Upholstery		
		.SX Silvertex		
		38 COLOR: Imperial		
		.TR Tapered Round Leg		
		.P7A Color: Text Charcoal		
			Sub Total List:	\$3,630.00
			Sub Total Sell:	\$1,593.57

104

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HML2STDF	Grove Two Seat w/ Table Dual Fabric	\$2,920.00	\$2,920.00
		.N Arm: Armless	\$1,281.88	\$1,281.88
		\$(1) Grade 1 Upholstery		
		.CU Centurion		
		10 COLOR: Black		

\$(1)	Grade 1 Upholstery
.CU	Centurion
67	COLOR: Ruby
.TR	Tapered Round Leg
.PINC	Color: Pinnacle
\$(L1STD)	Grd L1 Standard Laminates
.PINC	LAM: Pinnacle
.N	No Grommets
.0	No Ports

Sub Total List: \$2,920.00
Sub Total Sell: \$1,281.88
105

Qty	Product	Description	List/Sell	Ext. List/Sell
2	HLWM	Endorse Work Mid-back Mesh Back	\$858.00	\$1,716.00
		.Y2 Synchro Tilt	\$376.66	\$753.32
		.F Arm: Fixed Black		
		.H CASTER: Hard (Standard)		
		.IC Charcoal Ilira Mesh		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.SB Base: Standard Plastic Black		
		.N No Head Rest		

Sub Total List: \$1,716.00
Sub Total Sell: \$753.32
107

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HTXLEG	Preside Aluminum X-Leg	\$492.00	\$492.00
		\$(CORE) PAINT: Select Core Paint	\$215.99	\$215.99
		.P Color: Black		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/F/F- Mtl Frt R Pli	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H38851	38000 24D x 66 W Credenza w/Kneespace	\$1,769.00	\$1,769.00
		\$(L1STD) Grd L1 Standard Laminates	\$776.59	\$776.59
		L483125 LAM: White Tigris		

		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38180	38000 36Dx72W-2/2 W/Locks Dbl Ped Desk		\$2,082.00	\$2,082.00
		\$(L1STD)	Grd L1 Standard Laminates	\$914.00	\$914.00
		L483124	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HTLD42	Preside 42"Round Shaped Laminate Top		\$526.00	\$526.00
		.G	2MM/Flat	\$230.91	\$230.91
		L483135	White Tigris		
		.N	No Grommets		
		\$(L1STD)	Grd L1 Standard Laminates		
		L483135	LAM: White Tigris		
2	HISB6	Ignition Sled Bse Guest Chair		\$462.00	\$924.00
		.F	Arm: Fixed	\$202.82	\$405.64
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
4	HISB6	Ignition Sled Bse Guest Chair		\$432.00	\$1,728.00
		.N	Arm: Armless	\$189.65	\$758.60
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWM	Endorse Work Mid-back Mesh Back		\$858.00	\$858.00
		.Y2	Synchro Tilt	\$376.66	\$376.66
		.F	Arm: Fixed Black		
		.H	CASTER: Hard (Standard)		
		.IC	Charcoal Ilira Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		

.N

No Head Rest

Sub Total List: \$10,996.00
Sub Total Sell: \$4,827.25
108

Qty	Product	Description	List/Sell	Ext. List/Sell
1	H5021	Park Ave 5020 Series Exec HB Pneu Swivel	\$1,744.00	\$1,744.00
		.H CASTER: Hard (Standard)	\$765.62	\$765.62
		\$(L) GRADE: LEATHER UPHOLSTERY		
		.SS UPH: Leather		
		11 COLOR: Black		
2	HISB6	Ignition Sled Bse Guest Chair	\$462.00	\$924.00
		.F Arm: Fixed	\$202.82	\$405.64
		.E Nylon Glide		
		.IC Back: Charcoal		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.T Frame: Black		
4	HLWM	Endorse Work Mid-back Mesh Back	\$858.00	\$3,432.00
		.Y2 Synchro Tilt	\$376.66	\$1,506.64
		.F Arm: Fixed Black		
		.H CASTER: Hard (Standard)		
		.IC Charcoal Ilira Mesh		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.SB Base: Standard Plastic Black		
		.N No Head Rest		

Sub Total List: \$6,100.00
Sub Total Sell: \$2,677.90
109

Qty	Product	Description	List/Sell	Ext. List/Sell
1	H9195R	Flagship 42W 5-Dr "R" Pull Lateral 64-1/4H 18D wo/PostShe	\$2,593.00	\$2,593.00
		.L Standard Random Key Lock	\$1,138.33	\$1,138.33
		\$(CORE) PAINT: Select Core Paint		
		.P PAINT: Black		

1	HISB6	Ignition Sled Bse Guest Chair	\$432.00	\$432.00
		.N Arm: Armless	\$189.65	\$189.65
		.E Nylon Glide		
		.IC Back: Charcoal		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.T Frame: Black		
1	HLWM	Endorse Work Mid-back Mesh Back	\$858.00	\$858.00
		.Y2 Synchro Tilt	\$376.66	\$376.66
		.F Arm: Fixed Black		
		.H CASTER: Hard (Standard)		
		.IC Charcoal Ilira Mesh		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.SB Base: Standard Plastic Black		
		.N No Head Rest		

Sub Total List: \$3,883.00
Sub Total Sell: \$1,704.64
110

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870960	Tasklight 60W	\$270.00	\$270.00
			\$118.53	\$118.53
1	H386572N	Stack-on Full Clearance 13 1/2Dx72Wx34 3/4x25H	\$890.00	\$890.00
		\$(CORE) PAINT: Select Core Paint	\$390.71	\$390.71
		.S PAINT: Charcoal		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R Pll	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H387215	38000 2 with 36w x 15h flipper doors w/ lock	\$554.00	\$554.00
		.L Standard Random Key Lock	\$243.21	\$243.21
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38855L	38000 24D x 72W 2L w/lock Single Ped Credenza	\$1,540.00	\$1,540.00
		\$(L1STD) Grd L1 Standard Laminates	\$676.06	\$676.06

		L483133	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38210	38000 Series Bridge 24D x 48W		\$667.00	\$667.00
		\$(L1STD)	Grd L1 Standard Laminates	\$292.81	\$292.81
		L483126	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38293R	38000 36D 72W 2/R w/Lock Single Ped Desk		\$1,857.00	\$1,857.00
		\$(L1STD)	Grd L1 Standard Laminates	\$815.22	\$815.22
		L483131	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HT72ND	72 Tack Board for 72W Hutch		\$495.00	\$495.00
		\$(A)	Gr A Fab	\$217.31	\$217.31
		.CU	FABRIC: Centurion		
		67	COLOR: Ruby		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
2	HISB6	Ignition Sled Bse Guest Chair		\$462.00	\$924.00
		.F	Arm: Fixed	\$202.82	\$405.64
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWM	Endorse Work Mid-back Mesh Back		\$858.00	\$858.00
		.Y2	Synchro Tilt	\$376.66	\$376.66
		.F	Arm: Fixed Black		
		.H	CASTER: Hard (Standard)		
		.IC	Charcoal Ilira Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$10,672.00

Sub Total Sell: \$4,685.01

111

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870942	Tasklight 42W	\$250.00	\$250.00
1	H386548N	Stack-on Full Clearance 13 1/2Dx48Wx34 3/4x25H	\$109.75	\$109.75
		\$(CORE) PAINT: Select Core Paint	\$714.00	\$714.00
		.S PAINT: Charcoal	\$313.45	\$313.45
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/F/F- Mtl Frt R Pll	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H384815	38000 2 with 48w x 15h flipper doors w/ lock	\$315.00	\$315.00
		.L Standard Random Key Lock	\$138.29	\$138.29
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38291R	38000 30D x 66W - 2R w/Lock Single Ped Desk	\$1,711.00	\$1,711.00
		\$(L1STD) Grd L1 Standard Laminates	\$751.13	\$751.13
		L483129 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38216L	38000 24D x 48W x 29-1/2H 2L w/Lock Flush Rtn	\$1,123.00	\$1,123.00
		\$(L1STD) Grd L1 Standard Laminates	\$493.00	\$493.00
		L483128 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	HT48ND	48Tack Board for 48W Hutch	\$412.00	\$412.00
		\$(A) Gr A Fab	\$180.87	\$180.87
		.CU FABRIC: Centurion		
		67 COLOR: Ruby		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
2	HISB6	Ignition Sled Bse Guest Chair	\$432.00	\$864.00
		.N Arm: Armless	\$189.65	\$379.30
		.E Nylon Glide		
		.IC Back: Charcoal		

		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWM	Endorse Work Mid-back Mesh Back		\$858.00	\$858.00
		.Y2	Synchro Tilt	\$376.66	\$376.66
		.F	Arm: Fixed Black		
		.H	CASTER: Hard (Standard)		
		.IC	Charcoal Ilira Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$8,864.00
Sub Total Sell: \$3,891.31
113

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870942	Tasklight 42W	\$250.00	\$250.00
			\$109.75	\$109.75
1	H386548N	Stack-on Full Clearance 13 1/2Dx48Wx34 3/4x25H	\$714.00	\$714.00
		\$(CORE) PAINT: Select Core Paint	\$313.45	\$313.45
		.S PAINT: Charcoal		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R Pll	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H384815	38000 2 with 48w x 15h flipper doors w/ lock	\$315.00	\$315.00
		.L Standard Random Key Lock	\$138.29	\$138.29
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38292L	38000 30D x 66W - 2L w/Lock Single Ped Desk	\$1,711.00	\$1,711.00
		\$(L1STD) Grd L1 Standard Laminates	\$751.13	\$751.13
		L483130 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38215R	38000 24D x 48W x 29-1/2H 2/R w/Lock Flush Rtn	\$1,123.00	\$1,123.00
			\$493.00	\$493.00

		\$(L1STD)	Grd L1 Standard Laminates		
		L483128	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HT48ND	48Tack Board for 48W Hutch		\$412.00	\$412.00
		\$(A)	Gr A Fab	\$180.87	\$180.87
		.CU	FABRIC: Centurion		
		67	COLOR: Ruby		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
2	HISB6	Ignition Sled Bse Guest Chair		\$432.00	\$864.00
		.N	Arm: Armless	\$189.65	\$379.30
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWM	Endorse Work Mid-back Mesh Back		\$858.00	\$858.00
		.Y2	Synchro Tilt	\$376.66	\$376.66
		.F	Arm: Fixed Black		
		.H	CASTER: Hard (Standard)		
		.IC	Charcoal Ilira Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$8,864.00
Sub Total Sell: \$3,891.31
114

Qty	Product	Description	List/Sell	Ext. List/Sell
12	HLWMBT	Endorse Work Mid-back Mesh Back Big and Tall	\$1,275.00	\$15,300.00
		.Y4	Synchro Tilt	\$559.73
		.F	Arm: Fixed Black	\$6,716.76
		.A	CASTER: All Surface	
		.IM	Black Mesh	

\$(1) Gr 1 UPH
 .CU Centurion
 10 COLOR: Black
 .SB Base: Standard Plastic Black
 .N No Head Rest

1	HML2STDF	Grove Two Seat w/ Table Dual Fabric	\$2,820.00	\$2,820.00
	.N	Arm: Armless	\$1,237.98	\$1,237.98
	\$(1)	Grade 1 Upholstery		
	.CU	Centurion		
	10	COLOR: Black		
	\$(1)	Grade 1 Upholstery		
	.CU	Centurion		
	67	COLOR: Ruby		
	.TR	Tapered Round Leg		
	.P7A	Color: Text Charcoal		
	\$(L1STD)	Grd L1 Standard Laminates		
	.PINC	LAM: Pinnacle		
	.N	No Grommets		
	.0	No Ports		

Sub Total List: \$18,120.00

Sub Total Sell: \$7,954.74

115

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870960	Tasklight 60W	\$270.00	\$270.00
			\$118.53	\$118.53
1	H386572N	Stack-on Full Clearance 13 1/2Dx72Wx34 3/4x25H	\$890.00	\$890.00
	\$(CORE)	PAINT: Select Core Paint	\$390.71	\$390.71
	.S	PAINT: Charcoal		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R Pll	\$2,617.00	\$2,617.00
	\$(CORE)	PAINT: Select Core Paint	\$1,148.86	\$1,148.86
	.S	Paint: Charcoal		
	.L	Standard Random Key Lock		
1	H387215	38000 2 with 36w x 15h flipper doors w/ lock	\$554.00	\$554.00
	.L	Standard Random Key Lock	\$243.21	\$243.21
	\$(CORE)	PAINT: Select Core Paint		
	.S	PAINT: Charcoal		
1	H38856R	38000 24D x 72W 2R w/Lock Single Ped Credenza	\$1,540.00	\$1,540.00
	\$(L1STD)	Grd L1 Standard Laminates	\$676.06	\$676.06

		L483134	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38210	38000 Series Bridge 24D x 48W		\$667.00	\$667.00
		\$(L1STD)	Grd L1 Standard Laminates	\$292.81	\$292.81
		L483126	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38294L	38000 36D x 72W - 2L w/Lock Single Ped Desk		\$1,857.00	\$1,857.00
		\$(L1STD)	Grd L1 Standard Laminates	\$815.22	\$815.22
		L483132	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HT72ND	72 Tack Board for 72W Hutch		\$495.00	\$495.00
		\$(A)	Gr A Fab	\$217.31	\$217.31
		.CU	FABRIC: Centurion		
		67	COLOR: Ruby		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
2	HISB6	Ignition Sled Bse Guest Chair		\$432.00	\$864.00
		.N	Arm: Armless	\$189.65	\$379.30
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWMBT	Endorse Work Mid-back Mesh Back Big and Tall		\$1,275.00	\$1,275.00
		.Y4	Synchro Tilt	\$559.73	\$559.73
		.F	Arm: Fixed Black		
		.A	CASTER: All Surface		
		.IM	Black Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$11,029.00**Sub Total Sell: \$4,841.74****116**

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870960	Tasklight 60W	\$270.00	\$270.00
1	H386572N	Stack-on Full Clearance 13 1/2Dx72Wx34 3/4x25H	\$118.53	\$118.53
		\$(CORE) PAINT: Select Core Paint	\$890.00	\$890.00
		.S PAINT: Charcoal	\$390.71	\$390.71
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R PII	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H387215	38000 2 with 36w x 15h flipper doors w/ lock	\$554.00	\$554.00
		.L Standard Random Key Lock	\$243.21	\$243.21
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38856R	38000 24D x 72W 2R w/Lock Single Ped Credenza	\$1,540.00	\$1,540.00
		\$(L1STD) Grd L1 Standard Laminates	\$676.06	\$676.06
		L483134 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38210	38000 Series Bridge 24D x 48W	\$667.00	\$667.00
		\$(L1STD) Grd L1 Standard Laminates	\$292.81	\$292.81
		L483127 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38294L	38000 36D x 72W - 2L w/Lock Single Ped Desk	\$1,857.00	\$1,857.00
		\$(L1STD) Grd L1 Standard Laminates	\$815.22	\$815.22
		L483132 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	HT72ND	72 Tack Board for 72W Hutch	\$495.00	\$495.00
		\$(A) Gr A Fab	\$217.31	\$217.31
		.CU FABRIC: Centurion		
		67 COLOR: Ruby		
		\$(CORE) PAINT: Select Core Paint		

		.S	PAINT: Charcoal		
2	HISB6	Ignition Sled Bse Guest Chair		\$432.00	\$864.00
		.N	Arm: Armless	\$189.65	\$379.30
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWMBT	Endorse Work Mid-back Mesh Back Big and Tall		\$1,275.00	\$1,275.00
		.Y4	Synchro Tilt	\$559.73	\$559.73
		.F	Arm: Fixed Black		
		.A	CASTER: All Surface		
		.IM	Black Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$11,029.00
Sub Total Sell: \$4,841.74
117

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HH870960	Tasklight 60W	\$270.00	\$270.00
			\$118.53	\$118.53
1	H386572N	Stack-on Full Clearance 13 1/2Dx72Wx34 3/4x25H	\$890.00	\$890.00
		\$(CORE) PAINT: Select Core Paint	\$390.71	\$390.71
		.S PAINT: Charcoal		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R Pll	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H387215	38000 2 with 36w x 15h flipper doors w/ lock	\$554.00	\$554.00
		.L Standard Random Key Lock	\$243.21	\$243.21
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38291R	38000 30D x 66W - 2R w/Lock Single Ped Desk	\$1,711.00	\$1,711.00
			\$751.13	\$751.13

		\$(L1STD)	Grd L1 Standard Laminates		
		L483129	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	H38216L	38000 24D x 48W x 29-1/2H 2L w/Lock Flush Rtn		\$1,123.00	\$1,123.00
		\$(L1STD)	Grd L1 Standard Laminates	\$493.00	\$493.00
		L483128	LAM: White Tigris		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HT72ND	72 Tack Board for 72W Hutch		\$495.00	\$495.00
		\$(A)	Gr A Fab	\$217.31	\$217.31
		.CU	FABRIC: Centurion		
		67	COLOR: Ruby		
		\$(CORE)	PAINT: Select Core Paint		
		.S	PAINT: Charcoal		
1	HISB6	Ignition Sled Bse Guest Chair		\$432.00	\$432.00
		.N	Arm: Armless	\$189.65	\$189.65
		.E	Nylon Glide		
		.IC	Back: Charcoal		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWMBT	Endorse Work Mid-back Mesh Back Big and Tall		\$1,275.00	\$1,275.00
		.Y4	Synchro Tilt	\$559.73	\$559.73
		.F	Arm: Fixed Black		
		.A	CASTER: All Surface		
		.IM	Black Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		

Sub Total List: \$9,367.00
Sub Total Sell: \$4,112.13
118

Qty	Product	Description	List/Sell	Ext. List/Sell
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1	HH870960	Tasklight 60W	\$270.00	\$270.00
			\$118.53	\$118.53
1	H386572N	Stack-on Full Clearance 13 1/2Dx72Wx34 3/4x25H	\$890.00	\$890.00
		\$(CORE) PAINT: Select Core Paint	\$390.71	\$390.71
		.S PAINT: Charcoal		
1	H384815	38000 2 with 48w x 15h flipper doors w/ lock	\$315.00	\$315.00
		.L Standard Random Key Lock	\$138.29	\$138.29
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	HSTBX652424RI	Contain 65x24x24 Wrdrb R/Dr/B/B/F- Mtl Frt R PII	\$2,617.00	\$2,617.00
		\$(CORE) PAINT: Select Core Paint	\$1,148.86	\$1,148.86
		.S Paint: Charcoal		
		.L Standard Random Key Lock		
1	H387215	38000 2 with 36w x 15h flipper doors w/ lock	\$554.00	\$554.00
		.L Standard Random Key Lock	\$243.21	\$243.21
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38292L	38000 30D x 66W - 2L w/Lock Single Ped Desk	\$1,711.00	\$1,711.00
		\$(L1STD) Grd L1 Standard Laminates	\$751.13	\$751.13
		L483130 LAM: White Tigris		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	H38215R	38000 24D x 48W x 29-1/2H 2/R w/Lock Flush Rtn	\$1,123.00	\$1,123.00
		\$(L1STD) Grd L1 Standard Laminates	\$493.00	\$493.00
		L483128 LAM: Whitestone		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	HT72ND	72 Tack Board for 72W Hutch	\$495.00	\$495.00
		\$(A) Gr A Fab	\$217.31	\$217.31
		.CU FABRIC: Centurion		
		67 COLOR: Ruby		
		\$(CORE) PAINT: Select Core Paint		
		.S PAINT: Charcoal		
1	HISB6	Ignition Sled Bse Guest Chair	\$432.00	\$432.00
		.N Arm: Armless	\$189.65	\$189.65
		.E Nylon Glide		
		.IC Back: Charcoal		

		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.T	Frame: Black		
1	HLWMBT	Endorse Work Mid-back Mesh Back Big and Tall		\$1,275.00	\$1,275.00
		.Y4	Synchro Tilt	\$559.73	\$559.73
		.F	Arm: Fixed Black		
		.A	CASTER: All Surface		
		.IM	Black Mesh		
		\$(1)	Gr 1 UPH		
		.CU	Centurion		
		10	COLOR: Black		
		.SB	Base: Standard Plastic Black		
		.N	No Head Rest		
				Sub Total List:	\$9,682.00
				Sub Total Sell:	\$4,250.42

119

Qty	Product	Description	List/Sell	Ext. List/Sell
2	HLWM	Endorse Work Mid-back Mesh Back	\$858.00	\$1,716.00
		.Y2 Synchro Tilt	\$376.66	\$753.32
		.F Arm: Fixed Black		
		.H CASTER: Hard (Standard)		
		.IC Charcoal Ilira Mesh		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.SB Base: Standard Plastic Black		
		.N No Head Rest		
			Sub Total List:	\$1,716.00
			Sub Total Sell:	\$753.32

123

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HML2STDF	Grove Two Seat w/ Table Dual Fabric	\$2,820.00	\$2,820.00
		.N Arm: Armless	\$1,237.98	\$1,237.98
		\$(1) Grade 1 Upholstery		
		.CU Centurion		
		10 COLOR: Black		

\$(1)	Grade 1 Upholstery
.CU	Centurion
67	COLOR: Ruby
.TR	Tapered Round Leg
.P7A	Color: Text Charcoal
\$(L1STD)	Grd L1 Standard Laminates
.PINC	LAM: Pinnacle
.N	No Grommets
.0	No Ports

Sub Total List: \$2,820.00
Sub Total Sell: \$1,237.98
128

Qty	Product	Description	List/Sell	Ext. List/Sell
1	HTPWRGROM1	Preside Pop Up Port-MHO	\$384.00	\$384.00
			\$168.58	\$168.58
1	HGRMTAC2	Power Grommet - 2 Outlets 10' Cord	\$145.00	\$145.00
			\$63.66	\$63.66
6	HSCS2	Accomodate Cafe Height Stool	\$564.00	\$3,384.00
			\$247.60	\$1,485.60
	.N	Arm: Armless		
	.E	Standard Nylon Glide		
	\$(3)	GRADE: III UPHOLSTERY		
	.SX	Silvertex		
	23	COLOR: Carbon		
	.BLCK	Textured Black		
2	HFTLD26	Flock 26 Cylinder Table Laminate	\$668.00	\$1,336.00
			\$293.25	\$586.50
	.N	No Grommet		
	.0	No Ports		
	\$(L1STD)	Grd L1 Standard Laminates		
	.PINC	LAM: Pinnacle		
	.TR	Tapered Round Leg		
	.P7A	Textured Charcoal		
2	HML1SDF	Grove Single Seat Lounge Dual Fabric	\$1,481.00	\$2,962.00
			\$650.16	\$1,300.32
	.N	Arm: Armless		
	\$(3)	Grade 3 Upholstery		
	.SX	Silvertex		
	23	COLOR: Carbon		
	\$(3)	Grade 3 Upholstery		
	.SX	Silvertex		
	38	COLOR: Imperial		

		.TR	Tapered Round Leg		
		.P7A	Color: Text Charcoal		
1	HML2STDF	Grove Two Seat w/ Table Dual Fabric		\$3,172.00	\$3,172.00
		.N	Arm: Armless	\$1,392.51	\$1,392.51
		\$(3)	Grade 3 Upholstery		
		.SX	Silvertex		
		23	COLOR: Carbon		
		\$(3)	Grade 3 Upholstery		
		.SX	Silvertex		
		38	COLOR: Imperial		
		.TR	Tapered Round Leg		
		.P7A	Color: Text Charcoal		
		\$(L1STD)	Grd L1 Standard Laminates		
		.PINC	LAM: Pinnacle		
		.G1	Cut out for Pop-up Port		
		.0	No Ports		
				Sub Total List:	\$11,383.00
				Sub Total Sell:	\$4,997.17

133

Qty	Product	Description	List/Sell	Ext. List/Sell
2	HN7	Nucleus Guest/Multi Purpose Stool 4-leg	\$571.00	\$1,142.00
		.N	Arm: No Arm	\$250.67
		.E	Option: Glide	
		.IC	Charcoal Ilira Mesh	
		\$(1)	Gr 1 UPH	
		.CU	Centurion	
		10	COLOR: Black	
		.T	FRAME: Black	
58	HMT1	Motivate Task-Flex Back-Uph Seat Pneu Swivel	\$526.00	\$30,508.00
		.N	Arm: No Arm	\$230.91
		.H	CASTER: Hard (Standard)	\$13,392.78
		.IC	Charcoal Ilira Mesh	
		\$(1)	Gr 1 UPH	
		.CU	Centurion	
		10	COLOR: Black	
		.SB	Base: Standard Plastic Black	
		.T	FRAME: Black	

12	HMN2	Motivate Nest/Stack Chair-Flex Bck-Uph Seat	\$641.00	\$7,692.00
		.F Arm: Fixed Arm	\$281.40	\$3,376.80
		.H Hard		
		.IC Charcoal Ilira Mesh		
		.LA COLOR: Lava		
		\$(1) Gr 1 UPH		
		.CU Centurion		
		10 COLOR: Black		
		.BLCK FRAME: Black		
1	FREIGHT	FREIGHT FROM MFG : SPEC	\$2,338.98	\$2,338.98
			\$2,338.98	\$2,338.98
1	INSTALLATION	INSTALL OF FLOOR MOUNTED TABLES	\$2,998.00	\$2,998.00
			\$2,998.00	\$2,998.00
1	TRAINING TABL	PER ATTACHED QUOTE FROM SPEC	\$63,478.98	\$63,478.98
			\$38,087.39	\$38,087.39
			Sub Total List:	\$108,157.96
			Sub Total Sell:	\$60,695.29

Z-D&I

<u>Qty</u>	<u>Product</u>	<u>Description</u>	<u>List/Sell</u>	<u>Ext. List/Sell</u>
1	Z-D&I	RECEIPT,DELIVERY,INSTALL&REMOVAL OF DEBRIS	\$3,543.52	\$3,543.52
			\$3,543.52	\$3,543.52
			Sub Total List:	\$3,543.52
			Sub Total Sell:	\$3,543.52
			Total List:	\$244,492.48
			Total Sell:	\$122,534.24

Please note the following:

Terms: Net 30 days.

Pricing includes freight, delivery and installation; Mon. - Fri., 8:00 - 5:00.

Pricing does not include relocation of existing furniture, electronic equipment or personal items.

Pricing does not include sales tax, if applicable.

Pricing does not include electrician's fee to access building power or data cable routing pertaining to modular furniture.

Custom or special order items cannot be cancelled or returned; Deposits are non-refundable.

This proposal is valid for 30 days, unless noted otherwise.

We appreciate the opportunity to offer our services and look forward to working with you on this project.

If you have any further questions, please contact me at 972-424-8561.

Tom Lowe

Approved by: _____

Date: _____



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: October 7, 2019

FROM: Jeff Garner, Director of Facilities Management

ITEM: Consider approval for the purchase and installation of Audio Video equipment for the Flower Mound Central Fire Station Phase 2 from Data Projections in the amount of \$129,653.77.

BACKGROUND INFORMATION: The Central Fire Station Phase II renovation project is nearing completion. During the FY19-20 budget year Town Council approved the purchase of new audio video equipment and installation for the renovated training room and conference room. The Town will utilize the TIPS Contract 171001 for this purchase.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$ 129,653.77

Proposed Expenditure/(Revenue):	Account Number(s):
\$ 129,653.77	100-655-59200-6120

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Data Projections quotes

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



DATA PROJECTIONS

Town of Flower Mound Fire Department

Quote # 002669
Version 1

Prepared for:

Town of Flower Mound

Jeff Garner
Jeff.garner@flower-mound.com



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Wednesday, July 31, 2019

Town of Flower Mound
Jeff Garner
3911 S Broadway
Flower Mound, TX 75028
Jeff.garner@flower-mound.com

RE: Town of Flower Mound Fire Department

Dear Jeff,

Thank you for allowing Data Projections the opportunity to present this solution for the Town of Flower Mound.

As a leading audio visual communications design/build firm, Data Projections is uniquely qualified for a project of this scope. Our experience includes solutions for:

- Multipurpose rooms and auditoriums equipped with large-venue audio visual technology solutions
- Videoconferencing systems incorporating control and complete room collaboration, allowing for on-demand decision making and communication among remote locations
- Conference, board rooms and training rooms of all shapes and sizes
- Digital signage implementations across enterprise, university, and district campuses for immediate message distribution
- Operation Center's (NOC's, EOC's, SOC's) audio visual command and control systems
- College and university classrooms, lecture halls and labs
- Individual school classrooms to entire districts
- And many more unique applications

Because we partner with the best technology companies in the industry, we're able to provide a wide range of comprehensive solutions built around the specific needs of our customers, while taking into account the technical, capital and logistical factors involved in each project and solution.

Rapid and effective communication is key to staying ahead of the competition. Better communication leads to better decisions - and better results. How do you maintain consistent communication across your organization as well as external audiences? Data Projections' team of professionals will keep you simply connected.

Kind regards,

Diana Betts
Account Executive
Dallas



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Executive Summary

Scope Introduction

Data Projections is providing this proposal at the request of Town of Flower Mound.

This is a proposal for **Town of Flower Mound Fire Administration Building AV Systems**

Project location:

3911 S Broadway
Flower Mound, T
75028

Onsite point of contact:

Jeff Garner
Director of Facilities Management
972-874-6064
jeff.garner@flower-mound.com

SCOPE OF WORK

Scope of Work

Data Projections (DPI) proposes to furnish and install the below Systems in the Training Room, Conference Room, and Breakroom of the newly renovated Town of Flower Mound Fire Department Administration Building. The Scope of Work (SOW) is based on a previous Needs Analysis and System Design supplied to the client in 2018 by others. The technology has changed since 2018 as has the budget for the project. Data Projections has been asked to supply an updated proposal. The purpose of the SOW is to detail the specifications of the recommended equipment, and to provide a description of the system design and performance. In addition, the SOW details what items are excluded or changed to meet the budget. Some peripheral equipment included in the Pricing Proposal will be mentioned but not described in detail. The SOW also clearly outlines what items/services are not included in the Proposal but are to be furnished by Owner/Other Trades.

System Overview, Training Room

The Training Room is utilized for Training and occasional panel discussions. The room also functions as an Emergency Operations Center (EOC). When the training room functions as an EOC, the client wants information available to the Training Room to be accessible from the Conference Room.

System Inputs/Sources: Signals to the system will originate from an owner-furnished podium. DPI will furnish and install a Crestron cable cubby in the podium. Connection for an owner-furnished laptop as well as local power will be provided in the cable cubby. An owner-furnished PC with monitor will be installed in the podium. Also installed in the podium will be a Mersive Solstice Pod for BYOD connection of wireless device. Signals from the podium will be routed to the Core System via encoders. Other sources available to the Training Room are the three (3) owner-furnished cable boxes, a LifeSize ICON 600 Video Teleconference System **with single camera** (VTC), and an input from the Conference Room. For detailed explanation on System Inputs/Sources see Core System Components-AV Signal Routing, below section.

System Destinations - Displays: DPI will furnish and install seven displays in the training room. Six (6) Samsung QB75N 75" diagonal commercial 4K UHD LED LCD displays will be wall mounted in the space. These will be mounted (2 each) on the East, South, and West walls. DPI will provide a recessed gear box for each monitor manage storage for the decoder, power connection and associated wiring. The gear boxes will be furnished to the owner for installation by owner's electrician. The price for installation of the gear boxes is not included in this SOW. Each



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monitor will be installed utilizing a Chief Thinstall™ mount. The combined depth of the display and mount will not exceed 4". Utilizing the Chief mount along with the gear box assure ADA compliance (=4" protrusion). DPI will install one (1) owner-furnished Sony Projector, model VPL-FH27 in the ceiling of the Training Room. DPI will use a suspended ceiling kit in the installation. The kit will reside above the suspended ceiling tile and be installed according to local code, industry best practice and manufacturer's recommended method, with no load impact on the suspended ceiling structure. The image will be projected on a Walltalker surface, furnished and installed by Owner, on the north wall of the room.

System Destinations – Other: The routing system will provide a signal from the Training Room will be routed to the when required. This will be a password protected function on the touch panel. The routing system will also provide content to the LifeSize VTC.

Audio System: DPI will furnish and install a new Audio System in the space. The system will include new wireless and wired microphones, a new speaker system, and a Digital Sound Processor (DSP).

A new Shure Microflex® wireless microphone system will be employed in the Training Room. The system includes intelligent rechargeable microphone transmitters and charging system, as well as a discreet wireless access point transceiver. There will be two (2) body pack transmitters with cardioid lavalier microphones, two (2) handheld microphone transmitters, and four (4) desktop base transceiver with 10" shock-mounted cardioid gooseneck microphones. The system offers AES-256 encryption to insure privacy and confidentiality. The eight microphones connect to the DSP via the Dante Network and can be used simultaneously. DPI will also furnish and install one (1) wired 18" gooseneck microphone on the owner-furnished podium.

DPI will furnish and install sixteen (16) JBL Control 26CT ceiling speakers in the training room. The speakers will be distributed through the space in such a way as to provide equal coverage and excellent speech intelligibility. The speakers be split into four zones. The zones will provide the required flexibility for different scenarios.

The Biamp TesiraFORTE DAN VT Digital Signal Processor (DSP) will be furnished and installed for the new Audio System. The outputs from the microphone system as well as program audio will be routed to the DSP. The DSP will boost soft talkers and limit loud talkers. The intelligent processing of the DSP system provides feedback elimination. These features of the DSP will provide excellent speech intelligibility in the space. The DSP also includes VOIP capabilities including echo cancelling. System voicing, which is the process that optimizes the speaker system for the space, is provided by the DSP. Various presets will be employed in the DSP Programming. These will be recallable from the control system (see below). The DSP also has a recallable reset to restore its original program. Further technical specifications are found in the below section: Core Systems – Audio System.

Control System Interface: DPI will furnish, install, and program a Crestron 10" touch panel in the Training Room. The Touch Panel will function as the user interface for the system. DPI will install the touch panel in the dashboard of the owner-furnished podium. The control processor that supports the touch panel will be housed in the AER. Sample controls include:

- Projector On/Off
- Displays On/Off (individually or all)
- Source Select
- Source Routing
- Lifesize ICON Sample Controls/Information including but not limited to:
 - Address Book
 - Dial
 - Camera Pan/Tilt Zoom
 - Camera Preset Recall
 - Volume Level
 - State



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- Join
- End
- Cable box channel selection
- Program Audio Selection
- Program Audio Up/Down/Mute
- Individual microphone volume Up/Down/Mute
- EOC Page (password protected)
- Technical Page (password protected)

System Overview - Conference Room

The Conference Room is utilized for meetings, presentations and video teleconference sessions. The room is also employed as part of the EOC System.

System Inputs/Sources: Signals to the system will originate from an owner-furnished conference table and the cabinet rack. DPI will furnish and install a Crestron cable cubby in the conference table. Connection for an owner-furnished laptop as well as local power will be provided in the cable cubby. An owner-furnished PC with monitor will be installed in the cabinet. Signals from the podium will be routed to the Core System via encoders. Other sources available to the Training Room are one (1) owner-furnished cable box, one (1) Mersive Solstice Pod for BYOD devices, one (1) LifeSize ICON 450 Video Teleconference System with single camera and table top hub with integrated microphone, dialing, and control, as well as an input from the Training Room. For detailed explanation on System Inputs/Sources see Core System Components-AV Signal Routing, below section.

System Destinations-Displays: DPI will utilize one (1) 85" Samsung QM85N as the main display and one 65" Samsung QB65N as a secondary display in the Conference Room. The 85" will receive signals from all of the above listed sources as well as from the Training Room. The 65" will receive signals from a cable box.

System Destinations-All sources will be available to the Lifesize ICON 600

Audio System: DPI will furnish and install four (4) JBL Control 26CT speakers in the ceiling of the Conference Room. The speakers will be distributed through the space in such a way as to provide equal coverage and excellent speech intelligibility.

Microphone System: Only the microphone in the Lifesize table top hub will be utilized in the Conference room. No other microphones (wired or wireless) are required.

Control: Control of the LifeSize ICON 450 will be via the table top hub. All other controls will be via a 10.1" Crestron table top Touch Panel. Controls will include:

- Displays On/Off (individually or both)
- Source Select
- Source Routing
- Cable box channel selection
- Program Audio Selection
- Program Audio Up/Down/Mute
- EOC Page (password protected)
- Technical Page (password protected)

System Overview – Breakroom: DPI will furnish and install one (1) Samsung QB65N 65" commercial 4K UHD LED Display in the break room. The display will be wall mounted. The installation will be ADA compliant. The display will receive its signal from an owner-furnished signage player. Electrical behind each display will be furnished and



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installed by owner's electrician.

Core System Components

AV Equipment Racks

The AV Equipment Rack (AER): The AER will be housed in a closet adjacent to the Training Room. The AER will house the core system components and will serve both the Training Room and Conference Room. The Middle Atlantic WRK-SA-27 is a fully welded steel rack with 37U capacity and an overall width of 24 1/4" for larger cable bundles and improved cooling capacity. The rack will include an integrated fan top, vertical power distribution, caster base, and all necessary peripherals. Also included is a SurgeX SX-1115-RT surge eliminator and power conditioner with Advanced Series Mode® surge protection, Impedance Tolerant® EMI/RFI Filtering, SurgeX ICE® Inrush Current Elimination, and COUVS® Catastrophic Over/Under Voltage Shutdown. No front or rear doors for the rack are included.

Training Room, Lifesize Equipment Rack: An FSR CB-22 plenum-rated ceiling rack will be installed in the Training Room to house the CODEC, encoder and decoder associated with the Lifesize ICON 600 Video Teleconferencing System. The enclosure has room for two full rack pieces of equipment and drops into the space of a standard 2'x2' ceiling tile. The unit includes AC outlets inside the enclosure. A white rim door for insertion of a ceiling tile is included to preserve the room aesthetics. Electrical connection to the FSR equipment rack is not included in this proposal and is to be furnished and installed by other trades.

Conference Room, Rack for Existing Cabinet: DPI will furnish and install a 12 RU slide-in rack into the cabinet in the conference room. The rack will include a horizontal power supply. In the interest of budget this rack was substituted for the slide-out/rotating rack. Electrical for the rack will be required within the cabinet and is not included in this proposal but is to be furnished and installed by Owner's electricians.

Note, All Racks: All firmware updates on the equipment in the racks will be performed before delivery. All serial numbers will be documented per room, along with the associated IP and MAC addresses (when applicable). All racks will be fully populated with all equipment securely fastened in place and arranged in a logical fashion. All equipment will be prewired and tested. All wiring will be labeled and documented for future reference.

Core System Components – AV Signal Routing

The Core System includes the equipment infrastructure to accept signals and route them to each destination in the space. DPI is recommending a Crestron DM-NVX system be installed as the Core System. Unlike the previous system design the DM-NVX is an AV over IP system employing a series of encoders and decoders, a standard network switch, and CAT 5E UTP wiring. The encoders allow media sources such as laptops and cameras to be connected via HDMI and then transmitted across the network. The decoders receive the signal from the encoder and transmits it to the destinations (displays & LifeSize) via the HDMI output. DPI will furnish and install a 52 Port PoE+ Managed switch in the AER to accept and route all Video, Audio, and Control signals in the system. The switch will be manufactured by LUXUL and meets all system requirements. The switch is recommended to allow the system to be expanded in the future.

Sources/Destinations: A DigitalMedia Card Chassis having have eight (8) card slots will be mounted in the AER. It will be populated with two (2) decoder cards, three (3) encoder cards and will have three (3) card slots available for future expansion of the system. Sources/Destinations routed through the Card Chassis (locations in parentheses) are:

- 1 ea. Digital Sound Processor (AER) -employs one (1) DM-NVX-E30C Decoder Card for Training Room Audio
- 1 ea. Digital Sound Processor (AER) -employs DM-NVX-E30C Decoder Card for Conference Room Audio
- 3 ea. Owner-furnished cable boxes (AER) – each employ one (1) DM-NVX-30C Encoder Card
- 3 ea. Unused slots for future expansion (AER)

Other sources will employ standalone encoders for signal routing. The Sources are (locations in parentheses):



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- 1 ea. Owner-furnished Laptop (Training Room Podium) – employs DM-NVX-30 encoder
- 1 ea. Owner-furnished PC (Training Room Podium)-employs DM-NVX-30 encoder
- 1 ea. Mersive Solstice Pod for BYOD devices (Training Room Podium)-employs DM-NVX-30 encoder
- 1 ea. Lifesize ICON 600 VTC System (Training Room Lifesize Rack)- employs DM-NVX-30 encoder
- 1 ea. Owner-furnished Laptop (Conference Room Table-Cubby) - employs DM-NVX-30 encoder
- 1 ea. Owner-furnished Cable Box (Conference Room Rack) - employs DM-NVX-30 encoder
- 1 ea. Lifesize ICON 600 VTC System (Conference Room)- employs DM-NVX-30 encoder

The destinations (locations in parentheses) are as follows:

- 6 ea. Samsung QB75N (Training Room) – each employs DM-NVX-D30 decoder
- 1 ea. Owner-furnished Sony Projector, model VH-Z65 (Training Room Ceiling)-employs DM-NVX-D30 decoder
- 1 ea. Lifesize ICON 600 VTC System (Training Room Lifesize Rack) -employs DM-NVX-D30 decoder
- 1 ea. Samsung QB75N (Conference Room) -employs DM-NVX-D30 decoder
- 1 ea. Samsung QB65N (Conference Room) -employs DM-NVX-D30 decoder
- 1 ea. Lifesize ICON 600 VTC System (Conference Room) -employs DM-NVX-D30 decoder

-

Core System Components, Audio System

The core system components for the Audio System will be housed in the AER and will serve both the Training and Conference Rooms. DPI will furnish and utilize a TesiraFORTE DAN VT Digital Signal Processor (DSP) manufactured by Biamp in the proposed design. The DSP has twelve (12) analog inputs, eight (8) analog outputs, and eight (8) channels of configurable USB audio. The DSP also provides Auto Echo Cancellation on all analog inputs. In addition, the DSP has 32 x 32 channels of Dante Audio. The Dante channels will be utilized for the microphone systems in the training room. AEC is available on eight (8) Dante channels.

A Crestron AMP-8150 amplifier will be utilized in the system to support the speakers in the Training and Conference Rooms. The amplifier has eight (8) channels and provides 150W per channel. Analog outputs 1-4 of the DSP will support four (4) speaker zones in the Training Room, while analog output 6 will support the speakers in the Conference Room.

Core System Components, Control System

A Crestron CP3N Control System will be utilized in the design. The CP3N will provide control of all components in the Training Room and Conference Room systems with the exception of the Lifesize ICON 600 in the Conference Room. All control programming is included.

Installation: DPI will install the new equipment in the facility in a professional and secure manner following professional best practices of the broadcast and AV industry. All AV wiring will be installed and routed to protect it from damage and induction from EMI. AV wiring will be labeled and documented for future reference. Equipment mounted in racks will be securely fastened in place, arranged in a logical fashion and labeled. Work areas will be left clean. All reasonable precautions will be taken to minimize the impact on the room and work within the existing construct to execute the installation.

Items Furnished by Others: All necessary modifications to the electrical system will be furnished by the owner and the pricing for the same is not included in DPI's proposal. Items required are:

- All electrical power, conduit, j-boxes and wall boxes.
- - o The AER will require (2) 20A/120V 60Hz single phase power circuits.
 - o DPI will provide back box for the six displays in the Training Room. The owner's electrician will install the same, run the conduit to and supply the outlet in the electrical box.



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Executive Summary

- DPI will provide the ceiling rack for the Training Room. The owner's electrician will run the conduit to and supply the outlet in the electrical box.
- DPI will require electrical in the floor pocket under the podium in the Training Room.
- DPI will require electrical at the projector location in the Training Room.
- DPI will require electrical for the rack within the cabinet of the Conference Room.
- DPI will require electrical for the two displays in the Conference Room.
- Network connection and wiring to/from MDF for city network connection.
- Coordination with owner's network personnel to obtain IP address for various components in the system, as well as integration of the Mersives on the network.
- Cable TV tuner having HDMI output (Qty 4).

DPI's assigned Project Manager will work with the owner and owner's contractor to coordinate these items.

Setup, Testing, and Optimization: DPI will test and adjust all installed equipment and wiring to ensure optimum performance. SAV will provide training on the operation of the system. Training sessions will be scheduled after the system is tested and commissioned.

Documentation and Manuals: DPI will deliver system documentation, drawings and equipment manuals shortly after the project is complete. Any control configurations will be provided in a digital media form as part of the documentation of the project and is intended for use on this project only as a backup or restore point.

Scope Conclusion

Upon acceptance of this proposal, please provide a signed proposal, the necessary purchasing documentation acceptable to your company and the payment method you are requesting. Payment term and condition requests are not guaranteed and may require additional verification. The installation date will be confirmed once all required documentation has been received.

Change Orders

As noted elsewhere in this document, no product changes/substitutions nor changes or modifications in equipment location will be made without the express written consent of **Town of Flower Mound & Data Projections**. Any requests for deviation to this contract or incomplete client requirements may result in additional fees.

Primary contact:

Jeff Garner
(972) 874-6064 (Direct)
(Mobile)
Jeff.garner@flower-mound.com

Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Audio Video Rack				
Middle Atlantic	WRK-37SA- 37SP/27D WRK RACK LRD 27LRD	\$877.93	1	\$877.93



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Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Middle Atlantic	MW-4FT- 380CFM INTEGRATED 4"FAN TOP	\$293.95	1	\$293.95
Middle Atlantic	PDT-1415C- 14 OUTLETS,15A,CORD,NS NS	\$121.73	1	\$121.73
Middle Atlantic	CBS-WRK- 27 CASTER BASE FOR WRK 27DP	\$144.17	1	\$144.17
Middle Atlantic	LACE-37-OP 64-3/4"H,3-1/4H"W SLT LCR	\$149.78	1	\$149.78
SurgeProtection, Inc	SX-1115-RT Surge Eliminator & Power Conditioner	\$593.62	1	\$593.62
Middle Atlantic	WRK-RR37 ADD.37SP RAIL KIT	\$92.00	1	\$92.00
Middle Atlantic	U2 2SP RACKSHELF 14.75DP	\$44.88	4	\$179.52
Middle Atlantic	SS SLIDING SHELF	\$120.61	2	\$241.22
Displays				
Samsung	QB75N 75"4K UHD LED LCD 6000:1 8 ms, 350 nits	\$2,021.95	6	\$12,131.70
CHIEF	LSTU LARGE FIXED THINSTALL UNIVERSAL	\$116.78	1	\$116.78
CHIEF	PAC525 In-Wall Storage Box	\$50.05	6	\$300.30
Crestron	DM-NVX-D30 DigitalMedia 4K60 4:4:4 HDR Network AV Decoder	\$792.68	6	\$4,756.08
Projection				
OFE	OFE Owner Furnished Sony Projector	\$0.00	1	\$0.00
CHIEF	KITES003P W KIT RPMAUW CMS003W CMS440 CMA470	\$367.72	1	\$367.72
Crestron	DM-NVX-D30 DigitalMedia 4K60 4:4:4 HDR Network AV Decoder	\$792.68	1	\$792.68
End User Input				
Crestron	TT-100-B-T Crestron Connect It Cable Caddy w/120V Outlet, No Cables, Black Textured	\$182.93	1	\$182.93



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Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Mersive Solstice	SP-8100-E1 Solstice Pod Gen3 with perpetual Small Group Edition Enterprise software license	\$1,023.54	1	\$1,023.54
OFE	OFE Owner Furnished Computer and Monitor	\$0.00	1	\$0.00
OFE	OFE Owner Furnished Cable Box	\$0.00	3	\$0.00
Crestron	DM-NVX-E30 DigitalMedia 4K60 4:4:4 HDR Network AV Encoder - Computer and Solstice Pod	\$792.68	2	\$1,585.36
Crestron	DM-NVX-E30C DigitalMedia 4K60 4:4:4 HDR Network AV Encoder Card - Cable Boxes	\$792.68	3	\$2,378.04
Lifesize VTC				
LIFESIZE INC	1000-0000-1180 LIFESIZE ICON 600-10X OPTICAL PTZ CAMERA	\$5,334.61	1	\$5,334.61
LIFESIZE INC	1000-2100-1161 LIFESIZE ICON 600 - 10X OPTICAL PTZ CAMERA - DSS (1-YEAR)	\$794.85	1	\$794.85
Crestron	DM-NVX-E30 DigitalMedia 4K60 4:4:4 HDR Network AV Encoder	\$792.68	1	\$792.68
Crestron	DM-NVX-D30 DigitalMedia 4K60 4:4:4 HDR Network AV Decoder	\$792.68	1	\$792.68
VADDIO	999-2225-220 IN-WALL ENCLOSURE FOR LIFESIZE 10X	\$257.20	1	\$257.20
FSR	CB-22 2'x2' CB w/ 2 1 RU mounts and 7 AC	\$487.50	1	\$487.50
Switching and Control				
Crestron	TSW-1060-B-S 10.1 in. Touch Screen, Black Smooth	\$1,463.41	1	\$1,463.41
Crestron	CP3N 3-Series Control System	\$1,585.37	1	\$1,585.37
Crestron	DMF-CI-8 DigitalMedia Card Chassis for DM-NVX-C & DMCF, 8 Slots	\$1,219.51	1	\$1,219.51
LUXUL	XMS-5248P 52-Port PoE+ GbE Managed Switch	\$1,463.82	1	\$1,463.82



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Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Audio System				
Biamp Systems	TesiraFORTE Fixed I/O DSP with 12 analog inputs, 8 analog outputs, 8 channels configurable USB audio, 32 x 32 channels of Dante, AEC technology (all 12 inputs), 2 channel VoIP, and standard FXO telephone interface	\$2,559.76	1	\$2,559.76
Crestron	DM-NVX-D30C DigitalMedia 4K60 4:4:4 HDR Network AV Decoder Card	\$792.68	1	\$792.68
Crestron	AMP-8150 8-Channel Power Amplifier, 150W/Ch	\$2,317.07	1	\$2,317.07
JBL	CONTROL 26CT Control 26C with Transformer	\$143.67	16	\$2,298.72
Microphones				
AVFI	MIC-18 Shure Gooseneck Microphone 18" long with XLR connection & flange mounting	\$303.66	1	\$303.66
Shure	MXWAPT8--Z10 8-CH ACCESS POINT TRANSCEIVER	\$2,865.85	1	\$2,865.85
Shure	MXWNCS8 8-CH NETWORKED CHARGING STATION	\$1,493.90	1	\$1,493.90
Shure	MXW8--Z10 DESKTOP BASE TRANSCEIVER	\$487.80	4	\$1,951.20
Shure	MX410LP/C 10" Shock-Mounted Gooseneck, Cardioid, less Preamplifier	\$189.02	4	\$756.08
Shure	MXW1/O--Z10 Bodypack Transmitter with Integrated Omnidirectional Microphone and 4-Pin Mini Connector (TA4M) (Includes one SB901 Battery)	\$469.51	2	\$939.02
Shure	WL185 Microflex® Cardioid Lavalier Microphone	\$101.22	2	\$202.44
Shure	MXW2/SM58 8 Handheld Transmitter with SM58® Microphone (Includes one SB902 Battery)	\$481.71	2	\$963.42



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Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Shure	MXWNCS4 4-CH NETWORKED CHARGING STATION	\$1,158.54	1	\$1,158.54
Misc				
Crestron	IRP2 IR Emitter Probe w/Terminal Block Connector	\$30.49	4	\$121.96
	LACE-37-0P	\$0.00	1	\$0.00

Subtotal: **\$59,244.98**

Room 2 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Audio Video Rack				
AVFI	DIR9200-12 12U Rack ModuleBlack metal finish	\$229.27	1	\$229.27
Middle Atlantic	PD-915R 9OUT,15A,RCKMNT POWER CEN	\$93.12	1	\$93.12
Displays				
SAMSUNG	QM85N 85 Commercial 4k UHD LED LCD Display	\$5,537.80	1	\$5,537.80
Samsung	QB65N 65" Commercial 4k UHD LED LCD Display	\$1,119.51	1	\$1,119.51
CHIEF	LSM1U Micro-Adjust Fixed Wall Mount Large	\$155.71	2	\$311.42
Crestron	DM-NVX-D30 DigitalMedia 4K60 4:4:4 HDR Network AV Decoder	\$792.68	2	\$1,585.36
End User Input				
OFE	OFE Owner Furnished Computer	\$0.00	1	\$0.00
OFE	OFE Owner Furnished Cable Box	\$0.00	1	\$0.00
Crestron	TT-100-B-T Crestron Connect It Cable Caddy w/120V Outlet	\$182.93	1	\$182.93
Crestron	DM-NVX-E30 DigitalMedia 4K60 4:4:4 HDR Network AV Encoder - Computer, Cubby	\$792.68	2	\$1,585.36



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Room 2 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Crestron	DM-NVX-E30C DigitalMedia 4K60 4:4:4 HDR Network AV Encoder Card - Cable Box	\$792.68	1	\$792.68
Life Size VTC				
LIFESIZE INC	1000-2100-1183 LIFESIZE ICON 450 - DSS - 1 YR	\$511.34	1	\$511.34
LIFESIZE INC	1000-0000-1183 LIFESIZE ICON 450-PHONE HD	\$3,810.22	1	\$3,810.22
LIFESIZE INC	1000-0000-0887 LIFESIZE LINK ADAPTER	\$79.82	1	\$79.82
Crestron	DM-NVX-E30 DigitalMedia 4K60 4:4:4 HDR Network AV Encoder	\$792.68	1	\$792.68
Crestron	DM-NVX-D30 DigitalMedia 4K60 4:4:4 HDR Network AV Decoder	\$792.68	1	\$792.68
Control				
Crestron	TSW-1060-B-S 10.1 in. Touch Screen, Black Smooth	\$1,463.41	1	\$1,463.41
Crestron	TSW-1060-TTK-B-S Tabletop Kit for TSS-10 and TSW-1060, Black Smooth	\$152.44	1	\$152.44
Audio				
Crestron	DM-NVX-D30C DigitalMedia 4K60 4:4:4 HDR Network AV Decoder Card	\$792.68	1	\$792.68
JBL	CONTROL 26CT Control 26C with Transformer.	\$143.67	4	\$574.68

Subtotal: **\$20,407.40**

Room 3 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Samsung	QB65N 65" Commercial 4k UHD LED LCD Display	\$1,131.71	1	\$1,131.71
CHIEF	LSM1U Micro-Adjust Fixed Wall Mount Large	\$155.71	1	\$155.71
OFE	OFE Owner Furnished Signage Player	\$0.00	1	\$0.00



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Subtotal: **\$1,287.42**

Room 4 Services

Product Details	Ext. Price
Installation Labor	\$12,000.00
Design/Engineering	\$2,000.00
Project Management	\$3,200.00
Programming Labor	\$14,000.00

Subtotal: **\$31,200.00**

Miscellaneous Materials

Product Details	Ext. Price
Miscellaneous Materials	\$4,856.40

Subtotal: **\$4,856.40**

Service & Maintenance

Product Details	Ext. Price
Service & Maintenance	\$4,856.39

Subtotal: **\$4,856.39**



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Town of Flower Mound Fire Department

Prepared by:

Dallas

Diana Betts
(972) 774-5578
Fax 972.386.7685
dbetts@dataprojections.com

Prepared for:

Town of Flower Mound

3911 S Broadway
Flower Mound, TX 75028
Jeff Garner
(972) 874-6064
Jeff.garner@flower-mound.com

Quote Information:

Quote #: 002669

Version: 1
Delivery Date: 07/31/2019
Expiration Date: 08/11/2019

Quote Summary

Description	Amount
Room 1 - Hardware	\$59,244.98
Room 2 - Hardware	\$20,407.40
Room 3 - Hardware	\$1,287.42
Room 4 Services	\$31,200.00
Miscellaneous Materials	\$4,856.40
Service & Maintenance	\$4,856.39

Subtotal: **\$121,852.59**

Shipping: **\$2,832.90**

Total: **\$124,685.49**

Payment Options

Description	Payments	Interval	Amount
Payment Options			
Net 30	1	One-Time	\$124,685.49

Other service options available. Contact your sales representative.

By signing this agreement, you are accepting our Terms and Conditions. This does not negate the need for a purchase order or any other purchasing requirement which your company necessitates. Data Projections reserves the right to require a customer down payment/deposit contingent on the creditworthiness of the customer.



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Dallas

Signature: _____
Name: Diana Betts
Title: Account Executive
Date: 07/31/2019

Town of Flower Mound

Signature: _____
Name: Jeff Garner
Date: _____



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Statement of Performance

TERMS AND CONDITIONS

Proprietary Notice

This proposal contains confidential information and intellectual property of Data Projections, Inc.(DPI), and may be legally privileged. Recipient agrees not to reproduce or make this information available in any manner to persons outside the group directly responsible for evaluation of its contents.

Payment Schedule

The total for this proposal/project is presented as a "not to exceed" unless DPI and the "client" agree to add hardware, software or functionality not specifically addressed in this Statement of Work/Executive Summary. The payment schedule outlined in the Payment Options section is contingent on the established line of credit approved by the company. If credit terms are extended, the standard terms are NET 30 days. If credit terms are not requested or extended, payment will be required in full before hardware is ordered or installation dates are scheduled.

Returns

Goods returned to DPI require a return authorization number. Goods returned for reasons other than warranty or defect must be in original, undamaged and untarnished condition and must include all original packaging, documentation and accessories. Restocking fees may apply to the items being returned. Please consult Data Projections for specifics.

Warranty

All new equipment provided by Data Projections includes each manufacturers full warranty from the date of invoice. Data Projections will honor all warranty requirements as depot service. Any additional fees outside the manufacturer warranty will be charged accordingly.

Data Projections supplies a 90-day workmanship warranty from the date of completion of said system, unless superseded by an extended warranty, service agreement and/or preventative maintenance agreement. Data Projections warrants the system to be free of defects in materials and workmanship and fit for the intended purpose. This warranty does not cover equipment or system abuse, misuse including, but not limited to, operating outside of environmental, electrical, temperature or humidity specifications, system alterations neither approved nor performed by Data Projections; or repair by a service facility other than those authorized by the manufacturer.

Project Methodology

DPI project methodology follows the Project Management Institute (PMI) standards for project management. The five phases are (1) Initiating Process, (2) Planning Process, (3) Executing Process, (4) Monitoring and Controlling Process, and (5) Closing Process. The activities required in each phase to complete the install and commissioning of products are described following.

INITIATING PROCESS: Project Acceptance; Receive signed and executed Proposal/PO, order product upon negotiated down payment.

PLANNING PROCESS: Initial Project planning to determine schedule, resources. Logistics, finalizing design documents. **EXECUTING PROCESS:** Install and configure proposed system(s).

MONITORING & CONTROLLING PROCESS: (1) End-to-end testing of system, (2) User Acceptance testing, (3) Client sign off of substantial completion / beneficial use, and (4) Identify any performance exceptions to the system.

CLOSING PROCESS: (1) End user knowledge transfer, (2) Remedy any exceptions, and (3) Identify the beginning of the Warranty Period and turn over to DPI Service

Assumptions and Exceptions

Room(s) where installation is to be completed are to be made available for DPI's exclusive use on the days of the



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scheduled installation. Unless specifically arranged in advance, rooms will be available during normal business hours, defined as Monday through Friday, 8:00 AM to 5:00 PM. Any work required outside these or other mutually agreed to hours could be subject to additional overtime, holiday or other rates. All required spaces (rooms, access points, etc.) must be available at the start of the installation and remain available for the duration of the Project. Any required space that is unavailable during the scheduled installation timeframe may result in delayed delivery of the Project and/or additional charges. Additional rates will only be applied after execution of DPI generated Project Change Request according to the Change Management Procedure section following and signed approval by Owner or Owner's representative.

The project schedule must allow for sufficient time for completion of all installation and final testing of systems prior to occupancy of the site. If sufficient time is not allowed, DPI will be held harmless for systems that do not meet requirements. In this case, all costs associated with completion of work, including overtime labor rates, will be considered outside the scope of this offering and billable to the Client.

Unless otherwise stated, the installation shall be scheduled contiguously from start to finish. Projects requiring multiple site visits and/or intervals of inactivity between events must be noted as such prior to acceptance of this SOW. If notification is made after initial acceptance of this SOW, Change Management Procedure section following shall be implemented and additional charges may apply.

DPI reserves the right to revise the proposal/scope of work based upon information obtained from subsequent site surveys and other sources not available at the time of that the original proposal was issued. Any such revision will follow the Change Management Procedure section following.

DPI reserves the right to substitute equipment of similar specifications should any of the specified equipment be unavailable at time of order from the manufacturer. This will be done in an effort to maintain the completeness of the proposed audiovisual system and meet the anticipated installation schedule.

DPI makes no guarantees or warranty as to suitability or compatibility of any owner furnished equipment (OFE) that may be integrated into this proposed system. Any OFE shall be integrated only at client's request, and will be installed in "as-is" condition at the time of installation. Should incompatibilities manifest, DPI Engineering shall propose solution via Change Management Procedure outlined below, and cost of all remedies will be borne by the Client.

Change Management Procedure

Any changes to the Scope of the project, equipment or materials to be used must be in writing signed by the Customer and an authorized representative of Data Projections, Inc. Oral changes to the project scope, equipment or materials shall not be binding upon the parties. Changes may impact the ability of Data Projections, Inc. to deliver the desired solution per the original terms of the Contract. After acceptance of this Scope of Work, such signed and approved change orders will be incorporated by reference into and become part of this Contract and will be processed in accordance with the Change Management Procedure detailed below.

Client Responsibilities/Room Readiness

The following describes the physical conditions we require at the site in order to bring equipment into the designated area. These "room-ready" conditions have been developed to insure proper site conditions that pose no compromise to the proper operation and performance of the equipment. Further, they will allow our installation technicians to work at maximum efficiency insuring timely completion. Where reasonable or possible:

- All 120V electrical provisions (Specifications provided by DPI after executed agreement)
- All Mains Power (Electrical) provisions. All AC receptacles and power with feed to all equipment must be independently grounded and be on the same phase. If DPI discovers improper grounding or phasing to be the cause of functional anomalies, Client will remedy without penalty or cost to DPI.
- Low Voltage Interfaces: Only those low voltage interfaces specifically included on the attached equipment list are included in this offering. All owner furnished equipment is assumed to be supplied with the appropriate low



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voltage interface and low voltage interfaces required to connect to any systems furnished and/or installed by others, are assumed to be supplied by the installing contractor.

- All conduit and raceway as required by local code.
- Conveyance (pathway) for AV cabling - includes any core drilling or structural modifications (Specifications and call-outs provided by DPI after executed agreement).
- Equipment Delivery: Prior to the delivery of all equipment and electronics, all spaces are "broom-clean" and the site is free of dust and dirt. All construction, including drywall, painting, ceilings, flooring and millwork is complete. If, at the discretion of the Client, equipment is brought to site before it is clean, functionality, longevity and warranties may be compromised.
- OSHA Requirements: Prior to commencement of work by DPI, the job site must meet OSHA requirements for a healthy workplace. Appropriate safety policies should be set, maintained, and enforced by all work forces. Any room remediation that may be required for the installation of the equipment relevant to this Project.
- All alteration, cutting, drilling and remediation of millwork, casework, furniture, trim, patching, painting and refinishing.
- Modification or replacement of ceiling tiles and/or grid.
- All hazardous material discovery and/or abatement.
- All required permits, plan approvals, inspection and compliance procedures.
- All conduits, back boxes, raceway and other distribution/infrastructure items required to support the system(s) as designated by DPI Engineering design documentation and/or applicable electrical codes.
- All "Hard Points" for mounting of equipment. When in doubt, the Customer should contact a certified Structural Engineer for safety factors. ("Hard Points" are defined as structural reinforcement and/or connection points for equipment specific mounting devices provided within this offering.)
- All in-wall blocking required to support AV equipment or displays shall be furnished and installed by others.
- Telephone and/or Data Network infrastructure.
- Firewall configuration for videoconference traffic (DPI to provide firewall configuration information).
- Vibration, Ambient Noise and Acoustics: Excessive vibration may cause certain equipment (i.e., ceiling mounted video projectors and microphones) to exhibit functional anomalies. Conference and recording systems, which employ open microphones, may not perform properly if excessive ambient noise or reverb is present. If any of these conditions exist, DPI will be held harmless; costs associated with remedy of these conditions will be considered billable to the Client.
- Delivery and Acceptance: The Client agrees to designate a representative who will have the authority to sign for delivery of equipment. Client is responsible for the security and loss liability of all delivered equipment. Acceptance of delivery does not imply that systems have been accepted as functional. Unless other arrangements are made, a secure, lockable space will be furnished for storage of equipment and material.

Indemnification

DPI agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, director and employees (Collectively, Client) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the DPI's negligent performance of professional services under this Agreement and that of its subcontractors or anyone for whom DPI is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless DPI, its officers, directors, employees and subconsultants (collectively, DPI) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.

Neither the Client nor DPI shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.



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Statement of Performance

No Hire Policy

During the term of the Contract, and for a period of one (1) year after the termination of the Contract, or the completion of the Project, whichever is later, the Client agrees that it will not directly solicit the employment of any individual that was employed by DPI during the term of the Contract. In the event Client breaches this provision, the parties agree that it would be difficult to establish the precise amount of damages incurred by DPI as a result of such conduct, and therefore the parties agree that immediately upon hiring said individual, Client shall pay to DPI an amount equal to 50% of the gross annual salary or wages paid to the individual in question during the twelve months prior to the termination of that individual's employment with DPI. This fee shall not apply if the individual responds to a general employment advertisement through newspapers, on-line job boards or postings, agencies, open house, or job fairs.

Maintenance Agreement

The Maintenance Agreement for Audio/Visual Presentation Systems



Our Silver Maintenance Program minimizes risk and solves service issues quickly and efficiently to provide our clients with optimal usage of their audio/visual solution without extended delay. As an authorized reseller and service center for many manufacturers, Data Projections has built an infrastructure of qualified and experienced service technicians. Our technicians receive a series of audio/visual industry certifications and intensive manufacturer training to obtain product knowledge and provide exceptional service.

On-Site Technical Response

Data Projections will request preliminary diagnostic information from the client related to the service request prior to a technician being dispatched to a client's facility. If the issue is unresolved, a technical representative will arrive within twelve business hours of the call to assess the issue(s) with the A/V solution.

Remote Technical Assistance

Data Projections will provide unlimited toll-free technical assistance by phone (1.866.225.5374) or email DPIServiceTeam@dataprotections.com Monday through Friday 8:00 AM-5:00 PM. Messages left after hours will be returned by 10:00 am on the following business day.

Shipping

Data Projections will provide any UPS ground shipping associated with the return of A/V product to the manufacturer repair center. Crating or special packaging required for the return of products will be included at no additional charge to the client.

Manufacturer Warranties

Data Projections will process all manufacturer warranty claims per manufacturer limited warranty agreements. Data Projections will cover the cost associated with the submission and return of any equipment requiring repair under the agreement.

Data Projections is not responsible for the cost of parts and labor associated with the repair of equipment unless manufacturer warranty supplies reimbursement of said repairs to Data Projections in full. Parts and labor required for repairs are the responsibility of the client, but will be discounted 35% from published pricing. All after-hour, weekend and holiday service charges are billed at time and a half. The maintenance program shall commence on the first day of system completion or customer use, whichever is earlier, and continue for one full year. Any client outside of a 50 mile radius from the nearest Data Projections location will require adjustment to the above on-site technical response time, depending on travel requirements.

www.dataprojections.com/ 1.866.CALL.DPI

Austin – Dallas – Houston – San Antonio.

Training

Data Projections will provide an additional training overview session during the agreement period upon request from the client. The session can be used to refresh existing skills, train new employees or help you achieve maximum performance of your A/V system.

Troubleshooting

If it is determined that the client network is causing the issue, our technicians will troubleshoot and work directly with the client's IT department or the IP/ISDN network provider to help resolve any issues. All reasonable efforts will be made to ensure video quality and reliability are upheld.

Plus Package

Any owner furnished equipment (OFE) integrated with a new Data Projections installation that requires manufacturer warranty support will require an additional administrative fee on top of the normal maintenance agreement price. Non-warranty repair fees and shipping are the responsibility of the client.

Simply
Connected.



DATA PROJECTIONS

Town of Flower Mound Fire Department Podium

Quote # 002727
Version 1

Prepared for:

Town of Flower Mound

Jeff Garner
Jeff.garner@flower-mound.com



DATA
PROJECTIONS

14452 West Beltwood Pkwy
Dallas, TX 75244
www.dataprojections.com
972.386.7686

Tuesday, June 18, 2019

Town of Flower Mound
Jeff Garner
1001 Cross Timbers Road
Flower Mound, TX 75028
Jeff.garner@flower-mound.com

RE: Town of Flower Mound Fire Department Podium

Dear Jeff,

Thank you for allowing Data Projections the opportunity to present this solution for the Town of Flower Mound.

As a leading audio visual communications design/build firm, Data Projections is uniquely qualified for a project of this scope. Our experience includes solutions for:

- Multipurpose rooms and auditoriums equipped with large-venue audio visual technology solutions
- Videoconferencing systems incorporating control and complete room collaboration, allowing for on-demand decision making and communication among remote locations
- Conference, board rooms and training rooms of all shapes and sizes
- Digital signage implementations across enterprise, university, and district campuses for immediate message distribution
- Operation Center's (NOC's, EOC's, SOC's) audio visual command and control systems
- College and university classrooms, lecture halls and labs
- Individual school classrooms to entire districts
- And many more unique applications

Because we partner with the best technology companies in the industry, we're able to provide a wide range of comprehensive solutions built around the specific needs of our customers, while taking into account the technical, capital and logistical factors involved in each project and solution.

Rapid and effective communication is key to staying ahead of the competition. Better communication leads to better decisions - and better results. How do you maintain consistent communication across your organization as well as external audiences? Data Projections' team of professionals will keep you simply connected.

Kind regards,

Diana Betts
Account Executive
Dallas



DATA
PROJECTIONS

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Dallas, TX 75244
www.dataprojections.com
972.386.7686

Room 1 - Hardware

Mfr.	Description	Price	Qty	Ext. Price
Sound-Craft Systems	Z061719-1 Classic Lectern 36"W, high pressure laminate Wilsonart Asian Night 7949K-18, folding side shelf ADA height, Pocket pivot doors with lock, keyboard drawer, 13RU rack, cooling fan	\$4,217.95	1	\$4,217.95
Middle Atlantic	UMS1-11.5 1SP UM SHELF,11.5"D	\$38.52	1	\$38.52
Middle Atlantic	PD-915R-SP 9 OUTS,15A SERIES SURGE	\$407.68	1	\$407.68
Crestron	TT-100-B-T Crestron Connect It Cable Caddy w/120V Outlet, No Cables, Black Textured	\$182.93	1	\$182.93

Subtotal: **\$4,847.08**

Shipping

Product Details	Ext. Price
Shipping	\$121.20

Subtotal: **\$121.20**



DATA
PROJECTIONS

14452 West Beltwood Pkwy
Dallas, TX 75244
www.dataprojections.com
972.386.7686

Town of Flower Mound Fire Department Podium

Prepared by:

Dallas

Diana Betts
(972) 774-5578
Fax 972.386.7685
dbetts@dataprojections.com

Prepared for:

Town of Flower Mound

1001 Cross Timbers Road
Flower Mound, TX 75028
Jeff Garner
(972) 874-6064
Jeff.garner@flower-mound.com

Quote Information:

Quote #: 002727

Version: 1
Delivery Date: 06/18/2019
Expiration Date: 08/17/2019

Quote Summary

Description	Amount
Room 1 - Hardware	\$4,847.08

Subtotal: **\$4,847.08**

Shipping: **\$121.20**

Total: **\$4,968.28**

Payment Options

Description	Payments	Interval	Amount
Payment Options			
Net 30	1	One-Time	\$4,968.28

Other service options available. Contact your sales representative.

By signing this agreement, you are accepting our Terms and Conditions. This does not negate the need for a purchase order or any other purchasing requirement which your company necessitates. Data Projections reserves the right to require a customer down payment/deposit contingent on the creditworthiness of the customer.

Dallas

Town of Flower Mound

Signature: _____

Name: Diana Betts

Title: Account Executive

Date: 06/18/2019

Signature: _____

Name: Jeff Garner

Date: _____



DATA
PROJECTIONS

14452 West Beltwood Pkwy
Dallas, TX 75244
www.dataprojections.com
972.386.7686

Statement of Performance

TERMS AND CONDITIONS

Proprietary Notice

This proposal contains confidential information and intellectual property of Data Projections, Inc.(DPI), and may be legally privileged. Recipient agrees not to reproduce or make this information available in any manner to persons outside the group directly responsible for evaluation of its contents.

Returns

Goods returned to DPI require a return authorization number. Goods returned for reasons other than warranty or defect must be in original, undamaged and untarnished condition and must include all original packaging, documentation and accessories. Restocking fees may apply to the items being returned. Please consult Data Projections for specifics.

Warranty

All new equipment provided by Data Projections includes each manufacturers full warranty from the date of invoice. Data Projections will honor all warranty requirements as depot service. Any additional fees outside the manufacturer warranty will be charged accordingly.

Data Projections supplies a 90-day workmanship warranty from the date of completion of said system, unless superseded by an extended warranty, service agreement and/or preventative maintenance agreement. Data Projections warrants the system to be free of defects in materials and workmanship and fit for the intended purpose. This warranty does not cover equipment or system abuse, misuse including, but not limited to, operating outside of environmental, electrical, temperature or humidity specifications, system alterations neither approved nor performed by Data Projections; or repair by a service facility other than those authorized by the manufacturer.



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: October 7, 2019

FROM: Eric Greaser, Fire Chief *EG*

ITEM: Consider approval of a Contract Renewal Quotation for the Everbridge emergency notification system for a total amount of \$26,145.00, and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Town utilizes the Everbridge system for sending automatic weather alerts to staff and citizens. Additionally, the system is used to notify residents of road closures and any other emergency notification that is deemed necessary. Everbridge is also set-up for mass notification and recall of personnel in the Police and Fire Departments, as well as key Town staff that could serve in the Emergency Operations Center or need to be recalled after a disaster to maintain continuity of operations for the Town.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$26,145.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$26,145.00	100-660-64000-5110

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Everbridge Contract Renewal Quote

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



155 North Lake Avenue, Suite 900
Pasadena, CA 91101 USA

tel: +1-818-230-9700
fax: +1-818-230-9505

www.everbridge.com

Quotation

Prepared for:

Brandon Barth
Town of Flower Mound, TX
TX
United States
Ph: 9728746209
Fax: (972) 874-6470
Email: brandon.barth@flower-mound.com

Quote #: Q-30426
Date: 6/20/2019
Expires On: 9/30/2019
Confidential

Salesperson: Joanna Burlison
Phone:
Email: joanna.burlison@everbridge.com

Contract Summary Information:

Contract Period:	36 Months
Contract Start Date:	10/1/2019
Contract End Date:	9/30/2022

Contact Summary:

Household Count:	28,000
Employee Count:	1,400

Year 1

QTY	DESCRIPTION	PRICE
1	Mass Notification Base	USD 23,205.00
1	Smart Weather Alerting (includes 1 location in base weather subscription)	USD 2,940.00
Year 1 TOTAL:		USD 26,145.00

Pricing Summary:

Year One Fees:	USD 26,145.00
One-time Implementation and Setup Fees:	USD 0.00
Professional Services:	USD 0.00
Total Year One Fees Due:	USD 26,145.00

Ongoing Fees:

Year Two Fees:	USD 26,145.00
Year Three Fees:	USD 26,145.00

1. Additional rates apply for all international calls.
2. Quote subject to the terms and conditions of the service agreement, including any amendments, executed between Everbridge, Inc. and the customer listed above.
3. Subject to sales taxes where applicable.
4. Except for currency designation, the supplemental notes below, if any, supplied in this Quote are for informational purposes and not intended to be legally binding or override negotiated language of the Everbridge Inc. Service Agreement.

Authorized by Everbridge:

Signature:

Date:

Name (Print):

Title:

To accept this quote, sign, date and return:

Signature:

Date:

Name (Print):

Title:

STEVE DIXON

MAYOR

155 North Lake Avenue, Suite 900
Pasadena, CA 91101 USA
Tel: +1-818-230-9700
Fax: +1-818-230-9505

THANK YOU FOR YOUR BUSINESS!



TOWN COUNCIL AGENDA ITEM NO. 11

CONSENT ITEM

DATE: October 7, 2019

FROM: Eric Greaser, Fire Chief *EG*

ITEM: Consider approval of the purchase of two outdoor warning sirens to add to the Town's existing Outdoor Warning Siren System, in the amount of \$52,597.79.

BACKGROUND INFORMATION: The Town currently has twenty-four sirens in the Outdoor Warning Siren System and we are requesting two additional sirens which were approved with the FY 19-20 budget at a cost of \$24,798.90 each. Additionally, there will be a cost of \$1,500 per siren site for survey work. These sirens will be installed in parts of Town that currently do not have adequate coverage from the existing outdoor warning siren system. The two new sirens will bring the total number of sirens in the Town to twenty-six. The proposed installations will occur on Shiloh Road north of FM1171 and the 5100 block of Flower Mound Road, south of FM1171.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$52,597.79

Proposed Expenditure/(Revenue):	Account Number(s):
\$49,597.79	319-560-64000-6120
\$ 3,000.00	319-560-64000-5110

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. ASC Mass Notification Solutions Quote

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



8600 W. Bradley Road, Milwaukee, WI 53224

Tel: (800) 243-2911

Tel: +1 414 358-8000

Fax: +1 414 358-8008

Web: www.americansignal.com

Sales Person: Brad Swanson

Quote #: 190243-BS

Date: 9/16/2019

Project: Flower Mound 2020 BUDGET
 Company: Flower Mound
 Address: 3911 S Broadway Ave
 City, State, ZIP: Flower Mound, TX, 75028
 Country: USA
 Contact Name: Brandon Barth
 Title: Emergency Management Officer
 E-Mail: brandon.barth@flower-mound.com
 Telephone: 972-874-6209
 Mobile: 770-883-6245
 Other:

Item	Qty.	Model	American Signal Equipment	Unit	Extended Price
T-128 AC/DC					
1	2	T-128-DC	Rotating Siren 129.5dB 48v DC Siren		\$ 48,797.79
2	2	T-48-MC-DC	48V DC Motor Control 112 / 121 / 128 - UL Listed NEMA 4X Aluminum Powder Coated Gray	Included	Included
3	2	RTU--DC Door Mt.	RTU, Universal Controller, Panel Mount DC Tempest-MC's	Included	Included
4	2	SENSOR - Current	Current Sensor, Tempest-Series	Included	Included
5	2	KIT-FSK-32-DC	FSK, Format Card, for DC Mechanical Sirens	Included	Included
6	2	RK-V	TK7180K-30 Watt Kenwood Radio VHF 150-170Mhz	Included	Included
7	2	KIT-KCT-19	Kenwood 'Radio Interface, UHF/VHF MHz	Included	Included
8	2	KIT-OMNI-ANT-7	Antenna, VHF, 35' coax Omni-Directional	Included	Included
9	2	KIT-ARR-2	Lightning Arrestor, VHF, PL-259	Included	Included
10	2	BATT-1 M	Battery, 12V, Group 24 - Set of (4) for TEMPEST™ 48Vdc DC Controls for T-128	Included	Included
11	2	PM-4	Pole Mount - Tempest T-128	Included	Included
12	2	SOLAR-4	Solar Array (4) Panels and mounting bracket for TEMPEST	Included	Included
13					
14			Installation		
15	2	Install	Provide 55' Class II Steel Pole. Assemble Components on Pole. Auger and Set Assembly. Note: 120 VAC, 20 Amp Service, Meter (if required) and Disconnect Brought to the Pole by Others. Underground Utility Locates by Others.	Included	Included
16					
17			Rock Clause		
18		Rock Clause	During the Augering Process should Rock or some other impenetrable Substrate be encountered and a Pier Drilling Rig or Secondary Pole Site be Required an Additional Fee May Apply		\$ -
19			System Commissioning		
20	1	Commissioning	ASC Certified Installer to Perform Start Up and Commissioning of System. Provide One (1) Day of Operational and Maintenance Training on the System	Included	Included
21					
22			Shipping		
23			EXW:8600 W. Bradley Road, Milwaukee Wisconsin 53224		\$ 800.00
25			Standard ASC Warranty Applies to Order		\$ 49,597.79
26			Taxes - Not Included		
27			Project Totals - US Funds		\$ 49,597.79

25% Due with order = \$ 12,399.45

Domestic Payment Terms:

All prices are in USD and Equipment Accounts are 25% due at time of order. (Engineering, Mobilization & Acquisition), 75% due Net 30 days upon shipment of equipment. If project is turn key installation contract 25% Down payment with 65% Net 30 days upon shipment of equipment to customer designated location or installers site with a 10% retainage. Net 10 days upon final start up and test of system. Payments tendered by Credit Card will be subject to a 4% processing Fee.

Validity: This quotation is valid for 30 days from date of issuance.

Shipping Terms: EXW Factory, 8600 W. Bradley Road, Milwaukee Wisconsin 53224 in accordance with Incoterms® 2010.

Installation services: If installation services are provided in contract, all change orders will be authorized in writing before work is performed outside of the scope of the contract. If during installation of a system we encounter rock that cannot be removed by standard drill and pier methods, all work will stop and the customer will be notified of the situation before work resumes. Special equipment required to penetrate the rock or other site conditions as well as relocation of the site/pole will continue on a cost plus basis once authorized in writing by the customer.

These are standard ASC Terms and Conditions and are not reflective of negotiated or proposed contract language under invitations to bid or final requests for proposals. All international orders require a full wire transfer of funds to our bank in Milwaukee, WI.



TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: October 7, 2019

FROM: Wendell Mitchell, Assistant Police Chief *W2M*

ITEM: Consider approval of a fee agreement with City of Lewisville for use of the Jerry R. Galler Public Safety Training Center for the purpose of firearms training and annual qualifications; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: In 2018 the Flower Mound Police Department discontinued use of our three primary firearms training ranges located in Flower Mound, Grapevine, and Denton County. The police department contracted with Cross Fire indoor range in Flower Mound during FY 2017 – 2018. Although this range allowed for some specific tactical training exercises, it was not suitable for patrol rifle qualifications. Further, the outdoor firearms range in Grapevine was closed in 2018 and Denton County has suspended patrol rifle qualification on their range. This left the Flower Mound Police Department with limited options for a firearms training range that could accommodate our training needs and meet qualification standards.

In late 2018, the Flower Mound Police was provided the opportunity to rent range time at the Jerry R. Galler Public Safety Training Center (Lewisville range). The Flower Mound Police Department has utilized the Lewisville range for the previous six months and has found the Lewisville range to be well suited to meet our training needs and qualification standards. Further, the Lewisville Range is conveniently located less than five miles, from the Flower Mound Police Department. As such, the Flower Mound Police Department is requesting approval of this fee agreement for continued use of Lewisville range for FY 2019 – 2020.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: There are no other options for a firearms range that meet our training. Including rate/cost, proximity, supporting qualifications requirements, and training opportunity.

FISCAL IMPACT: The proposed expenditure is the anticipated cost given previous year's firearms training schedule and annual qualifications.

Proposed Expenditure(Revenue):	Account Number(s):
\$15,745	100-640-43500-5110

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. City of Lewisville Range Fee Agreement with Flower Mound Police Department

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



TOWN COUNCIL AGENDA ITEM NO. 13

CONSENT ITEM

DATE: October 7, 2019

FROM: David Bauer, Construction Manager

ITEM: Consider approval of the purchase of shelving for the Library Expansion and Renovation project, from Lone Star Furnishings, LLC, through a Lone Star Buy Board contract No. 503-16, in the amount of \$350,479.20.

BACKGROUND INFORMATION: The Library Expansion and Renovation project consists of an approximate expansion of 15,000 sq. feet, existing interior renovations, associated site improvements, furniture/fixtures and equipment, and audio-visual equipment on approximately 3 acres located at 3030 Broadmoor Lane.

Shelving for the project is being purchased now to ship in two shipments to accommodate for the phased construction. First shipment will be children's and teen's shelving, and second shipment the adult shelving.

FISCAL IMPACT: \$350,479.20

Proposed Expenditure/(Revenue):	Account Number(s):
\$350,479.20	533-111-32001

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

Total project cost is \$12,500,000. Funding sources are:

- Other \$ 100,000
- TIRZ debt \$10,900,000
- Tax debt \$ 1,500,000

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Lone Star Furnishings Quote

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

Lone Star Furnishings, LLC
 4301 Reeder Drive, Suite 100
 Carrollton, TX 75010
 P: (972) 862-9900
 F: (972) 862-9990
 rebecca@lonestarfurnishings.com

Estimate

SHIP TO ADDRESS

Flower Mound Public Library
 3030 Broadmoor Ln.
 Flower Mound, TX 75022

ESTIMATE # 1037

DATE 09/19/2019

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
09/19/2019		Lone Star BuyBoard Contract #503-16			
09/19/2019	SH.01	SH.01 (6) Double faced sections Nova shelving range Dimensions: 5500x600x1700mm - 216.5"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (50) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	7	4,459.00	31,213.00
09/19/2019	SH.02	SH.02 (8) Double faced sections Nova shelving range Dimensions:	8	5,827.00	46,616.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		7300x600x1700mm - 287.4"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (70) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310			
09/19/2019	SH.03	SH.03 (3) Double faced sections Nova shelving range Dimensions: 2275x600x1700mm - 89.5"W x 23.6"D x 66.9"H Canopy tops and end panels in steel Sections 725mm wide (28.5") (20) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves 9.5" (clearance) (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	1	2,542.00	2,542.00
09/19/2019	SH.04	(5) Double faced sections Nova shelving range Dimensions: 4600x600x1700mm - 181.1"W x 23.6"D x	1	5,143.00	5,143.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		66.9"H Canopy tops and end panels in steel (40) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310			
09/19/2019	SH.13	SH.13 (4) Single faced sections Nova shelving range Dimensions: 3700x450x2000mm - 145.6"W x 17.71"D x 78.7"H Canopy tops and end panels in steel Each section with: (1) Flat base (1) Steel canopy top (4) Display cupboards with 3 tip-up doors (1) Cross bar (1) Wall Mounting Kit Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	1	4,439.00	4,439.00
09/19/2019	SH.14	SH.14 (5) Single faced sections Nova shelving range Dimensions: 4600x450x2000mm - 1481.1"W x 17.71"D x 78.7"H Canopy tops and end panels in steel	1	5,429.00	5,429.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		Each section with: (1) Flat base (1) Steel canopy top (4) Display cupboards with 3 tip-up doors (1) Cross bar (1) Wall Mounting Kit Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310			
09/19/2019	SH.15	SH.15 (7) Single faced sections Nova shelving range Dimensions: 6400x450x2000mm - 216.5"W x 17.71"D x 78.7"H Canopy tops and end panels in steel Each section with: (1) Flat base (1) Steel canopy top (4) Display cupboards with 3 tip-up doors (1) Cross bar (1) Wall Mounting Kit Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	1	6,249.00	6,249.00
09/19/2019	SH.16	SH.16 (6) Double faced sections Nova shelving range Dimensions: 5500x600x1700mm - 216.5"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (50) Book ends Each section with: (2) Flat bases	2	4,459.00	8,918.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		(1) Steel canopy top (8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310			
09/19/2019	SH.17	SH.17 (4) Double faced sections Nova shelving range Dimensions: 3700x600x1700mm - 145.6"W x 23.6"D x 66.9"H Canopy tops and end panels in steel Sections 900mm wide (35.4") (30) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves 9.5" (clearance) (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	1	3,193.00	3,193.00
09/19/2019	SH.18	(4) Double faced sections Nova shelving range Dimensions: 3700x600x1700mm - 145.6"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (30) Book ends Each section with: (2) Flat bases (1) Steel canopy top	3	3,090.00	9,270.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		(8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310			
09/19/2019	SH.19	SH.19 (9) Double faced sections Nova shelving range Dimensions: 8200x600x1700mm - 322.8"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (80) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves 9.5" (clearance) (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior, Canopy Top Exterior and Interior Natural Steel #310	5	6,729.00	33,645.00
09/19/2019	Add Wood End Panels	Walnut Insert End Panels #72 for: SH.01, SH.02, SH.03, SH.04 (qty2), SH.13, SH.14, SH.15, SH.16, SH.17, SH.18 and SH.19.	1	7,431.00	7,431.00
09/19/2019	Installation	Installation Adult Shelving	1	13,260.00	13,260.00
09/19/2019	Shipping	Shipping Product as quoted above To be delivered by September 1, 2020	1	9,500.00	9,500.00
09/19/2019	SH.04	(5) Double faced sections Nova shelving range Dimensions: 4600x600x1700mm -	4	5,143.00	20,572.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		181.1"W x 23.6"D x 66.9"H Canopy tops and end panels in steel (40) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310			
09/19/2019	SH.05	SH.05 (4) Double faced sections Nova shelving range Dimensions: 3700x600x1700mm - 145.6"W x 23.6"D x 66.9"H Canopy tops and end panels in steel Sections 900mm wide (35.4") (30) Book ends Each section with: (2) Flat bases (1) Steel canopy top (8) Adjustable shelves 9.5" (clearance) (10) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310	3	3,090.00	9,270.00
09/19/2019	SH.06	(5) Double faced sections Nova shelving range Dimensions: 4600x600x1500mm - 181.1"W x 23.6"D x 59"H	17	3,220.00	54,740.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		Canopy tops and end panels in steel (32) Book ends Each section with: (2) Flat bases (1) Steel canopy top (6) Adjustable shelves (8) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310			
09/19/2019	SH.07	(6) Double faced sections Nova shelving range Dimensions: 5500x600x1500mm - 216.5"W x 23.6"D x 59"H Canopy tops and end panels in steel (40) Book ends Each section with: (2) Flat bases (1) Steel canopy top (6) Adjustable shelves (8) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310	4	3,799.00	15,196.00
09/19/2019	SH.08	(6) Double faced sections Nova shelving range Dimensions: 5500x650x1100mm - 216.5"W x 25.6"D x 43"H Canopy tops and end panels in steel (30) Book ends Each section with: (2) Flat bases (1) Steel canopy top (4) Adjustable shelves	5	3,230.00	16,150.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		(6) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310			
09/19/2019	SH.09	(3) Double faced sections Nova shelving range Dimensions: 2800x600x1500mm - 110.2"W x 23.6"D x 59"H Canopy tops and end panels in steel (16) Book ends Each section with: (2) Flat bases (1) Steel canopy top (6) Adjustable shelves (8) Book dividers (1) Cross bar Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310	1	2,064.00	2,064.00
09/19/2019	SH.10	SH.10 (4) Double faced sections Nova shelving range Dimensions: 3700x650x1100mm - 145.6"W x 25.6"D x 43"H Canopy tops and end panels in steel Sections 900mm wide (35.4") (18) Book ends Each section with: (2) Flat bases (1) Steel canopy top (4) Adjustable shelves 10.5" (clearance) (6) Book dividers (1) Cross bar Finish For Interior	6	2,259.00	13,554.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
09/19/2019	SH.11	Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310 SH.11 (3) Single faced sections Nova shelving range Dimensions: 2700x325x1500mm - 106.3"W x 12.8"D x 59"H Canopy tops and end panels in steel Start and End sections 900mm wide Adder section 800mm wide (8) Book ends Each section with: (1) Flat base (1) Steel canopy top (3) Adjustable shelves 9.5" (clearance) (4) Book dividers (1) Cross bar (1) Wall mounting kit per upright Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310	1	1,468.00	1,468.00
09/19/2019	SH.12	(10) Single faced sections Nova shelving range Dimensions: 9100x325x1700mm - 358.2"W x 12.8"D x 66.9"H Canopy tops and end panels in steel (45) Book ends Each section with: (1) Flat base (1) Steel canopy top (4) Adjustable shelves (5) Book dividers	1	4,115.00	4,115.00

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
		(1) Cross bar (1) Wall Mounting Kit Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310			
09/19/2019	SH.20	SH20 (3) Double faced sections Nova shelving range Dimensions: 2800x900x1500mm - 110.2"W x 35.4"D x 59"H Canopy tops and end panels in steel One face with (9) rods for bags (3 per section) Other face with (12) adjustable shelves for cd's 9.5" (clearance) -4 per section (3) Cross bars Finish For Interior Shelves, Book Supports, Uprights, Book Stops and Base Shelves: Gray Anthracite Ral 7022 For End Panel Frame, End Panel Interior and Exterior, Canopy Top Exterior and Interior: Natural Steel #310	1	2,563.00	2,563.00
09/19/2019	R 70.08.00.0	Sliding Book Support Integral Back Lip Attachment 1.38x8.15x5.55 FINISH: Gray Anthracite Ral 7022 NOTE: These are to add as many as wanted for children's "divider" shelving.	54	9.80	529.20
09/19/2019	Installation	Installation	1	13,910.00	13,910.00
09/19/2019	Shipping	Shipping Product as quoted above Delivered by March 20, 2020	1	9,500.00	9,500.00
09/19/2019		50% deposit with order Balance net 30 days			

TOTAL	\$350,479.20
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Accepted By

Accepted Date



TOWN COUNCIL AGENDA ITEM NO. 14

CONSENT ITEM

DATE: October 7, 2019

FROM: Brian Waltenburg PE, Assistant Director of Engineering

ITEM: Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., for the professional services associated with the Water and Wastewater Master Plan Updates and Water, Wastewater, and Roadway Impact Fee Updates project, in the amount of \$453,500.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: In 2015, the Town performed an update to the 2009 Water and Wastewater Master Plans. This project will update the Town's water and wastewater models to account for changes in existing and projected demands, land uses and capital improvements projects since the last update was performed in 2015. This project will also include recommendations for updates to the Town's five-year Water and Wastewater Capital Improvements Program. A technical memorandum will be prepared to provide an amendment to the 2009 Water Master and Wastewater Master Plan documents. The efforts performed within the scope of the master plan updates will also serve as the beginning of the Town's water, wastewater and roadway impact fee update process.

This project will also update the Town's Impact Fee program. Impact fees allow the Town to recoup costs associated with infrastructure needed to serve new development. The Town is required by Chapter 395 of the Texas Local Government Code to update impact fees every five years. The Town's last impact fee update was done in 2015.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$453,500.00

Proposed Expenditure/(Revenue):		Account Number(s):
\$ 90,000.00	Roadway Impact Fee Update	550-118-99100
\$ 64,000.00	Water Impact Fee Update	601-900-99100
\$ 64,000.00	Wastewater Impact Fee Update	600-900-99100
\$115,500.00	Master Plan (Water)	601-900-99100
\$120,000.00	Master Plan (Wastewater)	600-900-99100

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

Total project costs are \$453,500. Funding sources are:

- Impact Fees \$ 453,500

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by of 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 October, 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 801 Cherry Street, Unit 1300, Fort Worth, Texas, 76102.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to the Water and Wastewater Master Plan Updates and Water, Wastewater, and Roadway Impact Fee Updates 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 Water and Wastewater Master Plan Updates and Water, Wastewater, and Roadway Impact Fee Updates 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 Four Hundred Fifty-Three Thousand Five Hundred and No/100 Dollars (\$453,500.00). 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.,
Assistant Director of Engineering
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 subcontractor 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.,
Assistant Director of Engineering
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:

Anthony Samarripas, P.E.,
13455 Noel Road,
Two Galleria Office Tower, Suite 700,
Dallas, TX 75240
972-770-1300 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.

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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

[The remainder of this page is left blank intentionally]

CONSULTANT:
Kimley-Horn and Associates, Inc.

By: [Signature]
 Name: Eric Z. Smith
 Title: Assistant Secretary
 Date Signed: 09/18/19

State of Texas §
 §
 County of Dallas §

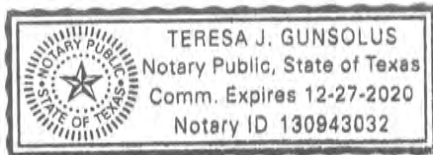
This instrument was acknowledged before me on the 18 day of September, 2019, by Eric Z. Smith in his capacity as Asst. Secretary of Kimley-Horn & Assoc., Inc., a North Carolina Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Kimley-Horn & Associates.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 18 DAY OF Sept., 2019.

[Signature]
 Notary Public, State of Texas

My Commission Expires:

12-27-2020



ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: Water and Wastewater Master Plan Updates and Water, Wastewater, and Roadway Impact Fee Updates

PROJECT UNDERSTANDING

The Town has requested Kimley-Horn and Associates, Inc. (Kimley-Horn) to assist with updating their current water and wastewater models and master plans. In 2015, the Town completed water and wastewater master plan updates. The Town would like to update the models and corresponding master plans to account for changes in existing and projected water demands and wastewater flows, land uses, and projected capital improvement projects. Kimley-Horn will prepare technical memorandums to be used as amendments to the 2009 master plan documents.

Kimley-Horn will also update the Town's water, wastewater, and roadway impact fees. Kimley-Horn will provide the Town with the technical analysis required by Chapter 395 of the Texas Local Government Code to determine the maximum water, wastewater, and roadway impact fees that may be assessed. Kimley-Horn will also assist the Town with the various presentations required during the public hearing and adoption process. Kimley-Horn will utilize the water and wastewater master plan updates and capital improvement plans as part of the impact fee update process.

SCOPE OF PROFESSIONAL SERVICES SECTION 1: WATER AND WASTEWATER MASTER PLAN UPDATES

TASK 1 – WATER MASTER PLAN UPDATE

A. Demand Evaluation

This task involves evaluating the historic demands in the Town's water system and comparing them to those projected in the model.

- Incorporate new developments from the past year into the model demand sets. Developments are anticipated to include:
 - i. Canyon Falls Village 4A
 - ii. Legacy Salon & Day Spa
 - iii. Jerry's Express Car Wash
 - iv. Villas at Southgate Phase One
 - v. Marcus High School Nw Parking Lot
 - vi. 4335 Windsor Centre Partners
 - vii. Westside Four Professional Building
 - viii. Montalcino Estates, Phase 2
 - ix. River Walk Retail
 - x. Hillside of Flower Mound

- xi. Villas at Southgate Phase Three
- xii. Townlake Phase Two
- xiii. Lg Riverwalk Apartments
- xiv. Bradford Park Phase 1
- xv. Canyon Falls - Village 10B
- xvi. Oakbridge At Flower Mound Phase 2
- xvii. Southgate Commercial-Ne Tract
- xviii. Responsive Education Solutions Flower Mound
- xix. Iron Den Water and Sewer Connection
- xx. Lakeside Office Building
- xxi. Townlake Phase Three

- Request water meter billing records, historic system SCADA data, and population information from the Town
- Use data to evaluate water usage per land use type.
- Review historic demands from the previous five years and reevaluate existing peaking factors and diurnal curves.
- Evaluate irrigation and domestic demands from Lakeside Reuse Master Plan. Determine appropriate model loading for 10-year and buildout model scenarios to account for using reuse water for irrigation.
- Revise the model loading, if necessary, for current reuse scenarios in Denton Creek.

B. Systems Operations Meeting

- Meet with Town staff to discuss water system operations, including east/west valving, elevated tank operating bands, pump/tank control, and seasonal variations.
- Update the existing conditions model to reflect the control logic.

C. Model Infrastructure Update

- Pipes from the 2009 water model have schematic alignments and manually entered elevations. Pipes that have been added since the 2015 model update closely match the Town's GIS alignment; elevations have been input based on as-built plans. For "older" pipes from the 2009 model, update alignments based on Town's GIS alignments. Update node elevations based on LIDAR contours.
- Add any new infrastructure (12-inch diameter and larger) built since the 2018 annual model update.

D. Master Planning and Capital Improvement Project (CIP) Development

This task includes updating the water model to develop a CIP list.

- Create water model scenarios with unique demand sets. Scenarios to be included:
 - i. Existing Max Day
 - ii. 5-year Max Day

iii. 10-year Max Day

1. 10-year Max Day with reuse supply removed from potable demands (Denton Creek and Lakeside District)

iv. Buildout Max Day

1. Buildout Max Day with reuse supply removed from potable demands (Denton Creek and Lakeside District)

- Calibrate existing max day scenario based on historic SCADA data.
- Perform fire flow testing and/or pressure monitoring as needed to verify system conditions and assist in model calibration.
- Compare Town system with regulatory and industry water system requirements or guidelines (i.e. TCEQ elevated storage requirements, AWWA recommendations on tank fill and drain rates, etc.)
- Develop revised 5-year, 10-year, and buildout CIP lists based on anticipated demand increases. CIP projects will be reflected in model infrastructure sets.
- This task includes one meeting with Town staff to review the preliminary CIP list.

E. Document Updates

This task includes preparing a technical memorandum detailing the changes to the 2009 Water Master Plan. The 2020 memo will replace and supersede the amendments provided as part of the 2015 updates. The memo is anticipated to include the following sections:

- 1.1A Background Supplemental
- 1.2 Study Area update
- 1.3.2 Master Planning Scenarios
- 1.4.2 Hydraulic Analysis Criteria (Ground Storage section)
- 2.2 Ground Storage
- 2.3 Elevated Storage
- Figure 3: Existing Water Distribution System
- 2.4 Pumping Stations
- 2.5 Distribution System
- 3.1 Population
- 3.2.1 Current Water System Demands
- 3.2.2 Projected Water System Demands
- 3.3.A Land Use Supplemental
- 4.1.1 Water Supplies
- 4.1.2 Ground Storage
- 4.1.3 Elevated Storage
- 4.2.1 System Improvements
- 4.2.2 5-Year CIP

- 4.2.3 Beyond 5-Year CIP
- Proposed Water System figure
- Capital Improvement Projects figure
- OPCCs for appendices

No meetings with the Town are anticipated as part of this task. Kimley-Horn will provide a digital copy of the draft memorandum and figures and will address up to two rounds of comments. Deliverables will include one digital copy and five hard copies of the final technical memorandums.

- F. Planning and Zoning Commission, Council Presentations: See Task 8 for anticipated meetings and presentations.

TASK 2 – WASTEWATER MASTER PLAN UPDATE

A. Dry Weather Load Evaluation

This task involves evaluating the historic wastewater flows in the Town's wastewater system and comparing them to those projected in the model. Detailed load analysis of the TRA service area is not included in this task; see Task 2.G).

- Use historic precipitation data to identify historic dry weather periods for analysis.
- Use the Town's Telog system to download flow meter data. Kimley-Horn estimates analyzing two dry weather periods in each of the past five years.
- Request wastewater treatment plant flows (both total influent and flows to the influent pump station) and lift station SCADA data from the past five years.
- Review lift station level trends to verify dry weather diurnal loading patterns. Adjust peaking factors and diurnal patterns as necessary.
- Determine appropriate wastewater duty factors for residential and non-residential land uses.

B. Wet Weather Load Evaluation

- Wastewater Basin Review: Meet with the Town to identify areas of potential inflow and infiltration concern. Review infrastructure map and existing meter locations.
- Inflow and Infiltration Review: Evaluate existing meter information and compare dry weather versus wet weather flows. Revise the currently modeled inflow and infiltration peaking factors as necessary.

C. Systems Operations Meeting

- Meet with Town staff to discuss wastewater system operations, including lift station set points, force main operations, and WWTP

influent lift station operations. System operations and inflow/infiltration (see Subtask B above) will be discussed at the same meeting. One meeting total is included for both these subtasks.

- Update the existing conditions model to reflect the control logic.

D. Model Infrastructure Update

- Update model infrastructure to reflect the recently completed lift station decommissionings.
- Add any other new infrastructure (12-inch diameter and larger, or critical for inclusion to reflect less developed areas) built since the 2018 annual model update.

E. Master Planning and Capital Improvement Project (CIP) Development

This task includes updating the wastewater model to develop a CIP list.

- Revise the wastewater model scenarios based on loading changes. Scenarios will include dry day and wet weather scenarios for existing, 5-year, 10-year, and buildout conditions.
- Calibrate existing dry and wet scenarios based on historic SCADA data.
- Develop revised 5-year, 10-year, and buildout CIP lists based on anticipated flow increases. CIP projects will be reflected in model infrastructure sets.
- This task includes one meeting with Town staff to review the preliminary CIP list.

F. Document Updates

This task includes preparing a technical memorandum detailing the changes to the 2009 Wastewater Master Plan. The 2020 memo will replace and supersede the amendments provided as part of the 2015 updates. The memo is anticipated to include the following sections:

- 1.2 Project Scope Updated
- 2.3 Calculation of System Loads
- 3.1 Dry Weather Flows
- 3.2 Wet Weather Flows
- 3.3 Metering Stations
- 3.4 Wastewater Treatment Plant
- 3.5 Lakeside Business District
- 3.6 TRA Service Area (new section)
- 4.1 Population Projections
- 4.2 Land Use and System Loads
- 4.3.5 5-Year CIP
- 4.4 10-Year CIP
- 4.5 Buildout CIP

- Wastewater Service Area Exhibit (Town Service Area)
- Proposed Wastewater System exhibit (Town Service Area)
- TRA Service Area Flow Tracking Map (new exhibit)
- OPCCs for appendices

No meetings with the Town are anticipated as part of this task. Kimley-Horn will provide a digital copy of the draft memorandum and exhibits and will address up to two rounds of comments. Deliverables will include one digital copy and five hard copies of the final technical memorandums.

G. TRA Load Tracking

This task includes preparing a technical memorandum detailing the changes to the 2009 Wastewater Master Plan. The 2020 memo will replace and supersede the amendments provided as part of the 2015 updates. The memo is anticipated to include the following sections:

- Update the current tracking spreadsheet to estimate the total peak flow that Town developments may contribute to TRA's wastewater system.
- Review the Town's contract with TRA and discuss the procedure for the Town communicating anticipated flow changes to TRA.
- Create a map showing the TRA service area, currently developed areas, and associated peak flows. This map and a written section will be included in the master plan memorandum.
- Create a shared tracking tool for the Town's use. This may include a cloud-based shared spreadsheet or a shared GIS web map.

H. Planning and Zoning Commission, Council Presentations: See Task 8 for anticipated meetings and presentations.

**SCOPE OF PROFESSIONAL SERVICES: SECTION 2:
WATER, WASTEAWTER, AND ROADWAY IMPACT FEE UPDATES**

TASK 3 – LAND USE ASSUMPTIONS

Kimley-Horn will prepare the Land Use Assumptions for Impact Fees in conformance with Chapter 395 of the Local Government Code. The Land Use Assumptions task shall include the following:

A. Data Collection. Coordinate with the Town to obtain the following data:

- Town Contacts – The Town shall provide the organization structure and contact information for the applicable Town staff involved with the land use assumptions.
- The Town's most recent comprehensive master plans.

- Building Permit History – The Town shall provide available building permit history (both residential and non-residential) for the previous ten (10) years.
 - Currently adopted Land Use Assumptions for Water, Wastewater, and Roadway Impact Fees assessed by the Town.
 - Maps – The Town shall provide the most recent AutoCAD or GIS shapefiles, associated databases, and layer files in ESRI ArcGIS 8.x format. All data shall be projected in NAD 83 State Plane, South Central Texas Zone coordinates. Data should include:
 - Current Zoning Map;
 - Future Land Use Plan Map (PDF and GIS shapefile formats);
 - Town Limits and ETJ Map; and
 - Most recent digital orthophotograph (DOQ) of the Town.
- B. Service Area Boundaries. Coordinate with the Town to develop the water, wastewater, and roadway impact fee service area boundaries (within the existing Town limits for roadway impact fees) consistent with state law requirements. No changes to the existing service areas boundaries are anticipated (one (1) for water, three (3) for wastewater, and three (3) for roadway impact fees).
- C. Existing Land Use Assumptions. Prepare the existing land use information in a format suitable for use in the impact fee update. The information will be presented in tabular form by service area for each infrastructure system. For each service area, population (persons and number of dwelling units) and employment (amount of square footage of basic, service, and retail land uses) will be summarized. The existing land use assumptions will be completed for the year 2019.
- D. Build out Land Use Assumptions. Develop the build out demographics (population and employment) within the proposed service areas in a tabular format for each service area. The development of these demographics will be an interactive process with the Town. One (1) meeting will be held with the Town during this task. The purpose of the meeting will be to review anticipated densities of development throughout the Town and to review the demographics developed. Kimley-Horn will use the future land use data collected in Task 3.A. to determine future land uses in undeveloped areas within each service area.
- E. Ten-Year Land Use Assumptions. Chapter 395 of the Texas Local Government Code states that impact fees may only be used to pay for items included in the Impact Fee capital improvements plan and attributable to new service units projected over a period of time not to exceed ten (10) years. Based on guidance from the Town regarding projected development patterns and growth rates, Kimley-Horn will develop the Ten-Year Land Use Assumptions for 2019 – 2029.

- F. Conduct one (1) meeting with the Town to receive the projections for anticipated percentage of residential and non-residential land uses within each service area to be developed within the next ten years. Based upon the data collected in Task 3.D, the percentage of the projected build out can be utilized to assist in this task. Using the information collected during this meeting, Kimley-Horn will complete the demographic table for each service area.
- G. Documentation. Prepare Land Use Assumptions report and submit an electronic (.pdf) version.
- H. Meetings. Prepare for and attend up to four (4) meetings (including the two (2) meetings identified in the scope above) with Town staff to discuss and review the proposed Service Area boundaries and Land Use Assumptions.

TASK 4 – WATER IMPACT FEE ANALYSIS

Kimley-Horn will prepare the water impact fee update in conformance with Chapter 395 of the Local Government Code. Water Impact Fee analysis will also include future Reuse infrastructure planned in the Denton Creek and Lakeside areas. The water impact fee update task shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
 - Water usage history, which includes annual water usage and maximum day usage records for the past ten (10) years for development of the service unit projection.
 - Upper Trinity River Water District (UTRWD) wholesale water contract with the Town.
 - UTRWD rate calculation with regards to the Town's cost obligation for UTRWD water delivery facilities.
- B. Infrastructure Capacity Criteria. Coordinate with the Town to obtain the criterion for determining the ten (10) year capacity of the following infrastructure:
 - Future Transmission Lines (12-inch and larger)
 - Existing and Future Elevated Storage Tanks
 - Existing and Future Ground Storage Tanks
 - Existing and Future Pump Stations

An analysis of the UTRWD rate calculation will be done to determine if existing or future UTRWD facilities may be accounted for as part of the Impact Fee Capital Improvements Plan. Utilize the water model for analysis of pipeline capacities.

- C. Water Impact Fee Capital Improvements Plan. Coordinate with the Town to develop the Water Impact Fee Capital Improvements Plan. It will include the following infrastructure:

- Future Transmission Lines (12-inch and larger)
- Existing and Future Elevated Storage Tanks
- Existing and Future Ground Storage Tanks
- Existing and Future Pump Stations

Results of the UTRWD rate analysis will determine whether UTRWD facilities will be included in the Impact Fee Capital Improvements Plan. Utilize the water model for analysis of pipeline capacities.

- D. Maximum Assessable Water Impact Fee Calculation. Calculate the additional service units based on the Land Use Assumptions. Calculate the Impact Fee per service unit, unit equivalents by meter size and the Maximum Assessable Water Impact Fee table by meter size. Incorporate the financial analysis performed in Task 8 to determine the maximum assessable impact fee by service unit.

- E. Water Impact Fee Update Report. Incorporate the information necessary for the water impact fee update into a formal document. Prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.

- F. Meetings. Prepare for and attend the following meetings:

- One (1) meeting with the Town to kick-off the water impact fee update (to be held in conjunction with the wastewater impact fee update kick-off meeting);
- One (1) meeting with staff to review Water Impact Fee Capital Improvements Plan; and
- One (1) meeting with staff to review Maximum Assessable Water Impact Fees.

TASK 5 – WASTEWATER IMPACT FEE ANALYSIS

Kimley-Horn will prepare the wastewater impact fee update in conformance with Chapter 395 of the Local Government Code. The wastewater impact fee update shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
- Wastewater usage history, which includes annual wastewater usage and peak usage records for the past ten (10) years for development of the service unit projection.

- Trinity River Authority (TRA) wholesale wastewater contract with the Town.
- TRA rate calculation with regards to the Town's cost obligation for various TRA wastewater collection facilities.

B. Infrastructure Capacity Criteria. Coordinate with the Town to obtain the criterion for determining the ten (10) year capacity of the following infrastructure:

- Existing Trunk Lines that are 10-inch and larger
- Future Trunk Lines (8-inch and larger)
- Existing and Future Lift Stations
- Existing and Future Force Mains

An analysis of the TRA rate calculation will be done to determine if existing or future TRA facilities may be accounted for as part of the Impact Fee Capital Improvements Plan.

C. Wastewater Impact Fee Capital Improvements Plan. Coordinate with the Town to develop the Wastewater Impact Fee Capital Improvements Plan. It will include the following infrastructure:

- Existing Trunk Lines that are 10-inch and larger
- Future Trunk Lines (8-inch and larger)
- Existing and Future Lift Stations
- Existing and Future Force Mains

Results of the TRA rate analysis will determine whether TRA facilities will be included in the Impact Fee Capital Improvements Plan. Utilize the wastewater water model for analysis of pipeline capacities

- D. Maximum Assessable Wastewater Impact Fee Calculation. Calculate the additional service units based on the Land Use Assumptions. Calculate the Impact Fee per service unit, unit equivalents by meter size and the Maximum Assessable Wastewater Impact Fee table by meter size. Kimley-Horn will incorporate the financial analysis performed in Task 8 to determine the maximum assessable impact fee by service unit.
- E. Wastewater Impact Fee Update Report. Kimley-Horn will incorporate the information necessary for the wastewater impact fee update into a formal document. Prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.
- F. Meetings. Prepare for and attend the following meetings:

- One (1) meeting with the Town to kick-off the wastewater impact fee update (to be held in conjunction with the water impact fee update kick-off meeting);
- One (1) meeting with staff to review Wastewater Impact Fee Capital Improvements Plan; and
- One (1) meeting with staff to review Maximum Assessable Wastewater Impact Fees.

TASK 6 – ROADWAY IMPACT FEE ANALYSIS

Prepare the roadway impact fee analysis in conformance with Chapter 395 of the Local Government Code. The roadway impact fee update shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
 - Town contacts – Town shall provide the organization structure and contact information for the applicable Town staff involved with the completion of the roadway capacity analysis and roadway impact fee Capital Improvements Plan (CIP).
 - Master Thoroughfare Plan –Utilize the most recent thoroughfare plan adopted by the Town.
 - Traffic Counts – The Town shall provide any available traffic count data (current and historical) for all roadway segments on the current Master Thoroughfare Plan. Kimley-Horn will also obtain recently completed traffic counts for state highway facilities from TxDOT. Kimley-Horn will collect new PM peak hour traffic count data at up to ten (10) locations within the Town for use in the roadway impact fee analysis.
 - Historical Project Costing Information – The Town shall provide available data on the actual Town costs for previously completed arterial roadway improvement projects to assist in the development of planning level project costs for future projects and to include any project costs for previously completed projects with excess capacity available to serve future growth.
- B. Ten-Year Growth Projections and Capacity Analysis
 - In consultation with Town staff, Kimley-Horn will determine land use categories to be included in the land use vehicle-mile equivalency table.
 - Identify the service units for new development and the average trip length. Using the 8th Edition of the Institute of Transportation Engineer's (ITE) Trip Generation Manual and incorporate trip generation and pass-by trip rates.
 - Perform an analysis of existing conditions. This will include a determination of roadway capacities, volumes, vehicle-miles of

supply, vehicle-miles of demand, existing excess capacity, and existing deficiencies.

- Project traffic conditions for the ten-year planning period, the target year for the impact fee growth projections. This will include growth and new demand by service area. Determine the capacity available for new growth.

- C. Roadway Impact Fee Capital Improvements Plan. Assist the Town in developing a Roadway Impact Fee Capital Improvements Plan (CIP) which will include cost projections for anticipated projects to be included in the study. The Roadway Impact Fee Capital Improvements Plan will include existing oversized facilities and proposed facilities designed to serve future development. The Roadway Impact Fee Capital Improvements Plan shall include a general description of the project and a project cost projection. Planning level cost projections for future projects will be prepared based on discussion with local roadway construction contractors, Town staff, and previous experience with roadway construction costs. The Town shall provide actual Town cost information for previously completed projects with excess capacity and any cost contribution to County, State, Federal, or developer constructed projects.

Due to the variety of unknowns associated with roadway project costs projections (ROW acquisition, utility relocations, etc.), the planning level project cost projections utilized in the roadway impact fee analysis should not be used for any future capital improvement planning within the Town.

Identify the portion of projected improvements required to serve existing demand and the portion of project improvements required to serve new development within the 10-year planning period.

- D. Maximum Assessable Roadway Impact Fee Calculation. Using the newly developed ten-year growth projections, roadway impact fee Capital Improvements Plan, and capacity available for new growth, and determine the cost of roadway improvements by service area, the maximum costs per service unit, and the resulting maximum assessable roadway impact fees by service area. Kimley-Horn will incorporate the financial analysis performed in Task 8 to determine the maximum assessable impact fee per service unit.
- E. Roadway Impact Fee Update Report. Kimley-Horn will incorporate the information necessary for the roadway impact fee update into a formal document and will prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.
- F. Meetings. Prepare for and attend the following meetings:

- Three (3) meetings with Town staff to discuss and review the Roadway Impact Fee CIP;
- One (1) meeting with Town staff to review the proposed Maximum Assessable Roadway Impact Fees; and
- One (1) meeting with Town staff to discuss the public hearings and approval process.

TASK 7 – FINANCIAL ANALYSIS AND IMPACT FEE CREDIT DETERMINATION

A financial subconsultant will calculate maximum assessable impact fees for the designated ten-year period for each service function (i.e. water, wastewater, and roadways), as well as determine the water, wastewater, and roadway impact fee credits in conformance with Chapter 395 of the Local Government Code.

- A. Financial Analysis. Using the impact fee eligible capital improvement costs and projected service units, the financial subconsultant will calculate maximum assessable full-cost recovery impact fees for the designated ten-year period for water, wastewater, and roadway facilities. The financial subconsultant will provide forecasted cash flows for the maximum assessable impact fee for the ten-year period based on projected capital improvement program's implementation schedule (if available) and growth in projected service units. Kimley-Horn will work in conjunction with the financial subconsultant to incorporate the financial analysis into the appropriate document, as identified in Tasks 4, 5, and 6.

TASK 8 – PUBLIC HEARINGS AND APPROVAL

Perform the following tasks as part of the public hearing and approval process:

- A. Ordinance Review. At the request of the Town, Kimley-Horn will review the proposed Roadway Impact Fee Ordinance as prepared by the Town Attorney. It is anticipated the Town Attorney will require exhibits from the Impact Fee Reports to be included in the ordinance.
- B. Public Hearings and Approval Process. Prepare for and attend each of the following meetings:
 - Prepare for and attend one (1) Capital Improvements Advisory Committee (CIAC) and Town Council joint workshop to present fundamentals of Impact Fees, a summary of the Impact Fee methodology, and Land Use Assumptions;
 - Prepare for and attend one CIAC public hearing and one P&Z session to provide information on the Master Plan and Impact Fee update projects. This task assumes presenting at CIAC and P&Z sessions held on the same evening.

- i. For CIAC: Present the water and wastewater Master Plan Updates.
 - ii. For the P&Z session: hold a public hearing to present the Land Use Assumptions, Capital Improvement Projects (CIPs), and Maximum Assessable Impact Fees.
 - Prepare for and attend one Town Council meeting to provide information on the Master Plan and Impact Fee update projects. This task assumes that the Master Plan agenda item and Impact Fee agenda item will be presented at the same (one) Council meeting. The agenda items anticipated are:
 - i. Present the water and wastewater Master Plan Updates.
 - ii. Hold a public hearing to present the Land Use Assumptions, CIPs, and Maximum Assessable Impact Fees.
- C. Preparation and Updates
- Kimley-Horn will attend up to two (2) meetings with Town staff prior to the CIAC/P&Z meeting and the Town Council meetings. Kimley-Horn and Town staff will review the PowerPoint presentation material and rehearse the content at these meetings.
 - Kimley-Horn will make revisions to maps or CIP recommendations as needed based on P&Z or Council comments.

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:

- Providing design services for water and wastewater transmission and distribution pipelines.
- Providing professional services associated with the construction phase of the project.
- Additional assistance in developing the land use assumptions outside of that described in this agreement;
- Preparation for and attendance at additional public meetings not specifically identified in the Scope of Services;
- Furnish additional copies of documents in excess of the number of the same identified in the Scope of Services;
- Reanalysis or recalculation to reflect project scope changes or policy changes requested by the Town, addressing changes in direction previously approved by the Town, or mandated by changing governmental laws.
- 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 Kimley-Horn on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- 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 construction staking, additional platting, or surveying services.
- Providing additional documentation required by the Town's legal representative during condemnation proceedings.
- Any services not listed in the Scope of Services.

ATTACHMENT B

COMPENSATION

Kimley-Horn will provide the Scope of Services for a lump sum fee.

SECTION 1: WATER AND WASTEWATER MASTER PLAN UPDATES	
Task 1 - Water Master Plan Update	\$ 115,500
Task 2 - Wastewater Master Plan Update	\$ 120,000
<i>Subtotal</i>	<i>\$ 235,500</i>
SECTION 2: WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATES	
Task 3 - Land Use Assumptions	\$ 24,000
Task 4 - Water Impact Fee Update	\$ 40,000
Task 5 - Wastewater Impact Fee Update	\$ 40,000
Task 6 - Roadway Impact Fee Update	\$ 66,000
Task 7 - Financial Analysis and Impact Fee Credit Determination	\$ 36,000
Task 8 - Public Hearings and Approval	\$ 12,000
<i>Subtotal</i>	<i>\$ 218,000</i>
Total	\$ 453,500

* Tasks 3, 7, and 8 include services that are required for each of the impact fee updates (Water, Wastewater, and Roadway). 1/3 of the total fee for each of these tasks can be attributable to each respective impact fee update. Therefore, the following breakdown of lump sum fees can be used for budgeting purposes:

Water Impact Fee Update (Task 4 plus 1/3 of Tasks 3, 7, and 8):	\$64,000
Wastewater Impact Fee Update (Task 5 plus 1/3 of Tasks 3, 7, and 8):	\$64,000
Roadway Impact Fee Update (Task 6 plus 1/3 of Tasks 3, 7, and 8):	\$90,000

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



TOWN COUNCIL AGENDA ITEM NO. 15

CONSENT ITEM

DATE: October 7, 2019

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

ITEM: Consider approval of a Professional Services Agreement with Nathan D. Maier Consulting Engineers, Inc., for the design phase services associated with the Sidewalk Links project, in the amount of \$60,000.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The project consists of constructing approximately 1,600 feet of sidewalk along the south side of FM 407 from Victoria Drive to Browning Drive. The design will include grading and retaining walls needed to construct the sidewalk.

Various sidewalk gaps throughout Town have been compiled over the past years based on recommendations, citizen requests, and staff noted areas. Using this list as a guide for prioritization, various sidewalk gaps were brought to the Transportation Commission for their recommendation. This project will link the sidewalk gap listed along FM 407.

The scope of the Professional Services Agreement includes a topographic survey, preparation of design plans to obtain a TxDOT permit, and cost estimates.

BOARD REVIEW/CITIZEN FEEDBACK: The Transportation Commission recommended the FM 407 location from Morriss Road to Browning Drive in the April 10, 2018, Transportation Commission meeting. The project limits were extended along FM 407 from Victoria Drive to Browning Drive by the Transportation Commission's recommendation at the May 16, 2019, Transportation Commission meeting.

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$60,000.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$ 59,748.40	505-220-70380
\$ 251.60	536-220-70380

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

Total Sidewalk Links project cost is \$150,000 annually. Funding sources are:

- Decision Package (Cash from General Fund) \$ 150,000

LEGAL REVIEW: The Town's standard professional services agreement form documents, prepared by of 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
NATHAN D. MAIER CONSULTING ENGINEERS, INC.**

This contract is entered into on this 7th day of October, 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 **Nathan D. Maier Consulting Engineers, Inc.** (“hereinafter referred to as “CONSULTANT”) whose address is 12377 Merit Drive, Suite 700, Dallas, TX 75251.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the 2019 Sidewalk Links 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 2019 Sidewalk Links 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 Sixty Thousand and No/100 Dollars (\$60,000.00). 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:

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 subcontractor 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:

Matthew McLeod, P.E.
Project Manager
Nathan D. Maier Consulting Engineers, Inc.
12377 Merit Drive, Suite 700
Dallas, Texas 75251
214-739-4741 Telephone

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

XX. **Applicable Law**

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and

is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

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

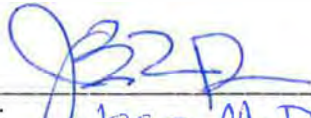
Date Signed: _____

Attest:

Town Secretary

CONSULTANT:

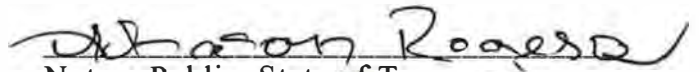
Nathan D. Maier Consulting Engineers, Inc.

By: 
 Name: Jean M. Dean
 Title: President
 Date Signed: 9/12/2019

State of Texas §
 §
 County of Dallas §

This instrument was acknowledged before me on the 12 day of September 2019, by Jean M. Dean in his capacity as President of Nathan D. Maier, a Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of consultant.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12th DAY OF 09, 2019.


 Notary Public, State of Texas

My Commission Expires:



ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: 2019 Sidewalk Links

PROJECT UNDERSTANDING

The project is approximately 1,600 feet of proposed sidewalk along FM 407 and extends from Victory Drive to Browning Drive as shown in Exhibit 1. The design will include improvements to the southern side of FM 407 to install sidewalk to fill existing gaps. The plans will be used by the Town of Flower Mound to obtain permits from TxDOT for construction of the sidewalks.

SCOPE OF PROFESSIONAL SERVICES

TASK ONE: SURVEY

1. Research
 - A. Conduct deed research of adjacent properties on southern edge of ROW to identify existing ROW (for approximately eight tracts).
 - B. Prepare Deed Sketch: Consultant will prepare a deed sketch to identify the adjacent ROW and property lines. This sketch can be used to establish limits of project improvements within the public ROW.
2. Site Surveying
 - A. Horizontal and vertical project control tied to the Town's Geodetic Control Network will be established for approximately 2,700 linear feet along FM 407.
 - B. Full topographic surveys of the project limits will be performed from the existing southern curb of FM 407 to the edge of parking lot of the adjacent properties in order to provide adequate ground ties for the proposed improvements. The topographic survey will include ties to all visible features and break lines including franchise and Town utilities, overhead utility lines, appurtenances and flow lines, drainage structures and flow lines, trees 6" in diameter or greater, landscaped areas, bushes, shrubs, mailboxes, driveways, retaining walls, signs, curb lines, edges of pavement, flumes, gutters, sidewalk, pedestrian ramps, fences, and gates. The topographic survey will be included in a base map to be used for design purposes.
 - C. Property corner monuments along the southern right-of-way will be field located and tied for adjoining properties. Rear corners will need to be located in order to verify front corners and establish property/right of way lines. NDM will provide and coordinate right-of-entry for this task. The Town will assist in finding contact information.
3. Survey Guidelines and Exclusions

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

TASK TWO: DESIGN

PLAN DESIGN (PERMIT LEVEL CONSTRUCTION DWGS)

The general objective for this work is to prepare plans for the Town to receive TxDOT construction permits. NDM will prepare plans designed in accordance with the Town of Flower Mound Design Criteria Manual. All plans, details, specifications and contract documents, surveys, maps and documents will be produced in AutoCAD format and a copy of the design files will be provided to the Town electronically in that format as well as in .pdf or .tif format. The following are the anticipated specific components of the plan set:

1. Cover Sheet: Provide a description of the improvements, sheet index, client name, consultant information, etc.
2. General Notes Sheet: Provide standard information to contractor and parameters of the project.
3. Typical Sections: Proposed typical sections will be developed for the sidewalk segment. The typical sections will illustrate grading preferences.
4. Demolition and Protection Plans: Identify and document all existing elements that are to be demolished or protected as part of project implementation. This will utilize the existing conditions survey.

5. Sidewalk and Grading: The sidewalk geometry for the project will be developed based on the Town of Flower Mound design standards & criteria and to match existing conditions. NDM will provide plan sheets showing proposed sidewalk alignment and grading including locations of short retaining walls and curb ramps.

The sidewalks will be provided along the southern side of FM 407. Curb ramps and pedestrian crossings will be provided across the existing commercial driveways. Driveway crossings will be evaluated for the need of curb ramps. Coordination with the Texas Department of Licensing and Regulation (TDLR) will be provided by the Town regarding project concurrence with TDLR or ADA standards.

6. Utility and Regulatory Coordination and Plans:

- A. Utility Locations: Proposed plans will show the schematic location, alignment, and grade of each public or private utility crossing visible in the field or obtainable from records and utility representatives (franchise utility company records) as well as SUE if applicable as an addition to the base scope. NDM will prepare and submit these plans to the Town of Flower Mound for coordination so that all utility company relocations may be approved and relocated prior to awarding of the general construction contracts. This scope specifically excludes any plan development or direct coordination with franchise utility companies.

This scope assumes that the Town's existing local infrastructure (storm sewer, water, and sanitary sewer) will be maintained as-is. NDM will not conduct a review of the existing utility systems in the project area.

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

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

- B. Plot Preliminary Locations: Information secured above will be plotted to identify utility locations. Utility conflicts, and the need for relocation, will be identified and provided to the Town of Flower Mound for coordinating with the affected utilities. Consultant will not provide any design for franchise utility relocation as part of this scope.
- C. Coordination will be provided for project concurrence with Texas Commission on Environmental Quality (TCEQ).

7. Surface Drainage and Erosion Control:

- A. Storm Sewer Design: The existing storm sewer system will not be evaluated. The proposed improvements are assumed to require no relocation of existing drainage structures.

- B. Erosion Control: Erosion control sheets will not be provided. It is assumed that standard TxDOT details will cover necessary erosion control protections. Contractor will be responsible for preparation of a Storm Water Pollution Prevention Plan (SW3P) for small construction activity.
8. Quality Control Review: An internal audit of design, engineering, and drawings to ensure quality control.
9. Opinion of Probable Costs: NDM will prepare opinions of probable construction cost (OPC) for the proposed project. NDM will identify potential alternatives that may provide cost savings to the Client. Opinions of ROW acquisitions will not be included in the construction cost opinion and are not a part of this scope.
10. Design drawings will be developed for 11"x17" printing and will be submitted to the Town of Flower Mound as hard copy plans and electronically as a .pdf file. Four sets of hard copy plans are included in this scope.
11. The scope includes up-to three submittals for review by the Town and TxDOT [two (2) review submittals and one (1) final submittal].
12. After submittals one meeting with the Town will be included to review comments.

TASK THREE: EASEMENT DOCUMENTS

1. NDM will provide easement documents, exhibits, descriptions, and will field tie corners on a per tract basis (six assumed).

EXCLUSIONS

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

- Geotechnical investigation and sidewalk design is not included. All sidewalk details will be based on TxDOT and Town Design Criteria
- Subsurface utility engineering investigations
- Storm drain design or analysis
- Erosion control plans other than standard TxDOT details
- Traffic control plans other than standard TxDOT details
- Traffic signal design and plans
- Street lighting layout or design
- Landscaping or irrigation design
- Construction administration services

FEES

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

ATTACHMENT B**COMPENSATION**

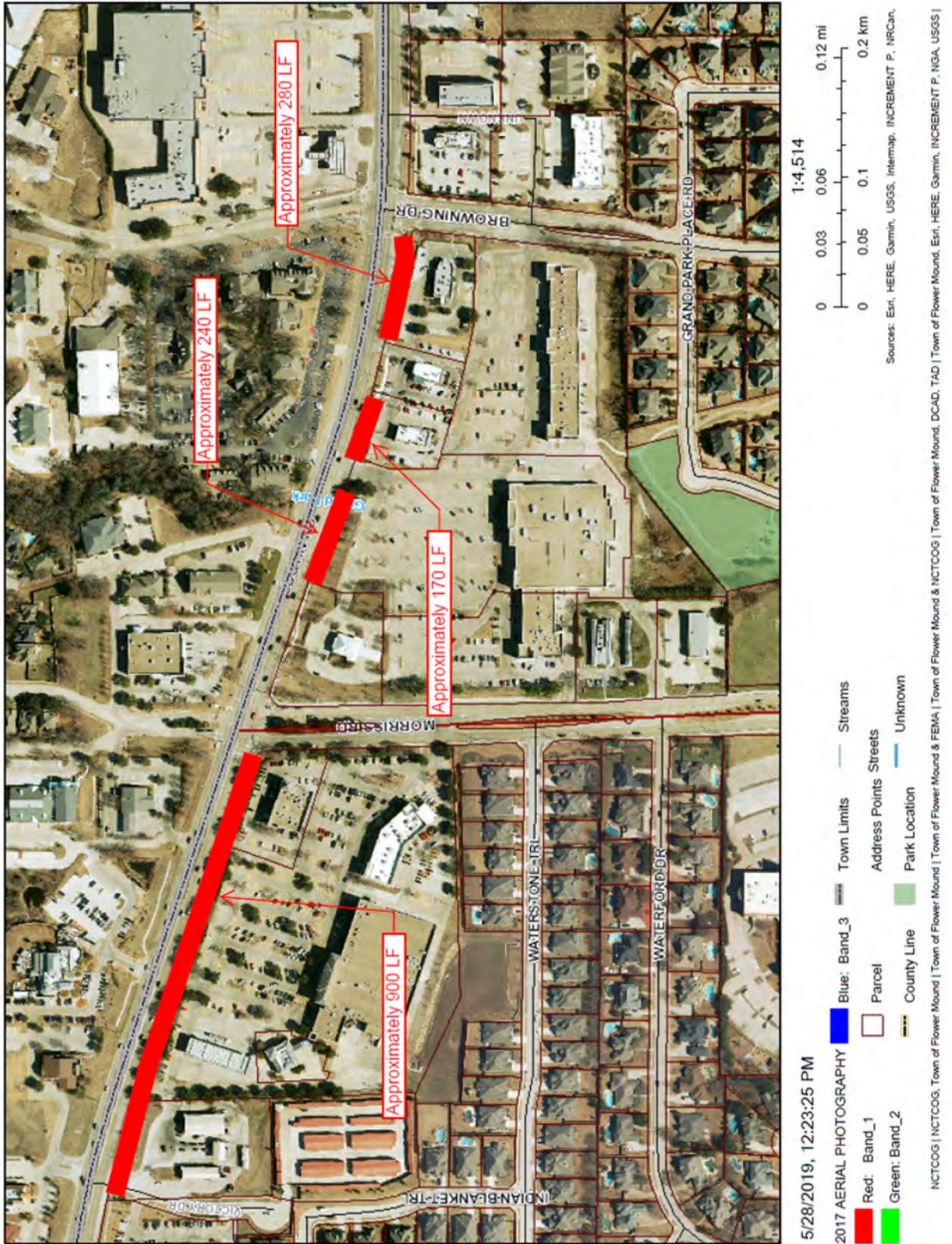
The Consultant will provide the Scope of Services for Tasks 1 and 2 for a lump sum fee. The Task fees provided are a projection of the level of service required for each task. Task 3 services will be provided based on the number of easement tracts that are required for the project implementation.

TASK 1 – Survey	\$16,160
TASK 2 – Design	
Initial Design	\$20,840
Additional Submittal (\$4,000/EA)	\$8,000
Sub – Total (Lump Sum)	\$45,000
TASK 3 – Easement Documents (\$2,500/EA)	\$15,000
<u>TOTAL</u>	<u>\$60,000</u>

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

EXHIBIT 1

2019 Sidewalk Links Project





TOWN COUNCIL AGENDA ITEM NO. 16

CONSENT ITEM

DATE: October 7, 2019

FROM: Jeff Garner, Director of Facilities Management

ITEM: Consider approval of Change Order No. 2 for the construction of the Flower Mound Storage Warehouse project, amending the contract with MSB Constructors, Inc., to provide for an increase to the contract in the amount of \$61,670.80; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On March 18, 2019, MSB Constructors, Inc., was awarded the Flower Mound Storage Warehouse project, in the amount of \$1,395,000.00.

On August 19, 2019, Change Order No. 1 was approved and provided additional concrete and conduit, change to HP piping in lieu of HDPE, additional gas line, and custom color for exterior overhead doors to match the O&M building, for \$71,882.57.

If approved, Change Order No. 2 will provide for the following additional items: concrete work due to elevation conflicts with existing infrastructure; concrete/rebar work due to building pad modifications; resetting the under-slab plumbing due to elevation conflicts w/existing lines; 1-inch conduit for backflow heater & power for RV receptacle; water utilities including fire hydrant, tee, and extra piping; electrical items from ASI #7; added electrical scope - CoServ conductors; changing location of gas lines from roof to inside building, increasing the contract by \$61,670.80, for a revised contract amount of \$1,528,553.37.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$61,670.80

Proposed Expenditure/(Revenue):	Account Number(s):
\$61,670.80	505-111-50103

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

Total project cost is \$1,750,000. Funding sources are:

- Decision Package (Cash from General Fund) \$ 1,100,000
- Tax Debt \$ 650,000

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No. 2

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

CHANGE ORDER No. 2

Effective Date: Upon execution by the Town Mayor

Owner: Town of Flower Mound

Contractor: MSB Constructors, Inc

Project: Flower Mound Storage Warehouse

CHANGE ORDER NO. 2

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

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

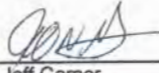
Item No.	Description	Unit	Add/ Deduct	Qty.	Unit Price	Extended Amount
CO2	Changes in the Contract Sum and/or Contract Time in response to proposed modifications to the Contract Documents based on existing unforeseen conditions. See corresponding subcontractor quotes with cost breakdown/details.	LS	Add	1	\$61,670.80	\$ 61,670.80
TOTAL						\$ 61,670.80

Original Contract	\$ 1,395,000.00
Change Order #1	\$ 71,882.57
Change Order #2	\$ 61,670.80
Revised Contract Price	\$ 1,528,553.37

JUSTIFICATION

Change Order No. 2 provides for the following: Additional concrete work required due to last minute elevation changes; Additional concrete/rebar work required due to drawing changes for building pad; Resetting underslab plumbing due to elevation conflicts w/existing lines; Added 1" conduit for backflow heater & power for RV receptacle; Additions to water utilities including fire hydrant, tee, and extra piping; Added electrical items from ASI #7; Added electrical scope - CoServe conductors; Changing location of gas lines from roof to inside building

Original Substantial Completion Days	217
Change Order No. 2 Additional Days	5
Revised Substantial Completion Days	222
Original Final Completion Days	247
Change Order No. 2 Additional Days	5
Revised Final Completion Days	252

Recommended for Approval  9/13/2019
 Jeff Garner Date
 Director of Facilities Management

 9-13-19
 Contractor Date
PROJECT MANAGER
 Contractor Title

Approved Steve Dixon
 Town Mayor Date



TOWN COUNCIL AGENDA ITEM NO. 17

REGULAR ITEM

DATE: October 7, 2019

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

ITEM: Consider approval of a Professional Services Agreement with Plummer Associates, Inc., to provide contract construction management and resident project representation services, associated with the Wastewater Treatment Plant Rehabilitation Phase V, project, in the amount of \$569,459.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On September 16, 2019, the construction contract for the Wastewater Treatment Plant Rehabilitation Phase V (Sludge Holding and Thickening) project, in the amount of \$9,199,000.00, was awarded to Archer Western Construction, LLC. The contract proposed by Plummer Associates, Inc. (Plummer) will provide for construction management and resident project representation services, associated with the work performed by Archer Western Construction, LLC., throughout the 600 day project, to ensure compliance with contract plans and specifications.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$569,459.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$569,459.00	630-970-98472

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

Total project cost is \$11,800,000. Funding sources are:

- Utility Debt \$ 11,800,000

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 these documents.

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 PLUMMER ASSOCIATES, INC.

This contract is entered into on this 7th day of October, 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 **Plummer Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is **1320 S. University Drive, Suite 300, Fort Worth, Texas 76107.**

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to general construction management and resident representation of the Wastewater Treatment Plant Rehabilitation Phase V – Solids Facility 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 Wastewater Treatment Plant Rehabilitation Phase V – Solids Facility 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 Five Hundred Sixty-Nine Thousand Four Hundred Fifty-nine and No/100 Dollars (\$569,459.00). 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 labor fee plus expense 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 be itemized to show the amount of work performed that month broken down by the identity of the person(s) performing

such work, the amount of time expended by such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work performed by each such person. Each invoice shall also state the percentage of work completed on the Project, the total of the current invoice amount and a running total balance for the Project to date.

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the amounts billed, 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:

Paula Monaco, P.E.
Project Engineer
Plummer Associates, Inc.
1320 S. University Drive, Suite 300
Fort Worth, Texas 76107
817-806-1750 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:
Plummer Associates, Inc.

By: [Signature]
Name: JEFFREY E. CAFFEY
Title: PRINCIPAL

Date Signed: Sept. 13, 2019

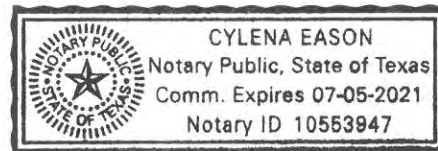
State of Texas §
County of Tarrant §

This instrument was acknowledged before me on the 13 day of September, 2019, by Jeffrey Caffey in his capacity as Principal of Plummer 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 Authorized Representative

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 13 DAY OF Sept, 2019.

[Signature: Cylena Eason]
Notary Public, State of Texas

My Commission Expires:
7/5/2021



ATTACHMENT A

TOWN OF FLOWER MOUND WASTEWATER TREATMENT PLANT REHABILITATION PHASE V – SOLIDS FACILITY IMPROVEMENTS CONSTRUCTION BASIC ENGINEERING SERVICES

Provide construction phase services, resident project representation and post-construction phase services for the Wastewater Treatment Plant Rehabilitation Phase V – Solids Facility Improvements Construction.

BASIC SERVICES

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

A. CONSTRUCTION PHASE SERVICES

1. Assist in conducting pre-construction conference with the CONTRACTOR, review construction schedules prepared by the CONTRACTOR pursuant to the requirement of the construction contract, and review the proposed estimate of monthly cost requirements of the PROJECT, as prepared by the CONTRACTOR.
2. Participate in the CONTRACTOR'S monthly progress meeting with the TOWN and its authorized representatives. The ENGINEER will attend up to twenty-two (22) monthly progress meetings.
3. Prepare Conformed Documents by adding the addendum items from the Advertisement Phase to the Contract Documents. Provide two (2) conformed sets with full-size plans to the TOWN, and two (2) conformed sets with full-size plans to the CONTRACTOR. Provide one (1) electronic copy of the Conformed Documents to the TOWN.
4. Make an average of one (1) site visit each month from the Notice-to-Proceed to the Substantial Completion Date to observe the progress and the quality of construction work. It is anticipated that the project will be substantially complete twenty-two (22) months following notice to proceed. The site visit can be conducted on the same day as the monthly progress meeting. If the ENGINEER is asked to visit the site more frequently, the requested visits shall be considered a SPECIAL SERVICE and the ENGINEER shall be entitled to additional compensation. In performing these services, the ENGINEER shall endeavor to guard the TOWN against apparent defects and deficiencies in the permanent work constructed by the CONTRACTOR, but the ENGINEER does not guarantee the performance of the CONTRACTOR. The ENGINEER shall not be required to make continuous daily on-site observations to check the quality or progress of the construction work. The ENGINEER shall not be responsible for the construction performance, programs, or for any safety precautions utilized in connection with the construction work. The ENGINEER shall not be responsible for the CONTRACTOR'S failure to execute the work in accordance with the construction

contract. However, if the ENGINEER observes construction conditions not in conformance with construction contract documents, then the ENGINEER shall have authority to recommend rejection of work which does not conform to the construction contract documents whenever, in his/her opinion, the ENGINEER considers it necessary or advisable to insure the proper implementation of the intent of the construction contract documents in accordance with generally accepted engineering practices. The ENGINEER shall have the authority to require special inspection or testing of any work in accordance with the provisions of construction contract documents whether or not such work is then fabricated, installed, or completed. The ENGINEER shall notify the TOWN, in writing, of any actions taken under this paragraph.

5. The ELECTRICAL ENGINEER shall make an average of one (1) site visit every other month, up to a total of twelve (12) visits, from the Notice-to-Proceed to the Substantial Completion Date.
6. The STRUCTURAL ENGINEER shall make an average of one (1) site visit every other month, up to a total of twelve (12) visits, from the Notice-to-Proceed to the Substantial Completion Date.
7. Utilize Projectmates for transmitting and tracking construction documents and write and distribute meeting notes for the monthly progress meetings. ENGINEER's fee includes the Projectmates software cost for 25 users for the 22 months of construction.
8. Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill test reports or material and equipment and other data which the CONTRACTOR submits. This review is for the benefit of the TOWN and covers only general compliance with the information given by the construction contract documents. It is anticipated that the ENGINEER will review up to one-hundred and fifty (150) shop drawing submittals. It does not relieve the CONTRACTOR of any responsibility such as dimensions to be confirmed and correlated at the job site, appropriate safety measures to protect worker and the public, or the necessity to construct a complete and workable facility in accordance with the construction contract documents.
9. Review and answer request-for-information (RFI) typical for the scope and size of the improvements included. It is anticipated that the ENGINEER will review and respond to up to a total of sixty (60) RFIs. Review of authorized RFIs in excess of the specified number will be considered an Additional Service.
10. Review, evaluate and prepare routine change orders or proposed contract modifications typical for the scope and size of the improvements included. Review up to fifteen (15) Contract Modification Requests/Proposed Contract Modifications (CMR/PCM). Prepare up to three (3) Change Orders (CO) and up to three (3) pField Orders (FO) for execution by the TOWN. Additional authorized CMR/PCM review or CO/FO preparation in excess of the specified number will be considered an Additional Service.

11. The ENGINEER shall be, in the first instance, the interpreter of the requirements of the construction contract documents and the impartial judge of the performance thereunder by both the TOWN and the CONTRACTOR. At the written request of the TOWN, the ENGINEER will be required to make certain interpretations of the construction contract documents. These interpretations shall be in the form of written recommendations and conclusions sent to the appointed representative of the TOWN.
12. The ENGINEER shall not be responsible for the acts or omissions of the CONTRACTOR, or any SUBCONTRACTOR, or any of the CONTRACTOR'S or SUBCONTRACTOR'S agents or employees, or any other persons performing any of the work on the PROJECT, except those employees, agents, and SUBCONTRACTORS of the ENGINEER. In the event of a conflict between this requirement or any other contractual provisions of this AGREEMENT, the other contractual provisions shall prevail.
13. Review monthly and final estimates for payment to the CONTRACTOR based on quantities submitted by the CONTRACTOR as approved by the TOWN'S on-site representative.
14. Assist representatives of the TOWN with final inspection of the PROJECT for conformance with the design concept of the PROJECT and compliance with the construction contract documents, and approve, in writing, final payment to the CONTRACTOR.
15. Revise construction drawings (unless complete redrawing is required) to conform with construction records based on the field-marked drawings from the CONTRACTOR. Furnish one (1) full-size set of construction drawings on reproducible media within sixty (60) days following final completion of the PROJECT and receipt of the field-marked drawings from the CONTRACTOR. Provide one (1) electronic copy of the final drawings to the TOWN.
16. The TOWN acknowledges the ENGINEER'S plans and specifications, including all documents on electronic media, as instruments of professional service. Nevertheless, the plans and specifications prepared under this AGREEMENT shall become the property of the TOWN upon completion of the services and payment in full of all monies due to the ENGINEER. The TOWN shall not reuse or make or permit to be made any modifications to the plans or specifications without the prior written authorization of the ENGINEER. The TOWN agrees to waive any claim against the ENGINEER arising from any unauthorized reuse or modification of the plans or specifications.
17. The TOWN agrees, to the fullest extent permitted by law, to indemnify and hold the ENGINEER harmless for any damage, liability or cost, arising from any modification of the plans and specifications by the TOWN or its authorized representatives without the prior written authorization of the ENGINEER. The ENGINEER makes no warranties, either express or implied, of merchantability and fitness for any particular purpose or of probable useful life of drawing files stored on electronic media.

B. Resident Project Representation

1. ENGINEER shall furnish a Limited On-Site Resident Project Representative ("RPR") to assist ENGINEER in observing progress and quality of the Work. The RPR shall provide part time representation on a time and material basis based on a schedule of 8 hours per week for a twenty-two (22)-month period. If additional time is required, the ENGINEER will receive additional compensation or relief by TOWN personnel.
2. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, ENGINEER shall endeavor to provide further protection for TOWN against defects and deficiencies in the Work. However, ENGINEER shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The ENGINEER (including RPR) neither guarantees the performances of any contractor nor assumes responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
3. The duties and responsibilities of the RPR are as follows:
 - a. RPR is ENGINEER's representative at the Site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with ENGINEER and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with TOWN only with the knowledge of and under the direction of ENGINEER.
 - b. Serve as ENGINEER's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the intent of the Contract Documents.
 - c. Assist ENGINEER in serving as TOWN's liaison with Contractor when Contractor's operations affect TOWN's on-site operations.
 - d. Assist in obtaining from TOWN additional details or information, when required for proper execution of the Work.
 - e. Conduct on-Site observations of Contractor's work in progress to assist in determining if the Work is in general proceeding in accordance with the Contract Documents. Report to ENGINEER whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.

- f. Consult with ENGINEER in advance of scheduled inspections, tests, and systems start-ups. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate TOWN's personnel, and that Contractor maintains adequate records thereof. Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems start-ups. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.
- g. Furnish to ENGINEER and TOWN copies of all inspection, test, and system start-up reports.
- h. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- i. Participate in a final visit to the Project in the company of TOWN, and Contractor, and prepare a final list of items to be completed and deficiencies to be remedied.
- j. Observe whether all items on the final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.
- k. Resident Project Representative shall not:
 - (1) Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - (2) Exceed limitations of ENGINEER's authority as set forth in this Agreement.
 - (3) Undertake any of the responsibilities of Contractor, Subcontractors or Suppliers.
 - (4) Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 - (5) Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of TOWN or Contractor.
 - (6) Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER.
 - (7) Authorize TOWN to occupy the Project in whole or in part.

C. Post-Construction Phase

- 1. The ENGINEER will prepare an update to the operation & maintenance (O&M) Manual sections related to the PROJECT in electronic format delivered on CD or USB thumb drive. Specific services to be performed by the ENGINEER will be to prepare the manual in the format that follows:
 - a. Prepare and submit to TOWN for review a draft of the updated O&M manual sections. The manual will include a description of the facilities and recommendations for O&M. The following topics will be included:

- (1) Facilities Description, Operation, and Control of Facilities: discussion of the operation and purpose of each treatment unit or facility with a description of design criteria and control strategy;
 - (2) Description and Operation of the Auxiliary Facilities: discussion of auxiliary systems;
 - (3) Electrical System and Control Systems: overview and detailed description of the electrical and control systems;
 - (4) Maintenance: nameplate data for each major piece of equipment, list of the manufacturer's recommended spare parts, and reference to equipment manufacturer's O&M Manual schedule of preventative maintenance activities; and
 - (5) Appendices: glossary of treatment terms and abbreviations used pertinent to this facility;
- b. Five hard copies of the Final Draft and Final O&M manual are to be provided to the TOWN along with two electronic format CDs;
2. Warranty Assistance: Provide up to 24 hours of office and/or on-site consulting concerning the follow-up of Contractor and equipment warranty items during the construction warranty period. One month prior to the end of the construction warranty period, conduct a site visit and document all warranty items and assist in the coordination of the repairs/replacement of the defective work.

ADDITIONAL SERVICES

- A. Additional services to be performed by the ENGINEER, if authorized by the TOWN, which are not included in the above-described BASIC SERVICES, are described as follows:
 1. Attending additional meetings as requested by TOWN;
 2. Sampling, testing or analysis beyond that specifically included in BASIC SERVICES;
 3. Providing additional copies of reports, plans and specifications;
 4. Processing additional shop drawings, O&M Manuals, RFIs or CMRs/PCMs above the combined number in Basic Services.
 5. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties other than condemnation proceedings arising from the development or construction of the project, including the preparation of engineering data and reports for assistance to the Town.

6. Assisting TOWN or Contractor in the defense or prosecution of litigation in connection or in addition to those services contemplated in this Agreement. Such services, if any, shall be furnished by ENGINEER on a fee basis negotiated by the respective parties outside of and in addition to this agreement.
7. Public relations activities and consulting services.
8. Programming of and furnishing preventative maintenance software or O&M software other than as specified above.
9. Payment of fees for permit applications and publication of notices.
10. Any additional services that may be required by the TOWN for completion of the project that are not included in the BASIC or SPECIAL SERVICES; and
11. Preparing copies of Computer-Aided Drafting (CAD) electronic databases, drawings, or files for the TOWN's use in a future CAD system.

ATTACHMENT B
Town of Flower Mound
Solids Facility Improvements Phase V Construction
Phase V Construction

Level 2 (Phase) No. and Description Level 3 (Task) No. and Description	Principal (hrs)	Sr. Proj Mgr (hrs)	Proj Mgr (hrs)	Proj Engr (hrs)	EIT (hrs)	Technician (hrs)	Clerical (hrs)	QC (hrs)	Total Labor		Percent of Total Fee
									Hours	Fee (\$\$\$)	
Phase V Construction	0	378	0	1,210	867	64	6	4	2,529		
A Construction Administration	0	265	0	438	787	56	6	0	1,552	\$ 230,205	61.0%
1 Pre-Construction Meeting		7		4	8				19	\$ 3,240	0.9%
2 Monthly Progress Mtgs/Site Visits (22 Months)		66		110					176	\$ 31,240	8.3%
3 Conformed Drawings		2		4	4	16	2		28	\$ 3,560	0.9%
4 Additional site visits (6 visits)		18		18					36	\$ 6,840	1.8%
5 Shop Drawing Review (150 SD, 75 ReSD)		113		188	525				825	\$ 118,875	31.5%
6 RFI Review/Response (60)		30		60	120				210	\$ 30,600	8.1%
7 Contract Mod. Coord. (15 CMR, 3 CO, 3 FO)		11		42	84				137	\$ 18,900	5.0%
8 Review Pay Estimates (22)		11			22				33	\$ 5,390	1.4%
9 Final Walkthrough		4		4	8				16	\$ 2,520	0.7%
10 Record Drawings		4		8	16	40	4		72	\$ 9,040	2.4%
B Resident Representation	0	0	0	704	0	0	0	0	704	\$ 98,560	26.1%
1 On-Site 1 d/wk for 22 Months				704					704	\$ 98,560	26.1%
C Post-Construction Phase	0	16	0	68	80	8	0	4	176	\$ 25,500	6.8%
1 O&M Manual Update		8		40	80	8		4	140	\$ 19,660	5.2%
2 Warranty Assistance - Office Consult		4		20					24	\$ 3,760	1.0%
3 Warranty Walkthrough		4		8					12	\$ 2,080	0.6%
PM ADMINISTRATIVE/QC TASKS	0	97	0	0	0	0	0	0	97	\$ 23,280	6.2%
1 Quality Control									0	\$ -	0.0%
2 Project Management		97							97	\$ 23,280	6.2%
TOTAL LABOR	0	378	0	1,210	867	64	6	4	2,529		
Total Labor Hours	0	378	0	1,210	867	64	6	4	2,529		
Total Labor Amount										\$ 377,545	100.0%
Total Amounts by Labor Category	\$ -	\$ 90,720	\$ -	\$ 169,330	\$ 108,375	\$ 7,360	\$ 540	\$ 1,220		\$ 377,545	
Labor Category Percent of Total Labor	0.0%	24.0%	0.0%	44.9%	28.7%	1.9%	0.1%	0.3%			100.0%
TOTAL EXPENSES (see breakdown below)											
Total Subconsultants										\$ 166,060	
Total Reimbursables										\$ 25,854	
Total Expenses										\$ 191,914	
GRAND TOTAL - Phase V Construction										\$ 569,459	

SUBCONSULTANT EXPENSES

Code	Description	Budget (\$\$)	Markup	Fee (\$\$\$)
CA	Architect Consultant	\$ 24,000	1.15	\$ 27,600
CC	Civil Engr Consultant	\$ -	1.15	\$ -
CE	Electrical Consultant	\$ 89,400	1.15	\$ 102,810
CG	Geotechnical Consultant	\$ 5,000	1.15	\$ 5,750
CM	Mechanical (HVAC) Consultant	\$ 16,000	1.15	\$ 18,400
CO	Other Consultant	\$ -	1.15	\$ -
CS	Structural Consultant	\$ 10,000	1.15	\$ 11,500
CY	Surveying Consultant	\$ -	1.15	\$ -
C1		\$ -	1.15	\$ -
C2		\$ -	1.15	\$ -
C3		\$ -	1.15	\$ -
C4		\$ -	1.15	\$ -
C5		\$ -	1.15	\$ -
C6		\$ -	1.15	\$ -
TOTAL SUBCONSULTANT EXPENSES		\$ 144,400		\$ 166,060

REIMBURSABLE EXPENSES

Code	Description	Budget (\$\$)	Markup	Fee (\$\$\$)
RA	Laboratory Analysis	\$ -	1.15	\$ -
RC	Computer	\$ -	1.15	\$ -
RH	Historical	\$ -	1.15	\$ -
RI	In-House Reproduction	\$ 500	1.15	\$ 575
RL	Long Distance Telephone	\$ -	1.15	\$ -
RM	Employee Mileage	\$ 4,640	1.15	\$ 5,336
RO	Other Expenses	\$ -	1.15	\$ -
RP	Purchased Services	\$ -	1.15	\$ -
RR	Reproduction	\$ 1,000	1.15	\$ 1,150
RS	Shipping, Delivery, Postage	\$ 350	1.15	\$ 403
RT	Travel, Meals, Lodging	\$ -	1.15	\$ -
RU	Telecommunications	\$ 12,640	1.00	\$ 12,640
R1	Projectmates	\$ 5,000	1.15	\$ 5,750
R2		\$ -	1.15	\$ -
TOTAL REIMBURSABLE EXPENSES		\$ 24,130		\$ 25,854



TOWN COUNCIL AGENDA ITEM NO. 18

CONSENT ITEM

DATE: October 7, 2019

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

ITEM: Consider approval of a Professional Services Agreement with Alliance Geotechnical Group Inc., for construction materials testing services for the WWTP Phase V project, for an amount not to exceed \$124,200.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On September 16, 2019, the construction contract for the Wastewater Treatment Plant Rehabilitation Phase V, (Sludge Holding and Thickening) project, in the amount of \$9,199,000.00, was awarded to Archer Western Construction, LLC. The project consists of construction of two new sludge holding tanks with a combined capacity of 1.25 million gallons, and a new 5,000 sq. foot solids thickening building, with associated site improvements and infrastructure. Alliance Geotechnical Group will provide documented results of all construction materials, structural and civil requirements dictated by the design.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$124,200.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$124,200.00	630-970-98472

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

Total project cost is \$11,800,000. Funding sources are:

- Utility Debt \$ 11,800,000

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

ATTACHMENTS:

1. Professional Services Agreement

RECOMMENDATION: Move to approve as presented in the agenda caption.

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALLIANCE GEOTECHNICAL GROUP**

This contract is entered into on this 7th day of October, 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 **ALLIANCE GEOTECHNICAL GROUP**, (“hereinafter referred to as “CONSULTANT”) whose address is 7970 W. Main Street, Frisco, TX 75033

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Wastewater Treatment Plant Rehabilitation Phase V, Solids Facility Improvements project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Wastewater Treatment Plant Rehabilitation Phase V, Solids Facility Improvements

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

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed One Hundred Twenty-Four Thousand Two Hundred and No/100 Dollars (\$124,200.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

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

Clay Riggs, PE, CFM, Assistant Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6400

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII.
Independent Contractor

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

XIV.
Default

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

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

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

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

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

Clay Riggs, PE, CFM, Assistant Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6400

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:

Douglas S. Land, P.E.
Alliance Geotechnical Group
7970 West Main Street
Frisco, TX 75033
214-618-4100 Telephone
214-618-4110 Facsimile

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of

the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract

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

[The remainder of this page left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
The Honorable Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

**CONSULTANT:
ALLIANCE GEOTECHNICAL GROUP**

By: 
 Name: Robert P. Nance
 Title: President
 Date Signed: 9/13/19

State of Texas §

County of Dallas §

This instrument was acknowledged before me on the 13th day of September, 2019, by Robert P. Nance in his capacity as President of Alliance Geotechnical Group, Inc., a C. 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 Alliance Geotechnical Group, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 13th DAY OF September, 2019.


 Notary Public, State of Texas

My Commission Expires:

7-8-2023





Attachment A

GEOTECHNICAL ENGINEERING
ENVIRONMENTAL CONSULTING
CONSTRUCTION MATERIALS ENGINEERING AND TESTING

September 11, 2019

Town of Flower Mound
Attn: Mr. Clayton Riggs
2121 Cross Timbers Rd.
Flower Mound, Texas 75028

Email: clayton.riggs@flower-mound.com

Re: WWTP Phase V Solids Facility Improvements
Flower Mound, Texas
Engineering Inspection & Testing Services
AGG Proposal No: P19-0910C

Dear Mr. Riggs,

Alliance Geotechnical Group (AGG) is pleased to confirm our firm's interest in providing materials inspection and testing services for the proposed project noted above. A schedule of unit fees for this project is attached. Actual charges will be based on the contractors/client scheduling.

After reviewing our fee schedule if you have any questions, please contact the undersigned at (214) 618-4100. If acceptable, please sign below and return to our office as our Authorization to Proceed. We look forward to the opportunity of working with you on this project.

Respectfully submitted,

ALLIANCE GEOTECHNICAL GROUP

A handwritten signature in blue ink, appearing to read 'J.K. Marthers', is written over a horizontal line.

J.K. Marthers
Project Manager

A handwritten signature in blue ink, appearing to read 'Douglas S. Land', is written over a horizontal line.

Douglas S. Land, P.E.
Branch Manager

Approved by: _____
Signature

Date: _____



SCHEDULE OF FEES
FOR
CONSTRUCTION MATERIALS ENGINEERING & TESTING
WWTP PHASE V SOLIDS FACILITY IMPROVEMENTS
FLOWER MOUND, TEXAS AGG PROPOSAL NO.: P19-0910C

DESCRIPTION OF SERVICES	QUANTITY		UNIT FEE	UNIT	FEE
A. EARTHWORK MASS GRADING & TESTING					
• Moisture/Density Relationship of Soils (ASTM D-698)	34	@	\$165.00	each	\$5,610.00
• Atterberg Limits	34	@	\$55.00	each	\$1,870.00
• Percent finer than #200 sieve	34	@	\$35.00	each	\$1,190.00
• Soluble Sulfates		@	\$85.00	each	\$0.00
• Select fill PI verifications (1/5000 sf/lift)	8	@	\$55.00	each	\$440.00
• Field Density Testing	537	@	\$35.00	each	\$18,795.00
• Sr. Engineering Tech to perform testing	120	@	\$47.50	hour	\$5,700.00
• Sr. Engineering Tech to perform testing-Overtime	96	@	\$71.25	hour	\$6,840.00
• Project Manager	46	@	\$75.00	hour	\$3,450.00
• Geotechnical Project Manager	15	@	\$125.00	hour	\$1,875.00
• Vehicle Charge	22	@	\$40.00	trip	\$880.00
				Sub-Total	\$46,650.00
B. DRILLED PIERS - INSPECTION & TESTING					
• Full Time Tech for Pier Observations	58	@	\$47.50	hour	\$2,755.00
• Technician Overtime Pier Observations	28	@	\$71.25	hour	\$1,995.00
• Concrete Cylinder Test - (Structural 4 per 100 cyrd)	28	@	\$18.00	hour	\$504.00
• Geotechnical Engineer	5	@	\$125.00	hour	\$625.00
• Project Manager	6	@	\$75.00	hour	\$450.00
• Vehicle Charge	9	@	\$40.00	trip	\$360.00
				Sub-Total	\$6,689.00
C. MASONRY INSPECTION & TESTING					
• Technician for Masonry Observations	22	@	\$47.50	hour	\$1,045.00
• Technician Overtime for Masonry Observations		@	\$71.25	hour	\$0.00
• Mortar Test Cubes (6 per set)	24	@	\$18.00	each	\$432.00
• Grout Prizms (6 per set)	24	@	\$18.00	each	\$432.00
• Project Manager	2	@	\$75.00	hour	\$150.00
• Vehicle Charge	5	@	\$40.00	trip	\$200.00
				Sub-Total	\$2,259.00
D. STRUCTURAL CONCRETE INSPECTION & TESTING					
• Sr. Engineering Tech to perform testing	857	@	\$47.50	hour	\$40,707.50
• Engineering Tech Overtime		@	\$71.25	hour	\$0.00
• Concrete Cylinder Test- Structural (6 per 75 cyd)	264	@	\$18.00	each	\$4,752.00
• Grout Cubes (3 per set)	255	@	\$18.00	each	\$4,590.00
• Project Manager	62	@	\$75.00	hour	\$4,650.00
• Vehicle Charge	202	@	\$40.00	trip	\$8,080.00
				Sub-Total	\$62,779.50
E. CONCRETE PAVING/SIDEWALK INSPECTION & TESTING					
• Sr. Engineering Tech to perform testing	29	@	\$47.50	hour	\$1,377.50
• Engineering Tech Overtime		@	\$71.25	hour	\$0.00
• Concrete Cylinder Test (4 per 100 cyd)	20	@	\$18.00	each	\$360.00
• Project Manager	2	@	\$75.00	hour	\$150.00
• Vehicle Charge	7	@	\$40.00	trip	\$280.00
				Sub-Total	\$2,167.50

FLOWER MOUND, TEXAS		AGG PROPOSAL NO.: P19-0910C			
DESCRIPTION OF SERVICES		QUANTITY	UNIT FEE	UNIT	FEE
F. UTILITY BACKFILL TESTING & INSPECTION					
• Field Density Testing	8	@	\$35.00	each	\$280.00
• Concrete Test Cylinders	20	@	\$18.00	each	\$360.00
• Sr. Engineering Tech to perform testing	30	@	\$47.50	hour	\$0.00
• Project Manager	1	@	\$75.00	hour	\$75.00
• Vehicle Charge	10	@	\$40.00	trip	\$400.00
Sub-Total					\$1,465.00
G. STRUCTURAL STEEL - FIELD INSPECTION					
• Certified CWI to perform inspections	24	@	\$75.00	hour	\$1,800.00
• Project Manager	2	@	\$75.00	hour	\$150.00
• Vehicle Charge	6	@	\$40.00	trip	\$240.00
Sub-Total					\$2,190.00
ESTIMATED TOTAL					\$124,200.00

NOTES:

1. Overtime rates of 1.5 times the regular hourly rate will be charged for hours worked over eight (8) hours per day Monday thru Friday or any time **before 7:00 a.m. or after 5:00 p.m.** Service performed on Saturdays and Sundays will be billed at 1.5 times the regular hourly rate. Services performed on recognized holidays will be billed at 2.0 times the regular hourly rate.
2. All laboratory test fees are F.O.B. our laboratory; additional charge for sample pickup may apply.
3. Any additional tests will be billed on a hourly rate and charged at the applicable rate, portal-to-portal.
4. Additional test not specified in this proposal will be quoted upon request.
5. This proposal does not include any technician stand-by, non-readiness charges, and/or trips or re-tests of the previous failing tests.
6. This proposal was prepared based on the following schedule ASSUMPTIONS:
 - * Earthwork and Mass Grading - 20 estimated full-time site visits (12 hrs/day)
 - * Building/Structures pad excavation limits - 3 estimated site visits
 - * Drilled Pier observation and testing - 7 estimated site visits
 - * Structural concrete testing and observation - 66 estimated site visits
 - * Non Shrink Grout testing and observations - 85 estimated site visits
 - * Utility backfill testing - 4 estimated site visits
 - * Utility concrete testing and observations - 5 estimated site visits
 - * Concrete testing for pavement/sidewalks - 5 estimated site visits
 - * Masonry testing - 4 estimated site visits
 - * Concrete cylinder pick-up - 56 estimated site visits
 - * Structural Steel inspections - 6 estimated site visits

NOTE: The above fees are estimates only. Actual charges will be based on contractor scheduling and actual construction quantities. The above amount will not be exceeded without prior approval.



TOWN COUNCIL AGENDA ITEM NO. 19

CONSENT ITEM

DATE: October 7, 2019

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

ITEM: Consider approval of the purchase of creek bank stabilization and erosion control services from Knight Erosion Control, Inc., a sole source provider, for work associated with the Bakers Branch Stabilization at 621 Somerset Drive project, in the amount of \$391,568.00.

BACKGROUND INFORMATION: This item includes the purchase and installation of a bag-wall product for use and construction of a 232 linear foot, 28-foot high bag-wall for the purpose of creek bank stabilization to prevent further erosion threatening the Town's sanitary sewer main and private property at 621 Somerset Drive. The project is a FY2019-20 approved Capital Improvement Program project and is funded by Stormwater Fees.

The Town has previously issued bids for this service. As a result, it was determined that the bag-wall product was a proprietary product offered solely by Knight Erosion Control, Inc. The purchase falls within the definition of a procurement that is available from only one source (Chapter 252 of the Local Government Code) and is exempt from competitive bidding requirements. This proprietary product is sold exclusively to Knight Erosion Control, Inc., by the manufacturer, Jewell, an Old Castle Company.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$391,568.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$391,568.00	610-590-98909

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

Total project cost is \$415,000. Funding sources are:

- Other – Stormwater Fund Balance \$ 415,000

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Proposal – 621 Somerset Drive
2. Sole Source Letter

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

PROPOSAL

KNIGHT EROSION CONTROL, INC.
P.O. Box 202541
Arlington, TX, 76006
Office: 817/640-4442
www.knighterosioncontrol.com

Date: September 18th, 2019

Proposal No. 2

Proposal Submitted To:

Town of Flower Mound
Attn: Clay Riggs, PE, CFM
Assistant Director of Public Works
972/874-6302
Clayton.riggs@flower-mound.com

Work Performed At:

- Site Location: 621 Somerset Drive, Flower
- Reinforce creek channel behind 621 with RRap Retaining wall system.
- Proposal is based on designs by KCE Engineering, and Falkofske Engineering.
- Revised Plans Dated March 28th, 2019

RRap Walls 1 and 2

We hereby propose to furnish all the materials and perform the labor necessary for the completion of approximately **232 L.F. of MSE RRap Wall x 4 – 28 feet tall**. A continuous gravel drain wedge with fabric wrapped to soil side with a continuous drain pipe will be installed to relieve hydraulic pressure and trap the soil.

Proposal includes site prep, entrance ramp into creek channel, erosion control (silt fence, construction entrance, asphalt bags, and rock check dam), clearing and grubbing, water management, excavation, haul off excess fill materials, gravel and fill, compaction, and Geo-grid (soil reinforcement).

- Clearing, haul off, and tree removal within the reinforcement zone
- Excavation- 1,292 cubic yards of material to be cut and hauled off.
- Geotextiles- 14,400 SF of 4oz Fabric, 37,800 SF of Mirafi 5xt (or approved equal), 3,600 SF of Western Excelsior PP5-10, and 300' of 4" drain pipe wrapped + T's
- Gravel backfill- 1,000 tons of ¾" to 1" rock, and 500 tons of flex-base for foundation of RRap Wall
- Fill and Compact approx. 236 cubic yards of fill to a minimum of 95% standard proctor.
- Use existing rip rap on-site to armor upstream turn-back of proposed RRap Wall

MSE RRap Wall	\$ 356,318.00
Site Restoration/Concrete Repair (construction Access)- <i>If needed</i>	\$ 33,000.00
Weekly Inspections (based on \$ 375/wk. by Falkofske Engineering)	\$ 2,250.00
TOTAL	\$ 391,568.00

All material is guaranteed to be as specified and the above work to be performed in accordance with any drawings and/or specifications submitted for above work and completed in a workmanlike manner for the amount listed above with payments to be made as follows: **Mobilization/Draws/Balance Upon Completion**

Note: Bonding available if needed, add 3% to total cost. If owner(s) wish to extend standard (1) year warranty to (5) years, add 5% to total cost.

Note: Payment terms as noted: 20% mobilization, end of month draw based on % of work completed, and balance upon completion.

Knight Erosion Control to Provide:

1. Locate Utilities
2. Traffic Control and Safety barriers (orange safety fence) around access and site.
3. Clearing and haul off excess materials and debris.
4. Weekly Inspections by design engineers' firm, with reports to owner(s) and contractor.
5. Proposal includes all necessary compaction testing
6. Site Restoration/Concrete Repair
7. As Built Letter by design Engineer

Specific Exclusions:

1. Proposal does not include installing fence behind top of proposed wall.
2. Revised set of plans do not include any work in drainage channel on the eastern end of the property.
3. Town of Flower Mound is to remove the existing Red Bollard in the middle of the proposed access (jogging trail) for construction
4. Existing deck at 621 Somerset drive is to be removed by homeowner, before mobilization.
5. Proposal does not include installing or repairing existing sprinkler lines. KEC will work to protect any sprinkler heads and lines from being damaged by capping all heads within the staging and construction area's.

General Terms and Conditions:

1. This proposal is based on 20 working days per month.
2. Our safety practices meet OSHA regulations recommended safety procedures.

Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Workers' Compensation and Public Liability Insurance on above work will be supplied by **KNIGHT EROSION CONTROL, INC.**

Respectfully submitted by **KNIGHT EROSION CONTROL, INC.**

Per


Russell Hergesell- Vice President of Sales

Note: This proposal may be withdrawn by us if not accepted within 30 days.

Acceptance of Proposal



DATE: 9.12.19

RE: Town of Flower Mound

TO: To Whom it may concern,

This letter is to serve as documentation that Knight Erosion Control (KEC) purchases Rip Rap product from Jewell, an Oldcastle Company. We supply KEC with a proprietary bag that is sold exclusively to KEC.

Carl Hergesell and KEC have been doing business with Jewell / Oldcastle for over 20 years.

Sincerely,

A handwritten signature in red ink that reads "Nathan Higbee". The signature is written in a cursive, flowing style.

Nathan Higbee
Vice President of Sales, Dry Mix
Jewell, an Oldcastle company



TOWN COUNCIL AGENDA ITEM NO. 20

CONSENT ITEM

DATE: October 7, 2019

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of a Construction Agreement with Northstar Construction, LLC, for the 2018-19 Playground Replacements and the Lakewood Park - Pavilion projects, in the amount of \$63,510.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On September 5, 2019, bids were received and opened (Bid #2020-3-B) for the Lakewood Park Improvements project. Northstar Construction, LLC, submitted the lowest qualified bid of the six (6) responding bidders in the amount of \$63,510.00.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: 63,510.00

Proposed Expenditure/(Revenue):		Account Number(s):
\$30,344.00	2018-19 Playground Replacements	317-110-90819
\$33,166.00	Lakewood Park Pavilion	317-110-90605

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

Total project cost of the 2018-2019 Playground Replacements (includes Lakewood, Stone Creek, Thrush West & Gerault) is \$1,000,000. Total cost for the Lakewood Park Pavilion is \$75,000. Funding sources are:

- Dedicated Sales Tax \$ 1,075,000

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

ATTACHMENTS:

1. Bid Tab
2. Construction Agreement

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



Town of Flower Mound
Bid Tabulation

Bid No: 2020-3-B - Lakewood Park Improvements

Bid Opening: 9/5/2019 at 11:00 AM

Company	Total Base Bid
Northstar Construction, LLC	\$ 63,510.00
L.J. Design + Construction, LLC	\$ 69,629.85
West Texas Rebar Placers, Inc	\$ 83,101.50
North Rock Construction, LLC	\$ 84,355.78
MxE Creative Builders	\$ 97,777.00
Lisle, Inc	\$ 230,980.00

*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: September 5, 2019

TOWN OF FLOWER MOUND
LAKEWOOD PARK IMPROVEMENTS

Bid # 2020-3-B

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this 7th day of October, 2019, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and Northstar Construction, LLC, a full-service general contractor, 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:

LAKEWOOD PARK IMPROVEMENTS,
Bid # 2020-3-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 **Sixty-Three Thousand Five Hundred Ten Dollars (\$63,510)** 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 sixty (60) calendar days, and final completion of ninety (90) 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 coverages 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 200 and Zero/One Hundredths Dollars (\$200.00) 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 200 and Zero/One Hundredths Dollars (\$200.00) 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 7th day of October, 2019.

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

CONSENT ITEM

DATE: October 7, 2019

FROM: Blake Hummel, P.E., Senior Project Engineer

ITEM: **Consider approval of the Whyburn Farm Drainage and Easement Agreement; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: During design of the FM2499 12-Inch Water Line Phase I, FM2499 at Waketon Road Intersection Improvements, and East Waketon Road Drainage Improvements projects, it was determined that multiple easements and ROW dedication would be required on the Whyburn property, 2802 Waketon Road.

- The FM2499 12-Inch Water Line Phase I project required a water line easement and temporary construction easement along the frontage of the property to allow for the completion of an existing gap in the Town's water system along the east side of FM2499.
- The FM2499 at Waketon Road Intersection Improvements project required ROW at the northeast corner of the intersection in order to construct the westbound right turn lane on Waketon Road, as well as, necessary ROW for the future reconstruction of Waketon Road along the southern property line.
- The East Waketon Road Drainage Improvements project required a drainage easement and temporary construction easement that bisects the property from the existing outfall on FM2499 to the culvert crossing at Waketon Road in order to channelize the drainage and reconstruct the existing culverts on Waketon Road to prevent the future flooding of Waketon Road.

Discussions with the property owner outlined the overall improvements and benefits to the land and surrounding area, which included; future availability to Town water supply, channelization of the drainage through the property that will open up more usable space within the property, and correction of the flooding on Waketon Road for usable access to the property. An agreement was proposed to outline the various easements and ROW needed for the projects while still maintaining the ability to keep a developable property. The property owner agreed to provide all easements and ROW at no acquiring cost to the Town.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Proposed Whyburn Farm Drainage and Easement Agreement provides necessary easements and ROW for three separate CIP projects; FM2499 12-Inch Water Line Phase I, FM2499 at Waketon Road Intersection Improvements, and East Waketon Road Drainage Improvements. Easements and ROW are required for the continuation and construction of the future CIP projects, not approving the Whyburn Farm Drainage and Easement Agreement would stop the continuation of the projects.

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Whyburn Farm Drainage and Easement Agreement

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

WHYBURN FARM DRAINAGE AND EASEMENT AGREEMENT

This **WHYBURN FARM DRAINAGE AND EASEMENT AGREEMENT** ("Agreement") is made and entered into to be effective this ____ day of October, 2019, by the Town of Flower Mound, Texas (the "Town") and Kenneth G. Whyburn, Trustee of the Lucille E. Whyburn 1994 Revocable Trust, GSE Trust fbo Gordon P. Whyburn, and GSE Trust fbo Ian N. Whyburn, (the "Owner"). The Owner and the Town are individually referred to as a "Party" and collectively, the "Parties".

WITNESSETH:

WHEREAS, the Owner owns an approximately 88+ acre tract of land and an approximately 2.80 +/- acre tract of land within the corporate limits of the Town, bordered by Dixon Lane to the north, FM 2499 (Long Prairie Road) to the southwest, and Waketon Road to the south, which property is described and depicted in **Exhibit 1** attached hereto (collectively, the "Whyburn Farm");

WHEREAS, the Parties desire to address in this Agreement (without harming the current and future agricultural operations at the Whyburn Farm) various issues related to the Whyburn Farm, including, but not limited to: (1) addressing drainage on the Whyburn Farm and (2) addressing flooding of Waketon Road; and

WHEREAS, at no fault of the Owner there are existing drainage issues that result in periodic flooding onto the Whyburn Farm and the residential neighborhoods located south of Waketon Road and in traffic disruptions on Waketon Road; and

WHEREAS, the Town and Owner acknowledge that it is in the interest of all parties to address the existing drainage issues affecting the Whyburn Farm, such residential neighborhoods and Waketon Road; and

WHEREAS, while maintaining the current and future agricultural operations at the Whyburn Farm, the Town intends to (a) fund, design, permit, construct, and maintain a drainage improvement project to address existing drainage conditions, (b) to fund, design, permit, construct, and maintain a water line which will serve the Whyburn Farm, and (c) to fund, design, permit, construct and maintain the widening of existing Waketon Road as identified and scoped in the FM2499 at Waketon Road Intersection Improvements Capital Improvement Project (collectively, the "Project"); and

WHEREAS, in consideration of the Town improving the flow of water through the Whyburn Farm and the Town's construction of a twelve-inch water-line to serve the Whyburn Farm, the Owner intends to grant to the Town a water-line easement along the right-of-way of FM 2499, dedicate a right-of-way along Waketon Road, with a new barbed wire fence to be constructed by the Town, and dedicate a permanent drainage easement along the centerline of the creek from FM 2499 east to Waketon Road to allow for the Project; and

WHEREAS, the Parties acknowledge that it is in the best interests of the Parties that these issues be addressed in this Agreement and the Parties acknowledge that the existing drainage issues are not the fault of the Owner.

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

1. OWNER'S OBLIGATIONS AND CONSIDERATIONS

1.1 The Owner agrees to dedicate to the Town a 20-foot-wide water-line easement (the "Water-Line Easement") along the northern right-of-way of FM 2499, which is described and depicted in the Survey attached as **Exhibit 2**.

1.2 The Owner agrees to dedicate to the Town a right-of-way along the north side of Waketon Road (the "Right-of-Way"), generally described as a 30-foot-wide section of Whyburn Farm immediately north of the existing Waketon Road center line, which is described and depicted in the Survey attached as **Exhibit 3**.

1.3 The Owner agrees to dedicate to the Town a 200-foot-wide permanent drainage easement (the "Drainage Easement") along the centerline of the creek from FM 2499 east to Waketon Road, which is described and depicted in the Survey attached as **Exhibit 4**. However, the Owner reserves the right to cross the Drainage Easement with a sixty (60) foot wide road.

1.4 The Owner agrees to grant to the Town temporary, non-exclusive construction easements in those locations described and depicted in the Survey attached as **Exhibit 5** for the installation of the Project. Such temporary, non-exclusive construction easements will be granted by Owner and dedicated to the Town and shall be subject to (and not interfere with) the current and future agricultural operations at the Whyburn Farm or the drainage from the adjacent detention pond. The Town will keep all gates on the Whyburn Farm closed (or post a guard) at all times and will respect the cattle operator.

1.5 The Owner agrees to permit the Town and its contractors access to those portions of the Whyburn Farm required for the performance of this Agreement, including all necessary survey and design work conducted prior to the dedication of the aforementioned easements and right-of-way.

1.6 The Owner acknowledges that the Town will keep all gates on the Whyburn Farm closed (or post a guard) at all times and will use best efforts to proceed with the Project in accordance with the estimated timelines outlined in Section 2.7 herein and agrees that if the Town is proceeding with the Project in good faith, the Town shall not be in default of this Agreement even if the timelines outlined in Section 2.7 are not complied with; provided, that, notwithstanding anything to the contrary contained herein, if the Project has not been completed by January 1, 2025, this Agreement shall terminate and be of no further force and effect, the Owner shall have no further obligations under this Agreement, and the Town shall, upon the Owner's request, abandon and release any easement or right-of-way that has been granted pursuant to this Agreement.

1.7 The Town agrees to provide the Owner with copies of all surveys and engineering reports it obtains in connection with the Project, to the extent the same are applicable to, or otherwise affect, the Whyburn Farm.



2. TOWN'S OBLIGATIONS

2.1 The Town will have all contractors and subcontractors involved in the Owner's Property portion of the Project list the Owner and the Owner Parties (as defined below) as "additional insureds" in their commercial general liability insurance policies (which shall be in policy amounts of not less than \$1,000,000 per occurrence/\$2,000,000 in the aggregate) and shall cause all such contractors and subcontractors, in any agreements between the Town and such contractors and in any agreements between such contractors and subcontractors, to indemnify, defend and hold harmless the Owner and the Owner's agents, principals, employees, successors, assigns, affiliates, officers, directors, shareholders, partners, trustees and representatives (collectively, the "Owner Parties"), from any and all losses, expenses and costs (including reasonable attorneys' fees and expenses), actual damages or claims, liens and liabilities arising from or related to any physical damage to property, injury or death of any person, or otherwise as a result of the activities conducted by such contractors and subcontractors while using the Whyburn Farm, or any portion thereof.

2.2 The Town agrees to prepare and file all easement and right-of-way documents created as a result of this Agreement. All instruments creating an easement or right-of-way and the design and engineering thereof shall be subject to final approval by the Owner's attorneys and engineers.

2.3 The Town agrees to fund, design, permit, construct, and maintain in perpetuity the portion of the Project within the Drainage Easement granted by Owner as described in Section 1.3. The Town shall construct all required drainage infrastructure in accordance with applicable state and local regulations, including applicable storm water compliance regulations. In any areas where soil is disturbed on areas of the Whyburn Farm outside the Drainage Easement as a result of the Town's construction or maintenance of the drainage infrastructure within the Drainage Easement, such areas shall be seeded and reseeded until grasses are permanently established.

2.4 The Town agrees to fund, design, permit, construct, and maintain in perpetuity a twelve-inch water-line and three (3) appropriate water taps within the Water-Line Easement granted by Owner as described in Section 1.1 as described and depicted in **Exhibit 2**.

2.5 The Town agrees to fund, design, permit, construct and maintain in perpetuity the widening of existing Waketon Road as identified and scoped in the FM2499 at Waketon Road Intersection Improvements Capital Improvement Project.

2.6 The Town intends to utilize excavated materials to raise those areas depicted as "Temporary Construction Easement Tract 1" on Exhibit 5 attached hereto and surrounding the Drainage Easement described in Section 1.3, above the 100-year flood plain. If there are any excess excavated materials (i.e., more than is required to raise those areas referenced in the preceding sentence above the 100-year flood plain), the Town shall haul off and dispose of such materials at the Town's expense. In the event that the excavated materials are inadequate to raise the surrounding area above the 100-year flood plain, the Town shall first deposit fill dirt along Waketon Road and FM2499 until the 4.2 acre tract is level to grade. The Town will not be required to purchase additional materials, but Owner shall be permitted to do so, at its own expense, provided that Owner coordinates with the Town for placement of the additional materials and provided that the additional materials are purchased and placed on the property only during the time that the Project is under construction by the Town. After the Town's construction of the Project is complete, Owner shall cease all work on the property including placement of additional materials and shall apply for all required permits in accordance with the Town's Code of

Ordinances. The Town shall obtain and comply with geotechnical recommendations for the fill placement on Tract 1 to accommodate future development on Tract 1.

2.7 The Town agrees to use its best efforts to proceed with the Project in accordance with the following timeline:

- a. All design and permitting of the Project to be completed by October 2022.
- b. Bidding and award of contract for construction of the Project to be completed by December 2022.
- c. Construction of Project to begin six (6) months from the date the contract is awarded and to be completed approximately twenty-four (24) months after construction begins.
- d. If the Project is not completed by January 1, 2025, this Agreement shall terminate and be of no further force and effect, the Owner shall have no further obligations under this Agreement, and the Town shall, upon the Owner's request, abandon and release any easement or right-of-way that has been granted pursuant to this Agreement for portions of the project that have not begun.

2.8 The Town agrees that any existing fences on the Whyburn Farm that must be removed to begin construction of the Project will not be removed or taken down until a new fence is erected to replace the existing fence. Notwithstanding anything to the contrary herein, the Town may utilize temporary fencing while construction is ongoing as needed to maintain the security of the construction area or to replace any existing fence that must be removed; provided, that any temporary fencing must be of sufficient design and quality to prevent cattle on the Whyburn Farm from escaping. At the end of construction of the Project, the Town agrees to install a new five strand barbed wire fence to replace any existing fences on Whyburn Farm that were required to be removed to complete the Project at no cost to the Owner. To the extent permitted by law, the Town will be responsible to the Owner for any cattle that get out of the Whyburn Farm during any construction.

2.9 The Town agrees that any temporary "berm" constructed on Waketon Road will be constructed entirely within the Right-of-Way and that a new barbed wire fence will be constructed along the southern boundary of Whyburn Farm before any soil is disturbed or the berm is constructed. Any berm will be removed by January 1, 2025, to prevent any long-term flooding of the Whyburn Farm.

2.10 The Town agrees that any future north/south right-of-way that is constructed between Waketon Road and Dixon Lane on the Whyburn Farm shall be permitted to cross the Project and the aforementioned easements and right-of-way. Notwithstanding anything to the contrary herein, the Town reserves the right to determine and approve the location of any future north/south right-of-way that is proposed to be constructed between Waketon Road and Dixon Lane on Whyburn Farm prior to the beginning of construction on any such north/south right-of-way; provided, that the Town hereby agrees that (a) such road may cross the Drainage Easement in the location shown on Exhibit 6 attached hereto, and (b) the portion of the road that crosses the Drainage Easement may be constructed before, during or after the construction of the drainage infrastructure in the Drainage Easement. Owner acknowledges and agrees that the Town shall not be responsible for the construction of or payment for the construction of any north/south right-of-way between Waketon Road and Dixon Lane on Whyburn Farm.

2.11 Owner and its successors and assigns shall have the right to use those areas subject to the Drainage Easement for open space dedication purposes.

2.12 The Town shall be responsible for reestablishment of all disturbed areas per current SWPPP requirements.

2.13 The Owner shall be granted plan approval authority of the final finishes of the entire Drainage Easement to confirm that the Drainage Easement improvements conform to the vision of the Whyburn Farm overall development. The Town shall not install concrete channel and/or rock rip rap channel within the Drainage Easement.

3. ADDITIONAL PROVISIONS

3.1 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.

3.2 Covenants Running with the Land. This Agreement shall be deemed a covenant that runs with the land and is binding on all heirs, successors, assigns, grantees, vendors, trustees, representatives of Owner and all others holding any interest now or in the future, and it is the intent of this Agreement, and the parties so acknowledge, that all phases of the Project shall be subject to this section of this Agreement so long as all construction and utilities are completed by January 1, 2025.

3.3 Notices. Any notice or communication (a "Notice") required by or given in connection with this Agreement shall be in writing and shall be deemed given: (1) five business days after the Notice is deposited with the US Postal Service for delivery by CERTIFIED MAIL RETURN RECEIPT REQUESTED to the addresses set forth below; or (2) when delivered to the addresses set forth below by a nationally recognized delivery service (e.g., UPS or FedEx) with evidence of delivery signed by any person at the delivery address whether or not such person is the named recipient of the Notice.

If to the Town:

Town of Flower Mound, Texas

Attn: Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

If to the Owner:

c/o Kenneth G. Whyburn

126 Selby Lane
Atherton, CA 94027
Email: kwhyburn@comcast.net

and

c/o Claire Whyburn

126 Selby Lane
Atherton, CA 94027
Email: cwhyburn@comcast.net



With a copy to:

John S. Baen, Ph.D.
Professor of Real Estate
TAA Professor in Residential Property Management
1155 Union Circle #310410
Denton, Texas 76203-5017
Telephone: 940-507-0312
Email: baen@unt.edu

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

3.5 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).

3.6 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, each party shall pay their own attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this Agreement and the parties agree that this Agreement is not subject to Subchapter I of Chapter 271 of the Texas Local Government Code.

3.7 Assignment. Except as provided in this section, neither Party may assign, in whole or in part, its rights or obligations under this Agreement without the prior written consent of the other Party.

3.8 Entire Agreement. This Agreement contains the entire agreement between the Parties with regard to the subject matter hereof and supersedes all prior agreements, oral or written, with regard to the subject matter hereof. The provisions of this Agreement shall not be construed strictly for or against any Party.

3.9 Severability. In the event any provision of this Agreement is determined by any court to be unenforceable for any reason, this remainder of this Agreement, to the extent reasonably possible, shall remain in full force and effect as if such unenforceable provision had never been part of this Agreement.

3.10 Term. The term of this Agreement shall commence on the effective date stated in the introductory paragraph of this Agreement and shall continue until the earlier to occur of the date on which: (1) all duties and obligations of the Parties under this Agreement have been fully performed; (2) the Parties agree, in writing, to terminate this Agreement; or (3) January 1, 2025; whichever occurs first.

3.11 Application of Town Ordinances. Except as otherwise provided in this Agreement, the Parties shall be subject to all applicable ordinances of the Town.

3.12 Recordation. This Agreement shall not be filed of record in Denton County, Texas; however, any easement and right-of-way documents contemplated by this Agreement (being the easement and right-of-way documents required to dedicate the Water-Line Easement, the Right-of-Way, the Drainage Easement and the temporary construction easements under Section 1.4 hereof) shall be filed of record in Denton County, Texas, but no such easement and right-of-way documents shall be recorded until after the Town has awarded contracts for the construction of the applicable portions of the Project.

3.13 Exhibits. The following exhibits are attached to and made a part of this Agreement for all purposes:

- | | |
|-----------|---|
| Exhibit 1 | Metes and Bounds Description of the Whyburn Farm in the Town of Flower Mound; |
| Exhibit 2 | Map depicting the 20-foot-wide water-line easement along the northern right-of-way of FM 2499. |
| Exhibit 3 | Map depicting the 30-foot-wide right-of-way from the center line of the existing Waketon Road along the north side of Waketon Road. |
| Exhibit 4 | Map depicting the 200-foot-wide permanent drainage easement along the centerline of the creek from FM 2499 east to Waketon Road. |
| Exhibit 5 | Maps depicting temporary construction easements. |
| Exhibit 6 | Map depicting location of permitted road crossing over drainage easement. |



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date set forth in the introductory paragraph of this Agreement.

ATTEST:

TOWN OF FLOWER MOUND, TEXAS

Theresa Scott, Town Secretary

Steve Dixon, Mayor

APPROVED AS TO FORM:

_____, Town Attorney

STATE OF TEXAS)

)

COUNTY OF DENTON)

This instrument was acknowledged before me on the ____ day of _____, 2019, by Steve Dixon, Mayor, Town of Flower Mound, Texas, a home-rule, Texas municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

My Commission Expires:



Lucille E. Whyburn 1994 Revocable Trust

By: Kenneth G. Whyburn, Trustee

By: 
Kenneth G. Whyburn
Trustee

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

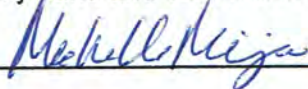
State of California
County of San Mateo

On Oct. 2, 2019 before me, Michelle Mejia, Notary Public
(insert Name and title of the officer)

personally appeared Kenneth G. Whyburn, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)





GSE Trust fbo Gordon P. Whyburn

By: Kenneth G. Whyburn, Trustee

By: 
Kenneth G. Whyburn
Trustee

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Mateo

On Oct. 2, 2019 before me, Michelle Mejia, Notary Public
(insert Name and title of the officer)

personally appeared Kenneth G. Whyburn, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

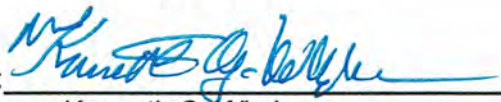
(Seal)





GSE Trust fbo Ian N. Whyburn

By: Kenneth G. Whyburn, Trustee

By: 
Kenneth G. Whyburn
Trustee

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Mateo

On Oct. 2, 2019 before me, Michelle Mejia, Notary Public
(insert Name and title of the officer)

personally appeared Kenneth G. Whyburn, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

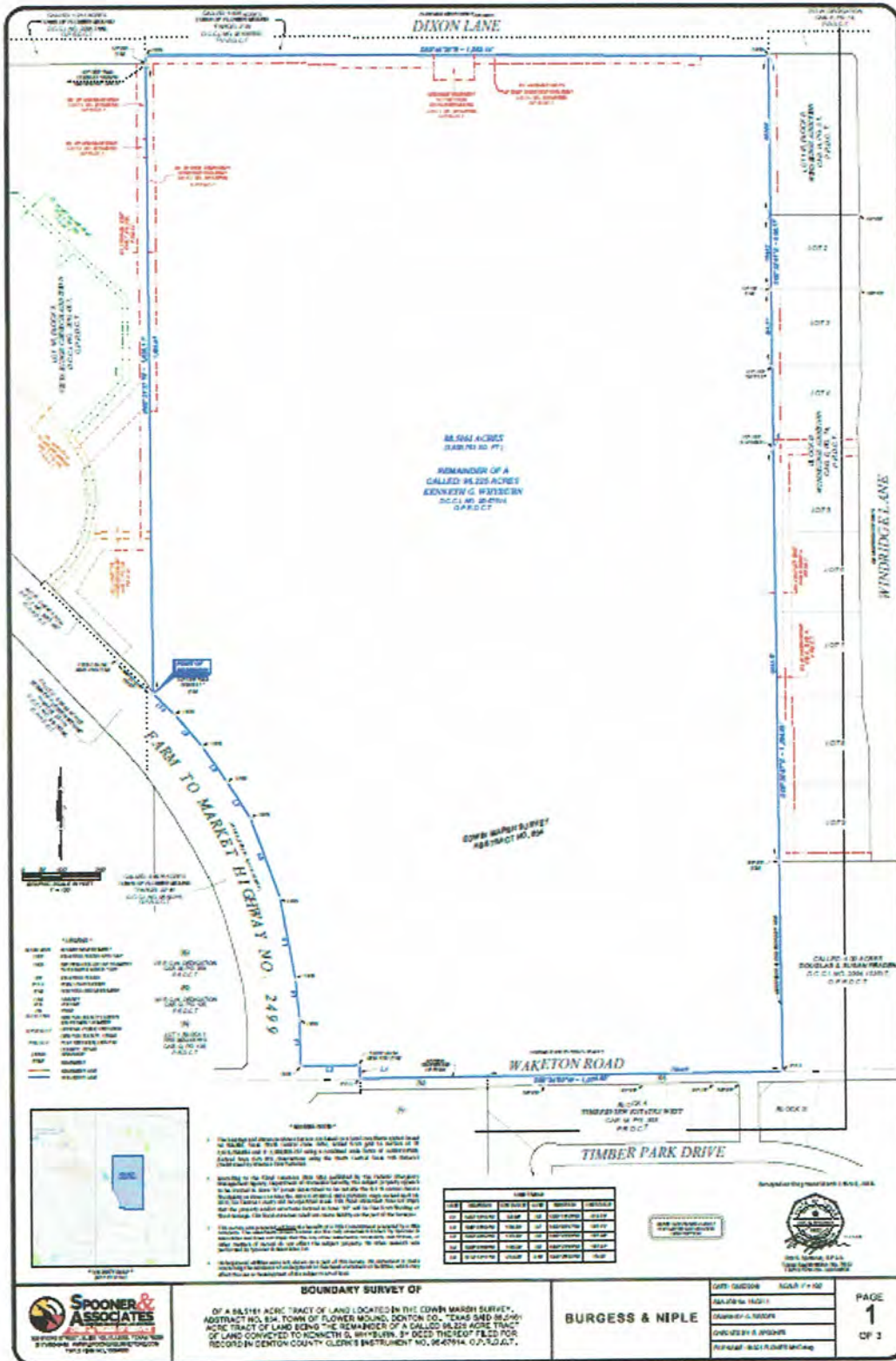
(Seal)





EXHIBIT 1

Whyburn Farm



my g. b.

EXHIBIT 2**Water-Line Easement**

LEGAL DESCRIPTION
20' Water Line Easement
0.491 Acres

BEING all that certain lot, tract, or parcel of land, situated in the Edwin Marsh Survey, Abstract Number 834, Town of Flower Mound, Denton County, Texas, and being part of certain called 153.5 acre tract of land, described in deed to Kenneth G. Whyburn, as trustee, recorded in Document Number 1995-67614, Real Property Records, Denton County, Texas,

BEGINNING at a 1/2" capped rebar set stamped "MCADAMS" at the intersection of the north line of Waketon Road, and the east line of F.M. 2499, as dedicated by deed to the Town of Flower Mound, recorded in Document Number 1996-53318, Real Property Records, Denton County, Texas;

THENCE with the east line of said F.M. 2499, the following:

N 00°39'20" W, a distance of 119.31 feet;

N 05°21'45" W, a distance of 106.07 feet to a Texas Department of Transportation monument found;

N 10°10'50" W, a distance of 213.05 feet to a Texas Department of Transportation monument found;

N 20°11'05" W, a distance of 214.79 feet;

N 33°01'05" W, a distance of 107.72 feet;

N 35°21'35" W, a distance of 107.38 feet;

N 40°21'35" W, a distance of 107.38 feet;

N 46°25'20" W, a distance of 76.63 feet to a 1/2" capped rebar found stamped "G&A Consultants" on the west line of said Whyburn tract, and being the southeast corner of Lot 1R, Block A, Vista Ridge Church Addition, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2013-7, Plat Records, Denton County, Texas;

THENCE N 00°22'25" W, with the west line of said Whyburn tract, and the east line of said Lot 1R, a distance of 27.77 feet;

THENCE S 46°25'20" E, a distance of 96.96 feet;

THENCE S 40°21'35" E, a distance of 109.31 feet;

THENCE S 35°21'35" E, a distance of 108.66 feet;

THENCE S 33°01'05" E, a distance of 110.38 feet;

THENCE S 20°11'05" E, a distance of 218.79 feet;

THENCE S 10°10'50" E, a distance of 215.64 feet;

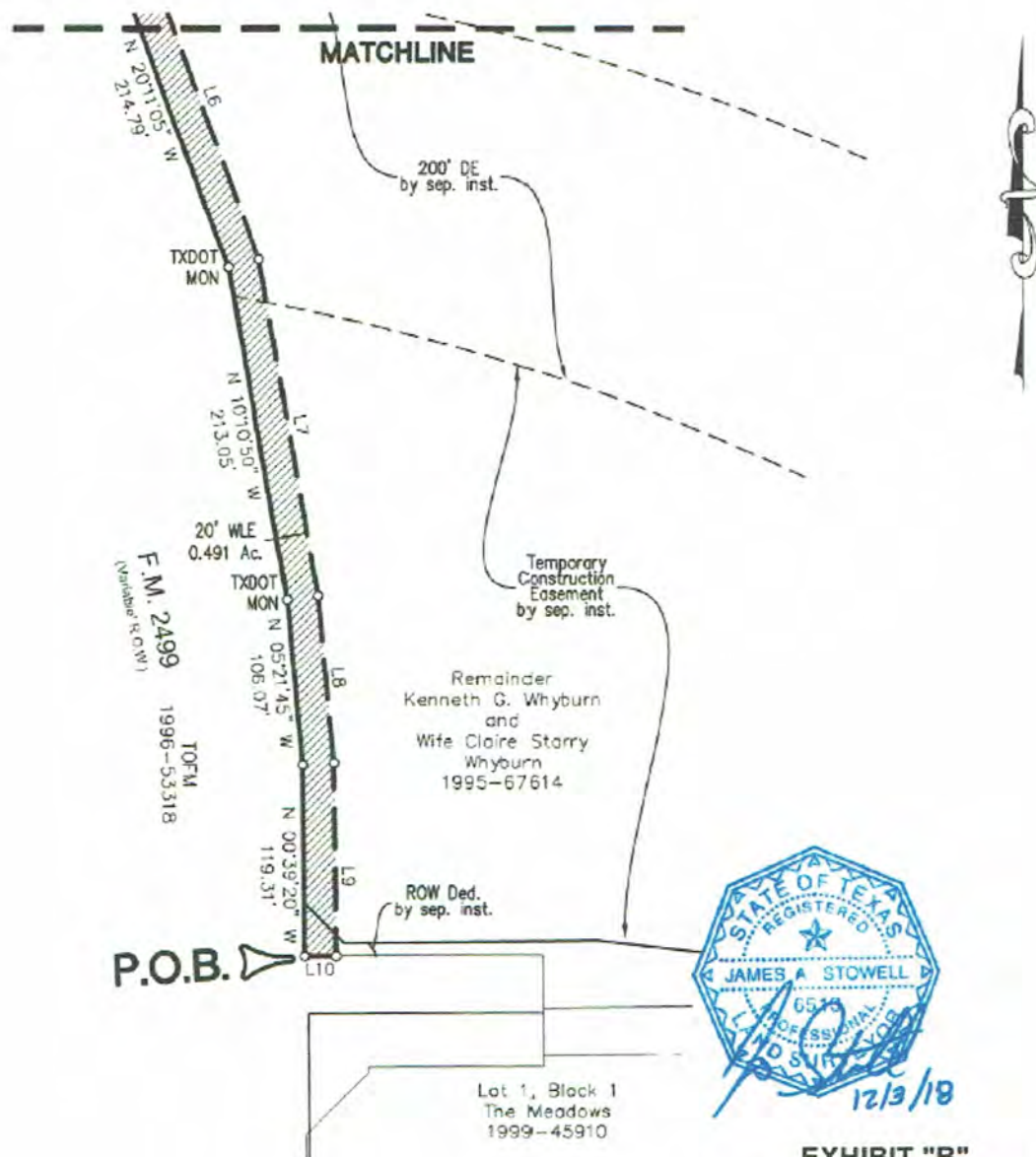
THENCE S 05°21'45" E, a distance of 107.74 feet;

THENCE S 00°39'20" E, a distance of 120.31 feet to a north line of said Waketon Road;

THENCE S 89°51'05" W, with the north line of said Waketon Road, a distance of 20.00 feet to the POINT OF BEGINNING and containing approximately 0.491 acres of land.



Handwritten signature: M. G. W.



NOTES:

1. Bearings based on Texas Coordinate System, North Central Zone (4202), NAD '83
2. Surveyor has made no investigation or independent search for easements of record, restrictive covenants, ownership title evidence, or any other facts that and accurate abstract of title may disclose
3. No flood zone area analysis has been performed by G&A | MCADAMS on the subject property.

		The John R. McAdams Company, Inc. (DBA: G&A McAdams) 111 Hildebrand Drive Lewisville, Texas 75057 972.436.9712	
		201 Country View Drive Rockwall, Texas 75087 940.240.1012 TSP# 19702 TSP#LS 10104400 www.gacm.com www.mcadams.com	
DRAWN BY: SP DATE: 11/5/2018 SCALE: 1" = 100' JOB. NO. 18308			



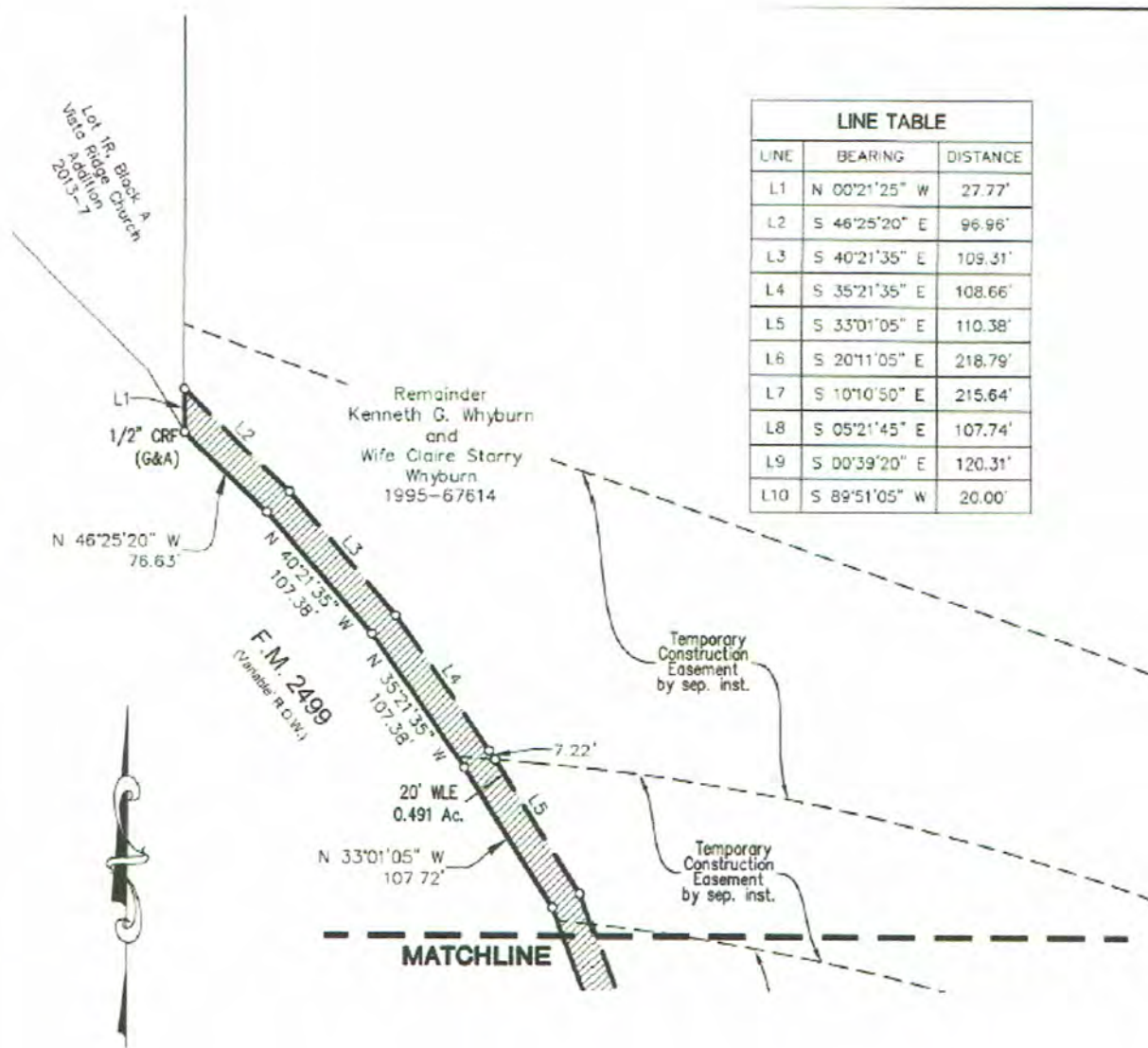


EXHIBIT "B"
20' WATER LINE EASEMENT
0.491 Acres WLE

in the
EDWIN MARSH SURVEY, ABSTRACT NO. 834
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

Page 2 of 2



The John R. McAdams
 Company, Inc.
 (DBA: G&A | McAdams)
 111 Hillside Drive
 Lewisville, Texas 75057
 972.436.9712
 201 Country View Drive
 Rowlett, Texas 75087
 940.240.1012
 TSP# 15702 TSP#S 10184440
 www.gandm.com
 www.mcadamsco.com

DRAWN BY: SP DATE: 11/5/2018 SCALE: 1" = 100' JOB NO. 18308

my g. w.

EXHIBIT 3**Right-of-Way****LEGAL DESCRIPTION****Right of Way Dedication****0.799 Acres**

BEING all that certain lot, tract, or parcel of land, situated in the Edwin Marsh Survey, Abstract Number 834, Town of Flower Mound, Denton County, Texas, and being part of certain called 153.5 acre tract of land, described in deed to Kenneth G. Whyburn, as trustee, recorded in Document Number 1995-67614, Real Property Records, Denton County, Texas,

BEGINNING at a 1/2" capped rebar set stamped "MCADAMS" at the intersection of the north line of Waketon Road, and the east line of F.M. 2499, as dedicated by deed to the Town of Flower Mound, recorded in Document Number 1996-53318, Real Property Records, Denton County, Texas;

THENCE N 00°39'20" W, with the east line of said F.M. 2499, a distance of 32.75 feet to a 1/2" capped rebar set stamped "MCADAMS", from which a Texas Department of Transportation monument found bears N 00°39'20" W, 86.56 feet, and N 05°21'45" W, 106.07 feet;

THENCE with the new north right-of-way line of said Waketon Road, the following courses and distances:

S 45°36'10" E, a distance of 35.39 feet to a 1/2" capped rebar set stamped "MCADAMS";

N 89°27'00" E, a distance of 160.00 feet to a 1/2" capped rebar set stamped "MCADAMS";

S 83°39'30" E, a distance of 100.00 feet to a 1/2" capped rebar set stamped "MCADAMS";

N 89°27'00" E, a distance of 940.48 feet to a 1/2" capped rebar set stamped "MCADAMS" on the east line of said Whyburn tract;

THENCE S 00°29'35" E, with the east line of said Whyburn tract, a distance of 30.00 feet to a "+" set in concrete near the center of said Waketon Road and being the southeast corner of said Whyburn tract;

THENCE S 89°27'00" E, with the south line of said Whyburn tract, and with the center of said Waketon Road, a distance of 1074.64 feet, to a "+" set at the southeast corner of said Town of Flower Mound Tract;

THENCE N 00°10'15" W, with an east line of said Town of Flower Mound tract, a distance of 33.20 feet, to the easterly northeast corner thereof, and being on the existing north right-of-way of said Waketon Road;

THENCE S 89°51'05" W, with a north line of said Town of Flower Mound Tract, and the existing north right-of-way line of said Wake Road, a distance of 150.30 feet to the POINT OF BEGINNING and containing approximately 0.799 acres of land.

Bearings based on Texas Coordinate System, North Central Zone (4202), NAD '83.





12/13/18

Page 1 of 2

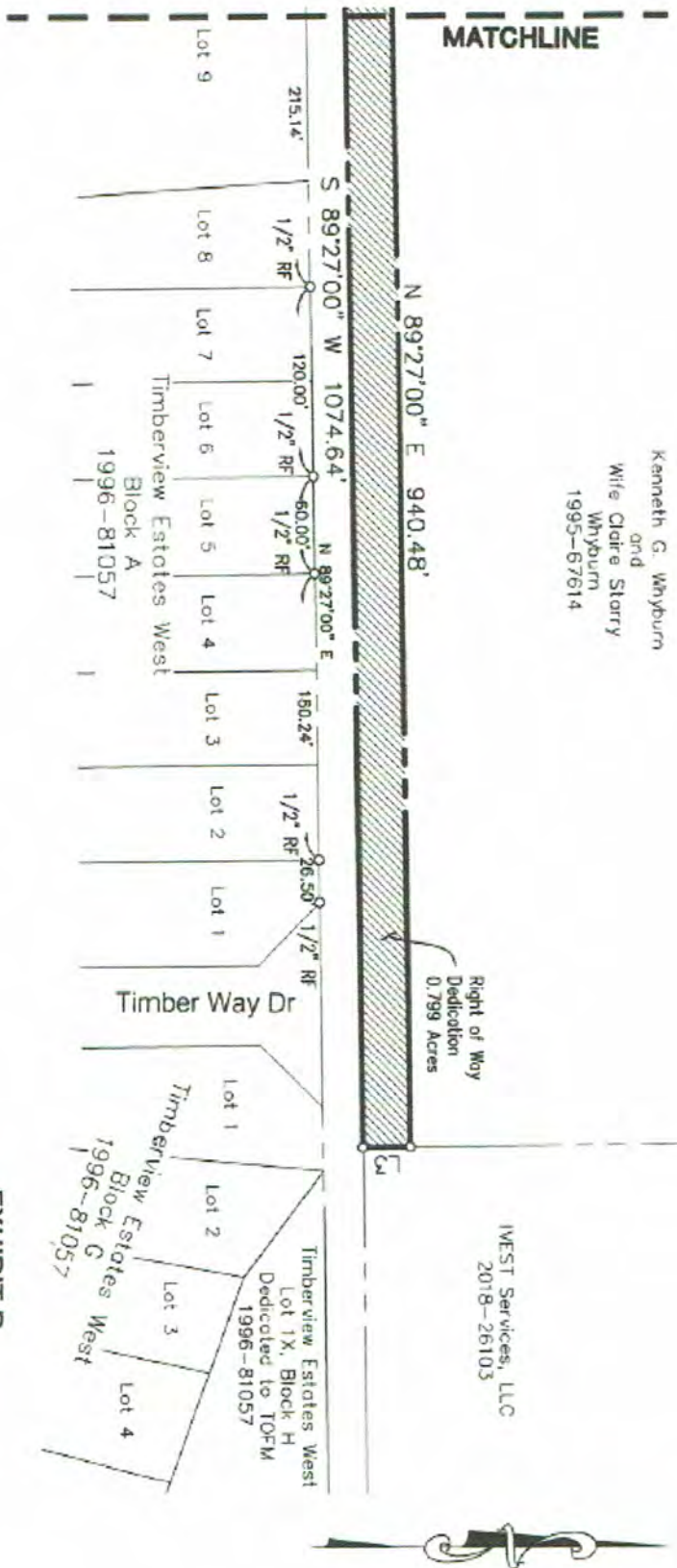


**The John R. McAdams
Company, Inc.**
(DBA, GMA (McAdams))
111 Hillside Drive
Lombard, Texas 75007
972.435.9732

201 Country View Drive
Rosenberg, Texas 75069
940.240.1032

TELE: 90762.7801 FAX: 90194440
WWW.GEORCI.COM

018308



Kenneth G. Whyburn
and
Wife Claire Storry
Whyburn
1995-67614

WEST Services, LLC
2018-26103

EXHIBIT B ROW DEDICATION 0.799 Acres

EDWIN MARSH SURVEY, ABSTRACT NO. 834
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

Page 2 of 2



The John R. McAdams
Company, Inc.
(O&A, G&A, McAdams)
111 Hillside Drive
Lewisville, Texas 75057
972.435.0712
201 County View Drive
Rowlett, Texas 75082
940.240.1012
TRIP: 19752 TRIP15: 10154440
www.mcadams.com

DRAWN BY: BC DATE: 10/22/2018 SCALE: 1" = 100' JOB: NO. 18308

Handwritten signature

EXHIBIT 4**Drainage Easement****LEGAL DESCRIPTION****200' Drainage Easement****6.384 Acres**

BEING all that certain lot, tract, or parcel of land, situated in the Edwin Marsh Survey, Abstract Number 834, Town of Flower Mound, Denton County, Texas, and being part of certain called 153.5 acre tract of land, described in deed to Kenneth G. Whyburn, as trustee, recorded in Document Number 1995-67614, Real Property Records, Denton County, Texas,

COMMENCING at a 1/2" capped rebar set stamped "MCADAMS" at the intersection of the north line of Waketon Road, and the east line of F.M. 2499, as dedicated by deed to the Town of Flower Mound, recorded in Document Number 1996-53318, Real Property Records, Denton County, Texas;

THENCE N 00°39'20" W, with the east line of said F.M. 2499, a distance of 119.31 feet;

THENCE N 05°21'45" W, with the east line of said F.M. 2499, a distance of 106.07 feet to a Texas Department of Transportation monument found;

THENCE N 10°10'50" W, with the east line of said F.M. 2499, a distance of 194.43 feet to the **POINT OF BEGINNING**;

THENCE N 10°10'50" W, with the east line of said F.M. 2499, a distance of 18.62 feet to a Texas Department of Transportation monument found;

THENCE N 20°11'05" W, with the east line of said F.M. 2499, a distance of 205.94 feet;

THENCE Southeasterly with the arc of a curve to the right, having a radius of 1600.00 feet, a central angle of 25°33'39", an arc length of 713.79 feet, and whose chord bears S 71°32'25" E, 707.89 feet;

THENCE S 58°45'36" E, a distance of 99.99 feet;

THENCE Southeasterly with the arc of a curve to the left, having a radius of 1000.00 feet, a central angle of 31°47'25", an arc length of 554.84 feet, and whose chord bears S 74°39'18" E, 547.75 feet;

THENCE N 89°27'00" E, a distance of 57.83 feet to the east line of said Whyburn tract;

THENCE S 00°29'35" E, with the east line of said Whyburn tract, a distance of 200.00 feet, to the proposed north right-of-way line of said Waketon Road, from which the southeast corner of said Whyburn tract, bears S 00°29'45" E, 30.00 feet;

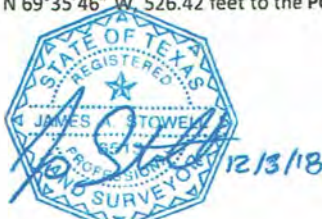
THENCE S 89°27'00" W, with the proposed north right-of-way line of said Waketon Road, a distance of 200.00 feet;

THENCE N 00°29'35" W, a distance of 8.47 feet;

THENCE Northwesterly with the arc of a curve to the right, having a radius of 1200.00 feet, a central angle of 24°58'37", an arc length of 523.11 feet, and whose chord bears N 71°14'54" W, a distance of 518.98 feet;

THENCE N 58°45'36" W, a distance of 99.99 feet;

THENCE Northwesterly with the arc of a curve to the left, having a radius of 1200.00 feet, a central angle of 21°40'22", an arc length of 529.57 feet, and whose chord bears N 69°35'46" W, 526.42 feet to the **POINT OF BEGINNING** and containing approximately 6.386 acres of land.



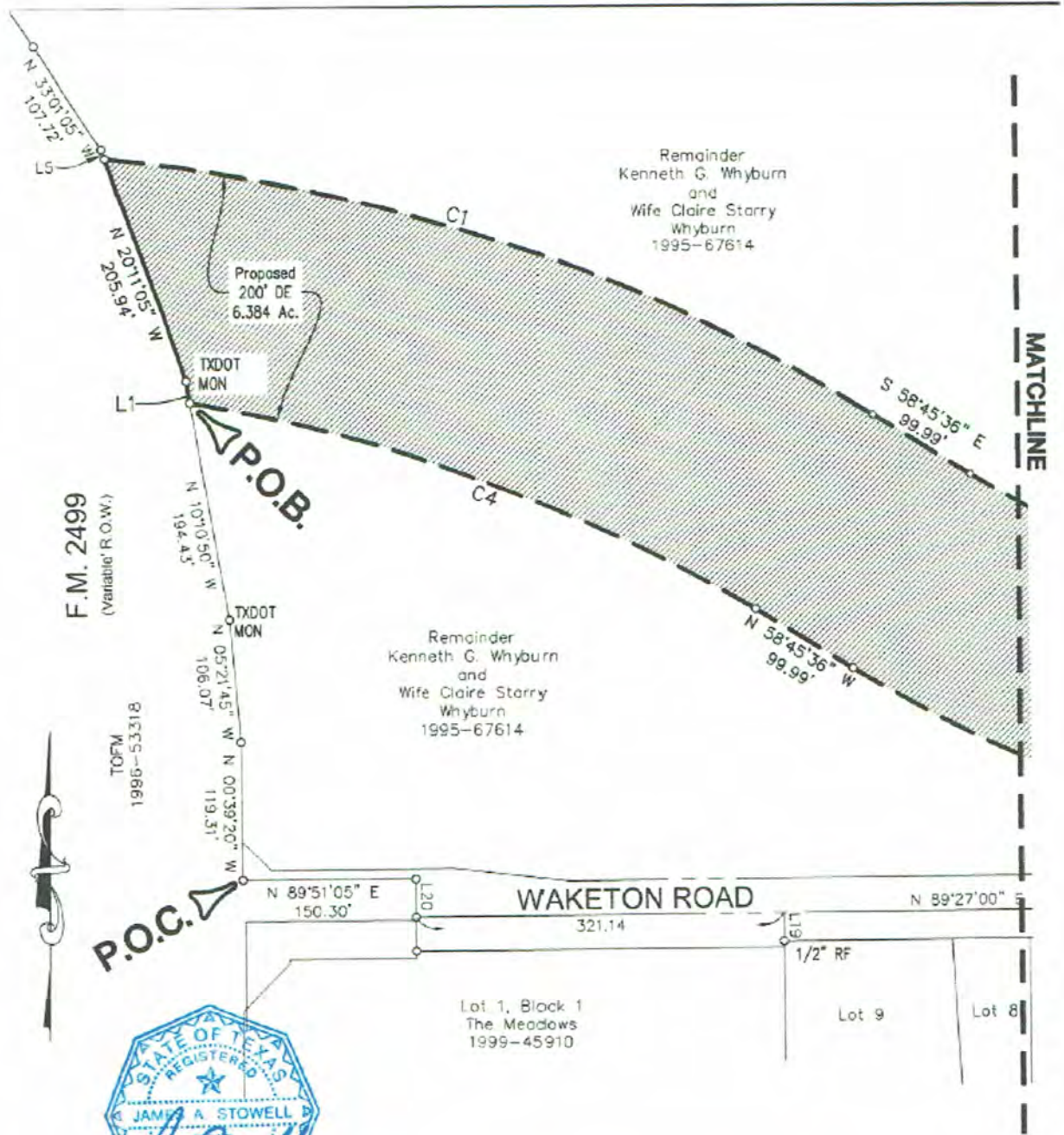


EXHIBIT B
200' DRAINAGE EASEMENT
6.384 Acres
 in the
EDWIN MARSH SURVEY, ABSTRACT NO. 834
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

Page 1 of 2

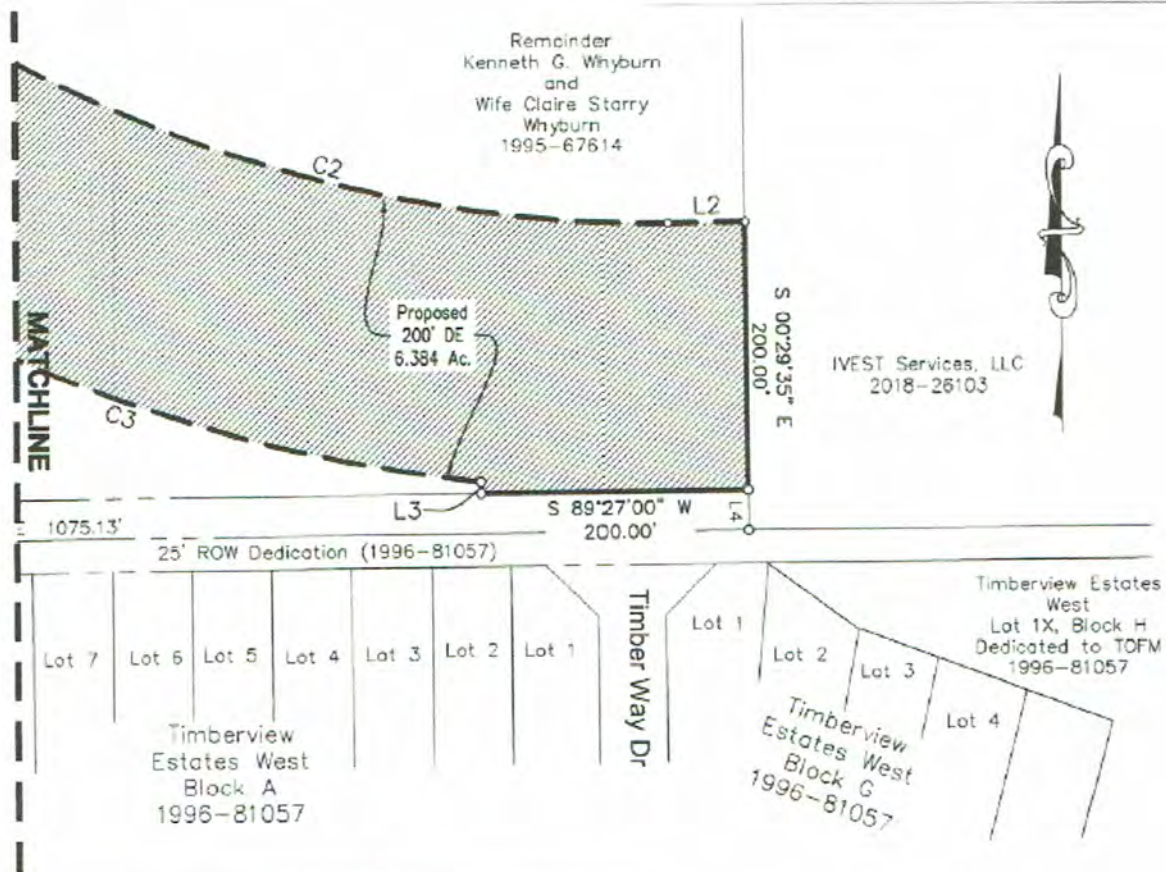


McADAMS

The John R. McAdams
 Company, Inc.
 (DBA, G&A) McAdams
 111 Hillside Drive
 Lewisville, Texas 75057
 872.436.5712
 201 Country View Drive
 Rowlett, Texas 75082
 940.240.1012
TBPE: 19752 TEPLS: 10104480
 WWW.GACOMP.COM
 MAILING: JRM@GACOMP.COM

DRAWN BY: BC DATE: 10/22/2018 SCALE: 1" = 120' JOB. NO. 18308

Handwritten signature in blue ink.



CURVE TABLE

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	LONG CHORD
C1	1600.00'	25°33'39"	713.79'	S 71°32'25" E, 707.89'
C2	1000.00'	31°47'25"	554.84'	S 74°39'18" E, 547.75'
C3	1200.00'	24°58'37"	523.11'	N 71°14'54" W, 518.98'
C4	1400.00'	21°40'22"	529.57'	N 69°35'46" W, 526.42'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 10°10'50" W	18.62'
L2	N 89°27'00" E	57.83'
L3	N 00°29'45" W	8.47'
L4	S 00°29'35" E	30.00'
L5	N 20°11'05" W	8.85'

NOTES:

- Bearings based on Texas Coordinate System, North Central Zone (4202), NAD '83.
- Surveyor has made no investigation or independent search for easements of record, restrictive covenants, ownership title evidence, or any other facts that and accurate abstract of title may disclose.
- No flood zone area analysis has been performed by G&A I. MCADAMS on the subject property.

EXHIBIT B

200' DRAINAGE EASEMENT

6.384 Acres

in the
EDWIN MARSH SURVEY, ABSTRACT NO. 834
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

Page 2 of 2



The John R. McAdams
Company, Inc.
(G&A, G&A | McAdams)
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201 Country View Drive
Rowlett, Texas 75082
940.240.1012
TBPE: 19752 TBPLS: 10194440
www.gandamc.com
www.mcadamsco.com

DRAWN BY: BC DATE: 10/22/2018 SCALE: 1" = 120' JOB. NO. 18308

EXHIBIT 5**Temporary Construction Easements****EXHIBIT C****LEGAL DESCRIPTION****Temporary Construction Easement****Tract I****4.775 Acres**

BEING all that certain lot, tract, or parcel of land, situated in the Edwin Marsh Survey, Abstract Number 834, Town of Flower Mound, Denton County, Texas, and being part of certain called 153.5 acre tract of land, described in deed to Kenneth G. Whyburn, as trustee, recorded in Document Number 1995-67614, Real Property Records, Denton County, Texas,

COMMENCING at a 1/2" capped rebar set stamped "MCADAMS" at the intersection of the north line of Waketon Road, and the east line of F.M. 2499, as dedicated by deed to the Town of Flower Mound, recorded in Document Number 1996-53318, Real Property Records, Denton County, Texas;

THENCE N 00°39'20" W, with the east line of said F.M. 2499, a distance of 32.75 feet to the **POINT OF BEGINNING**, and being on the proposed north right-of-way line of said Waketon Road;

THENCE with the east line of said F.M. 2499, the following:

N 00°39'20" W, a distance of 86.56 feet;

N 05°21'45" W, a distance of 106.07 feet to a Texas Department of Transportation monument found;

N 10°10'50" W, a distance of 194.43 feet to the south line of a proposed 200' Permanent Drainage Easement, from which a Texas Department of Transportation monument found bears N 1°10'50" W, 18.62 feet;

THENCE with the south line of said 200' Permanent Drainage Easement, the following:

Southeasterly with the arc of a curve to the right, having a radius of 1400.00 feet, a central angle of 21°40'22", an arc length of 529.67 feet, and whose chord bears S 69°35'46" E, 526.42 feet;

S 58°45'36" E, 99.99 feet;

Southeasterly with the arc of a curve to the left, having a radius of 1200.00 feet, a central angle of 24°58'37", an arc length of 523.11 feet, and whose chord bears S 71°14'54" E, 518.98 feet;

S 00°29'35" E, a distance to 8.47 feet to the proposed north right-of-way line of said Waketon Road;

THENCE with the proposed north right-of-way line of said Waketon Road, the following:

S 89°27'00" W, a distance of 740.48 feet;

N 83°39'30" W, a distance of 100.00 feet;

S 89°27'00" W, a distance of 160.00 feet;

N 45°36'10" W, a distance of 35.39 feet to the **POINT OF BEGINNING** and containing approximately 4.775 acres of land.



A handwritten signature in blue ink, likely of the surveyor James A. Stowell, located at the bottom right of the page.





EXHIBIT E
LEGAL DESCRIPTION
Temporary Construction Easement
Tract II
1.792Acres

BEING all that certain lot, tract, or parcel of land, situated in the Edwin Marsh Survey, Abstract Number 834, Town of Flower Mound, Denton County, Texas, and being part of certain called 153.5 acre tract of land, described in deed to Kenneth G. Whyburn, as trustee, recorded in Document Number 1995-67614, Real Property Records, Denton County, Texas, and being more accurately described as follows:

COMMENCING at a 1/2" capped rebar set stamped "MCADAMS" at the intersection of the north line of Waketon Road, and the east line of F.M. 2499, as dedicated by deed to the Town of Flower Mound, recorded in Document Number 1996-53318, Real Property Records, Denton County, Texas;

THENCE N 00°39'20" W, with the east line of said F.M. 2499, a distance of 32.75 feet, being on the proposed north right-of-way line of said Waketon Road;

THENCE with the east line of said F.M. 2499, the following:

N 00°39'20" W, a distance of 86.56 feet;

N 05°21'45" W, a distance of 106.07 feet to a Texas Department of Transportation monument found;

N 10°10'50" W, a distance of 213.05 feet to a Texas Department of Transportation monument found;

N 20°11'05" W, a distance of 205.94 feet to the **POINT OF BEGINNING**;

THENCE continuing with the east line of said F.M. 2499, the following:

N 20°11'05" W, a distance of 8.85 feet;

N 33°01'05" W, a distance of 53.32 feet;

THENCE Southeasterly with the arc of a curve to the right, having a radius of 1650.00 feet, a central angle of 00°52'46", an arc length of 25.33 feet, and whose chord bears S 85°10'22" E, a distance of 25.33 feet;

THENCE N 33°01'05 W, a distance of 70.34 feet;

THENCE N 35°21'35 W, a distance of 108.66 feet;

THENCE N 40°21'35 W, a distance of 109.31 feet;

THENCE N 46°25'20 W, a distance of 96.96 feet, to a point from which a 1/2" capped rebar, stamped "G&A", found at the west line of said Whyburn tract, same being the southeast corner of Lot 1R, Block A, Vista Ridge Church Addition, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2013-7, Plat Records, Denton County, Texas, bears S 00°21'25 E, a distance of 27.77 feet;

THENCE N 00°21'25" W, with the east line of said Lot 1R, and the west line of said Whyburn tract, a distance of 20.83 feet;

THENCE S 46°25'20 E, a distance of 112.21 feet;

THENCE S 40°21'35 E, a distance of 110.76 feet;

THENCE S 35°21'35 E, a distance of 109.62 feet;

THENCE S 33°01'05" E, a distance of 82.63 feet;

THENCE Southeasterly with the arc of a curve to the right, having a radius of 1650.00 feet, a central angle of 25°18'23", an arc length of 728.77 feet, and whose chord bears S 71°24'47" E, a distance of 722.86 feet;

THENCE S 58°45'36" E, a distance of 99.99 feet;

THENCE Southeasterly with the arc of a curve to the left, having a radius of 950.00 feet, a central angle of 31°47'25", an arc length of 527.10 feet, and whose chord bears S 74°39'18" E, a distance of 520.37 feet;

THENCE N 89°27'00" E, a distance of 57.88 feet to the east line of said Whyburn tract;

THENCE S 00°29'35" E, with the east line of said Whyburn tract, a distance of 50.00 feet to the north line of a proposed 200' Permanent Drainage Easement, from which the southeast corner of said Whyburn tract, bears S 00°29'35" E, 230.00 feet;

THENCE S 89°27'00" W, a distance of 57.83 feet;

THENCE Northwesterly with the arc of a curve to the right, having a radius of 1000.00 feet, a central angle of 31°47'25", an arc length of 554.84 feet, and whose chord bears N 74°39'18" W, a distance of 547.75 feet;

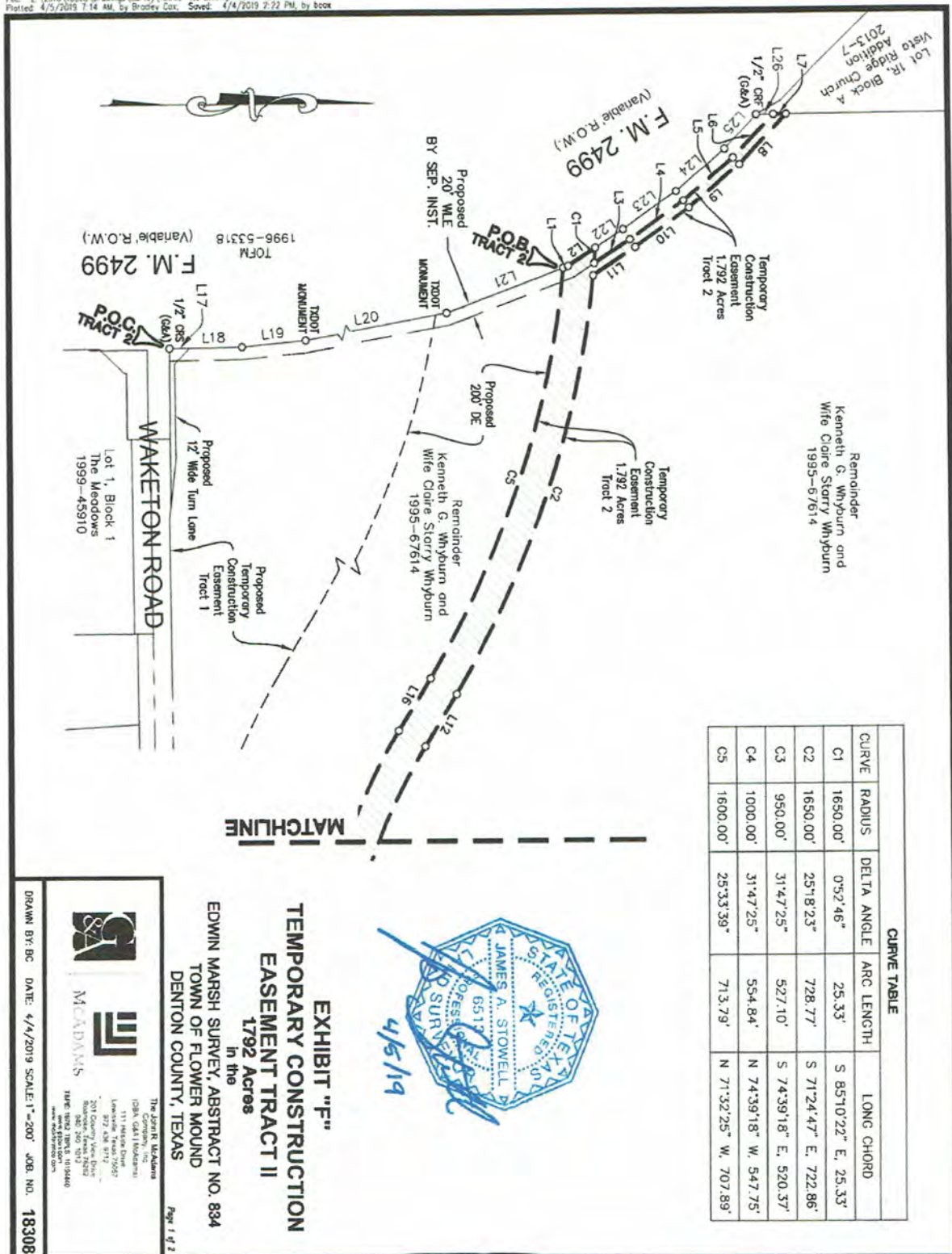
THENCE N 58°45'36" W, a distance of 99.99 feet;

THENCE Northwesterly with the arc of a curve to the left, having a radius of 1600.00 feet, a central angle of 25°33'39", an arc length of 713.79 feet, and whose chord bears N 71°32'25" W, a distance of 707.89 feet the **POINT OF BEGINNING** and containing approximately 1.792 acres of land.



Handwritten signature

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 Plotted: 4/5/2019 1:14 AM, by Bradley Cox. Saved: 4/4/2019 2:22 PM, by book



File: Z:\2018\18308\Drawings\Survey\18308 NorthTemp Const. Emt.
 Plotted: 4/5/2019 7:14 AM, by: Brodie Cox, Saved: 4/4/2019 7:22 PM, by: bco

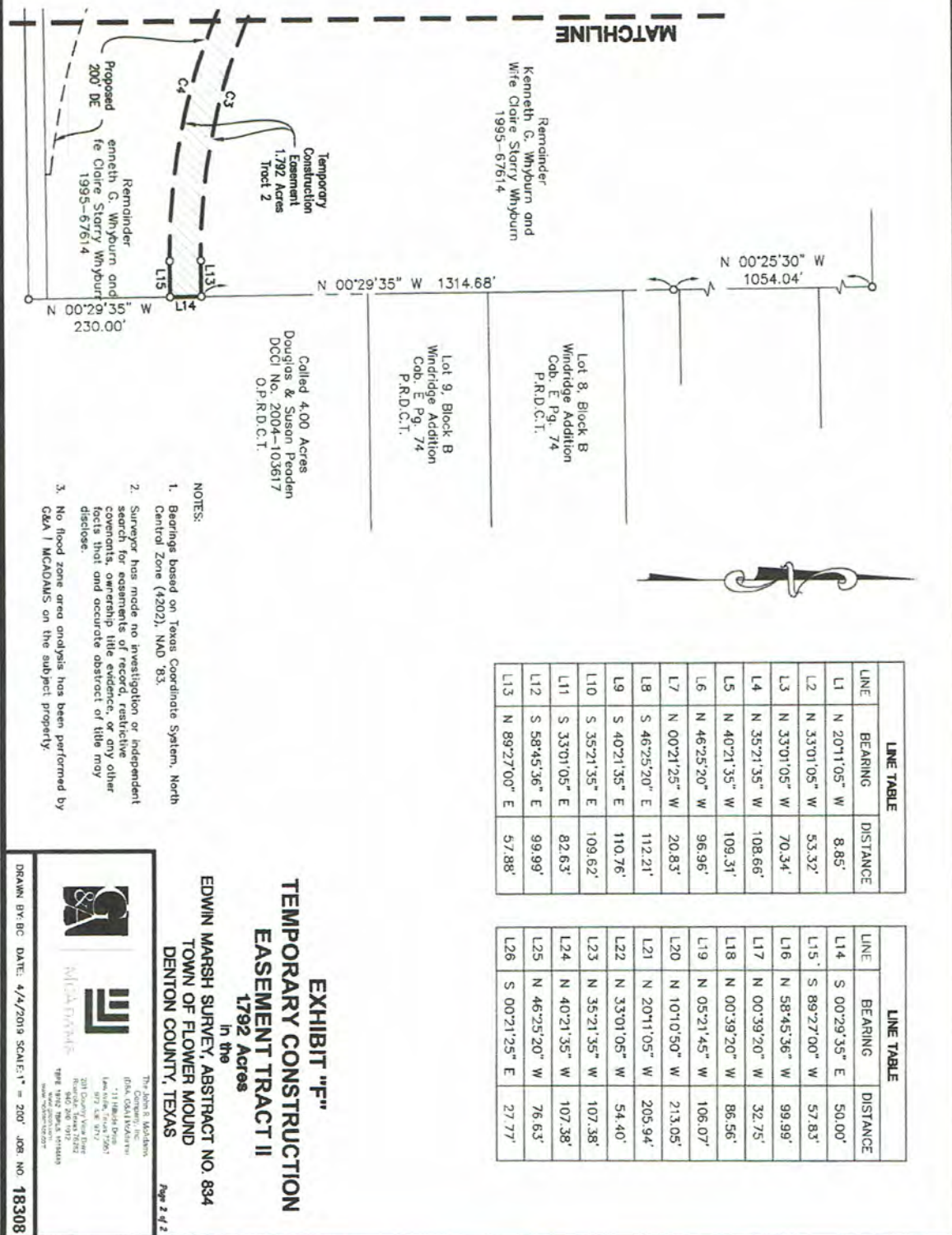


EXHIBIT 6

Location of Permitted Road Crossing over Drainage Easement

[TO BE REVIEWED, SUBMITTED AND APPROVED IN CONNECTION WITH PLANNING APPLICATION]





TOWN COUNCIL AGENDA ITEM NO. 22

CONSENT ITEM

DATE: October 7, 2019

FROM: Andrea Roy, Economic Development Director

ITEM: **Consider approval of a Consulting Agreement with Webb Management Services to conduct a feasibility study for a Cultural Arts Center**

BACKGROUND INFORMATION: On October 1, 2018, Town Council adopted a Cultural Arts Master Plan, containing various goals and related strategies and actions that will assist the Town in building a vibrant and sustainable arts community. To date, the Town has already accomplished several of the action items and continues to work through the plan. The Plan's Goal #4, Enhance Economic Development through Cultural Arts, recommends the Town explore development of a cultural arts center or venue that will serve as a central hub for arts, cultural and creative programming. The subject request is based on the recommendation from the Master Plan, which specifically recommended that a multi-faceted study be commissioned which assesses the potential usage, configuration scenarios, and associated costs of such a venue.

Most recently, on March 4, 2019, after continued discussion related to a potential arts center, Town Council directed staff to proceed with the issuance of a Request for Proposal (RFP) to seek responses from qualified consultants for the provision of a study/needs assessment to determine if a cultural arts center is feasible. The noted RFP was issued on July 2, 2019, to eight arts consulting firms, resulting in the Town receiving four responses to the request. After a full evaluation and ranking of the submissions, an internal review team unanimously selected Webb Management Services as the chosen consultant. Submissions were ranked on their overall completeness and quality, qualifications of personnel, approach to deliverables and quality of recommendations, relevant company experience, and an understanding of the local project and community.

Webb Management Services specializes in this type of study and has provided their services on over 425 projects, including projects in the DFW Metroplex (Plano, Frisco, Collin County, Bedford, and Dallas, to name a few). Webb's response provided countless examples of work of an almost identical nature to the Town's needs, citing examples of feasibility studies conducted for The Woodlands, TX, Carlsbad, CA, Pompano Beach, FL, and Howard County, MD. The principal's on the project, Duncan Webb and Carrie Blake, have over 40 years of combined cultural facility planning experience.

The subject needs assessment to be conducted by Webb Management Services will be a culmination of the following activities:

- Review of existing studies and various plans related to Flower Mound and the Metroplex.
- Extensive one-on-one and group interviews with various arts and cultural leaders, and many others.
- Identification of broader issues that could impact a center, including trends in arts audiences and consumer behavior, etc.
- Review of recent market studies and use of relevant local and regional input to:
 - o Define the market area
 - o Conduct demographic analysis of our resident population (typical arts participant)
 - o Conduct demographic analysis of the center's potential non-resident population
 - o Define and analyze any target markets for the center, such as school children, older adults with arts interests, etc.
- Research of the use and evaluation of conditions of existing and planned facilities in our region, visiting facilities, interviewing operators, understanding program content, and identifying gaps.
- Meetings and surveys with representatives of area arts organizations, event planners, etc., to assess demand for a center, gaining an understanding of physical space needs, potential frequency of use and capacity.
- Identification and evaluation of potential partners from the public, private, and educational sectors.

- Research on touring programs and presenting facilities in the region, connecting with regional arts organization to see who may be interested in run-out performances in the Town.
- Meetings with community leadership to review planning goals and priorities to determine how investment in a new venue can play a role in broader community goals.
- Provision of conclusions and recommendations on the viability of a new venue and then, if appropriate, description of the capacity, form, flexibility and combination of spaces that should be included in the space. Examples of comparable facilities will be provided, along with recommendations regarding size, components, activity, development scenarios and success factors.

After review of a draft plan by the project team and a community workshop held (to include the Cultural Arts Commission), a final report will be created with the inclusion of additional feedback from these groups. It is estimated the final report will be presented to Town Council late February or early March 2020.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Phase I - Needs Assessment/Feasibility \$28,500

Proposed Expenditure/(Revenue):	Account Number:
\$28,500	100-630-34200-5110

If the consultant's findings associated with the feasibility study indicate a cultural arts center is needed, supported, and financially viable, staff will bring forward for Council's consideration, the second phase of the consulting agreement to provide for a Management/Business Plan for \$26,375.

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

LEGAL REVIEW: Tim Sralla of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the Contract and Scope of Services as to form and legality.

ATTACHMENTS:

1. Contract/Letter Agreement

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



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October 27, 2019

Andrea Roy
Economic Development Director
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Dear Andrea,

This letter will serve as the Agreement between the Town of Flower Mound (the “Client”) and Webb Management Services (“Webb Mgmt”) to develop a feasibility study (referred to as a “needs assessment” in the attached Appendix A) for a new cultural arts center in Flower Mound, TX. This Agreement does not include the second phase of the proposal, the business/management plan, as described in the attached Appendix A.

The scope of services and financial arrangements are fully described in the Webb Mgmt. proposal dated August 1, 2019, which is attached as Appendix A. The following terms and conditions are provided in addition to those expressed in the proposal, offered to clarify and support how we will work together.

1. Webb Mgmt will issue invoices at the beginning of each month based on the work completed in the prior month and any costs associated with that work. Invoices will be issued by email in PDF format and payment is due within twenty (20) days after receipt thereof.
2. Webb Mgmt will maintain commercial and general liability and worker’s compensation insurance policies naming, where appropriate, the Client as Certificate Holder or Additional Insured. Certificates are attached as Appendix B.

Webb Mgmt
501 Fifth Ave • Ste 1202
New York • NY 10017
212 929 5040
info@webbmgmt.org
webbmgmt.org

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3. Webb Mgmt shall, at its own cost and within a reasonable period of time, correct any errors and/or omissions in services provided to Client's reasonable satisfaction.
4. Client may, by written notice to Webb Mgmt terminate Webb Mgmt without assigning any reason. Upon receipt of written notice of termination, Webb Mgmt shall cease work immediately and shall not perform any services beyond that date, except that Webb Mgmt will assemble all work completed to that date and forward such work to Client both paper and electronic versions to Client, in such customary electronic formats as specified by Client, and may bill Client a reasonable sum for assembling the work in conformity with the terms of this Agreement.
5. Webb Mgmt may terminate their services under this Agreement upon thirty (30) days written notice if the Client fails to substantially perform any terms of this agreement. Client may correct such failure(s) within thirty (30) days of written notice to terminate from Webb Mgmt, at which point the Agreement will remain in effect.
6. If Client elects to terminate Webb Mgmt. Webb Mgmt shall submit to the Client within ten (10) days a final invoice for services rendered and any non-cancelable commitments made as of the date of termination, plus costs for any services provided following the date of termination that Client approved in writing or as otherwise permitted in this Agreement. Payment is due within twenty (20) days of receipt of the final invoice.
7. If Webb Mgmt is terminated for materially failing to comply with the terms of this Agreement, the Client shall provide written notice of termination and the reason(s) therefore. Webb Mgmt shall have ten (10) business days after receipt of notice of termination to correct such failure(s). If such failure(s) is not

Webb Mgmt

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corrected to the satisfaction of Client, this Agreement shall be terminated immediately.

8. Notwithstanding the above, Webb Mgmt shall not be relieved of liability for damages sustained Client by virtue of any breach of the Agreement by Webb Mgmt. However, Client may not withhold any payments to Webb Mgmt for the purpose of set-off. Payment for all invoices is due within twenty (20) days of receipt thereof.
9. Termination shall not prejudice or affect any party's accrued rights, claims and liabilities.
10. Webb Mgmt agrees to defend, indemnify, protect and hold harmless Client and its subsidiaries, boards, employees, agents and servants from and against any and all suits, claims, demands, or damages of whatsoever kind or nature to the extent that they arise out of any sole negligent act, willful omission, or failure to exercise such care as is customary, by Webb Mgmt, its agents, servants and employees in the performance of any and all services pursuant to this Agreement.
11. Webb Mgmt assumes responsibility for liability arising out of its conduct whether by action or inaction. Client does not assume any responsibility for the acts of Webb Mgmt, its officers, employees, agents or servants. Neither party shall be liable to the other for consequential, incidental, punitive or other types of such extended damages or losses arising out of the conduct of each party's officers, employees, agents or servants.

The parties agree that scanned PDF signatures are valid and binding as if signed in the original in ink. Accordingly, please signify your acceptance of these terms by signing, scanning and emailing (or mailing) back a copy of the contract.

Webb Mgmt

501 Fifth Ave • Ste 1202
New York • NY 10017

212 929 5040
info@webbmgmt.org
webbmgmt.org



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A handwritten signature in black ink, appearing to read 'Duncan Webb'.

Duncan Webb, President
Webb Management Services

10/27/19
Date

Steve Dixon, Mayor
Town of Flower Mound

Date

Webb Mgmt
501 Fifth Ave • Ste 1202
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Proposal:

Feasibility Study for a Cultural Arts Center

Date: 09/27/2019

Prepared for: Town of Flower Mound, Texas

CONTACT

Webb Mgmt
501 Fifth Ave · Ste 1202
New York · NY 10017
212 929 5040
info@webbmgmt.org
webbmgmt.org



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COMPANY PROFILE & REFERENCES PG 1	METHODOLOGY PG 11	TIMELINE PG 19
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*building creativity***COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS****Webb Mgmt** WEBBMGMT.ORG

Webb Mgmt is a leading provider of advisory services for the development and operation of cultural facilities, organizations, agencies and districts. Our clients include public agencies, colleges and universities, nonprofit arts organizations, community and private foundations, commercial developers, economic development agencies and various friends of the arts.

Our mission is to advance the arts with sound planning and research.

1. A passion for finding achievable and sustainable strategies for every assignment, organization and community.
2. The desire to engage in meaningful and relevant research.
3. The integrity to pursue the right answer as opposed to the easy answer.
4. A commitment to collaboration and partnerships.
5. A belief in the positive and beneficial impacts of the arts and creative industries on people, communities and society.

Our work is always informed by these best practices.

Projects and planning efforts must be inclusive and open, inviting input from the right combination of voices.

In-depth research is critical to any assignment.

Physical, operating and financial perspectives are critical and inter-related.

The experience of other communities and organizations provides important insight to any question or assignment.

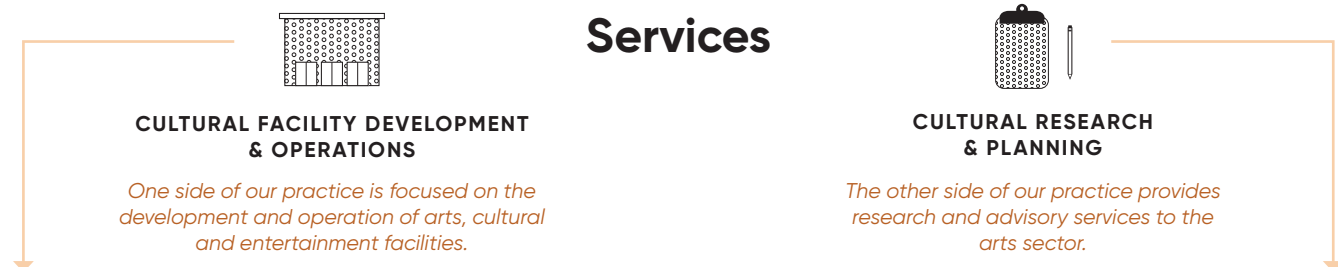
The only certain factor in any initiative is change.

Our work is not intended to sit on a bookshelf, but rather to provide direction, a detailed roadmap, and oftentimes, a fundraising tool for those charged with turning project concepts into reality.



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COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS



Needs Assessment: Studies that consider if and what facilities should be developed, improved or expanded relative to market conditions.

Business Planning: Plans for the operation of new, improved or expanded facilities that address how they should be programmed, operated and financially sustained. This work is often completed right after the needs assessment, combining to form a facility feasibility study. Business planning often includes qualitative and quantitative economic impact projections.

Project Development: Once a project has been defined and begins to advance, we inform clients on specific issues such as financing options, real estate and site issues, project team selection and management, operating partnerships, executive search support, operational costing, project management and bridge or start-up programming.

Facility Strategic Planning: Comprehensive strategic plans for existing arts, cultural and entertainment facilities that inform long-range planning with internal and external analyses, the formulation of strategy and the creation of detailed implementation plans.

Research: Primary and secondary organizational and sector-wide research, including audience satisfaction, market penetration and capacity and programming demand. Services include surveys, focus groups, geo-demographic analysis, ticket buyer analysis and other analytics, mapping and benchmarking.

Strategic Planning: Strategic planning for cultural organizations and facilities addressing capacity building, audience development, earned revenue growth, capitalization, organizational evolution, staff re-organization and board development.

Cultural Planning: Comprehensive community cultural planning addressing community cultural needs, cultural infrastructure, cross-sector collaboration, cultural asset evaluation and mapping, gap analyses and funding mechanisms.

Cultural District Planning: Studies that evaluate the need and opportunity for the development of cultural districts, addressing market conditions, the built environment, developing a district brand and identity, district management and funding strategies.

Mergers, Acquisitions & Consolidations: Studies, strategies and ongoing advice on the combination of nonprofit arts organizations.

Executive Counsel: Coaching, executive search, board management and other short-term assignments that provide specific and affordable research and advice on an immediate basis to answer a very specific question.



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**COMPANY PROFILE,
CAPABILITIES & QUALIFICATIONS**

1

Arts Venue Feasibility Study

CARLSBAD, CA

Webb Mgmt & WolfBrown (our local partner in San Diego) are working with the City of Carlsbad to conduct a needs assessment for cultural facilities to serve the community. This investigation is the result of recommendations within the City's 2018 Cultural Plan. That plan specifically recommended:

"Launch a feasibility study to explore the creation of a City of Carlsbad cultural arts facility that responds to the regional interest for a larger performance venue for professional theater and can provide classrooms, rehearsal spaces, and production studios."

In order to assess the feasibility of new arts facilities, we built on the results of the recent cultural plan to undertake research and analysis to answer these questions:

- Are there sufficient audiences to support additional cultural programming in new spaces?
- What are the needs of local artists, arts organizations, arts

educators and arts presenters that might be addressed with new facilities?

- What facilities already serve Carlsbad, and what elements of that inventory are missing or deficient?
- How might new cultural facilities advance the broader goals of the City of Carlsbad?

This work has resulted in a series of conclusions and recommendations that are currently under review by the City. With feedback, we will continue to advance these opportunities in partnership with City staff.



Image: Carlsbad Chamber of Commerce

Reference:

Richard Schultz | Cultural Arts Manager
Library and Cultural Arts | City of Carlsbad | Carlsbad, CA
760 602 2086 | richard.schultz@carlsbadca.gov


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COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS

2

Feasibility Study for Performing & Visual Art Facilities

THE WOODLANDS, TX

Webb Mgmt has worked in The Woodlands on several projects over the last 20 years. In 1998, with another firm, Duncan Webb completed a feasibility study for small-scale, flexible performance facilities at the Cynthia Woods Mitchell Pavilion. In 2006, Webb Management was retained by The Woodlands Town Center Improvement District to assess the feasibility of new cultural facilities. This work resulted in several suggested facility concepts, however, the community's focus shifted away from cultural development toward accommodating growth and forming its municipality and related governance structure independent from the County.

In 2017, with continued growth and a desire to develop amenities that serve the community and provide it with a point of regional distinction, The Woodlands Township hired Gensler and Webb Mgmt to reassess the feasibility of various cultural development opportunities.

Research, analysis, survey findings and extensive community engagement

allowed us to identify and evaluate several cultural facility development concepts.

We then worked with the client team to narrow the list and develop business plans for two selected concepts.



Rendering by Gensler

Reference:

Nick Wolda, Director of Community Relations | CVB President
The Woodlands Township, TX
281 210 3800 | nick.wolda@visitthewoodlands.com


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COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS

3

Feasibility Study for New Cultural Arts Facilities

POMPANO BEACH, FL

Webb Mgmt has completed multiple studies and plans in and for the City of Pompano Beach over the last seven years.

Initially, the firm was retained by the City's Community Redevelopment Agency as it studied the feasibility of visual arts and performing arts facilities proposed as part of downtown redevelopment initiatives. This work examined audience demand, user demand, potential partnerships, competitive gaps and the City's broader plans and goals. The work resulted in policy, programming and facility recommendations, including a management structure that defined the role of the City and its Parks, Recreation, and Cultural Arts department.

The work resulted in the development/re-development of three small-scale facilities that have contributed to the Downtown Pompano Creative Arts District. As a whole the District has enlivened the community with new programming, artists, and arts organizations and has built cultural

participation and private sector involvement.

Webb Mgmt has continued to periodically advise the City on operating and implementation issues, most recently with a plan for the future of the City's amphitheater that also included a process by which a third-party operator was identified and contracted.



Photo courtesy of Silva Architects

Reference:

Terrell Fritz, Former Project Manager
City of Pompano Beach & Pompano Beach Redevelopment Agency | Pompano Beach, FL
786 200 9200 | fritz@fritzgeitner.com


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**COMPANY PROFILE,
CAPABILITIES & QUALIFICATIONS**

4

Feasibility Study for Cultural Facilities

HOWARD COUNTY, MD

Over the last 12 years, Webb Mgmt has been retained multiple times to develop plans for various cultural facilities in Howard County, Maryland, a suburban area near Washington, D.C. and Baltimore.

In 2015, we developed a feasibility study for new performing and visual arts facilities for downtown Columbia and other County locations. Research and analysis included a market study, survey of artists, and arts groups to inform a demand assessment, facility inventories to assess available space and a review of the County's planning goals and priorities. We found demand and opportunity for an arts education center, digital arts facilities and maker spaces and arts production facilities for the area's many artists and arts groups. And we suggested that these spaces might be developed in to one venue or separate smaller venues, with great potential to create a hub of activity in downtown Columbia.

Most recently, we worked with a local

developer on a business plan for one facility that was recommended in the feasibility study--a multi-tenant arts center planned within a downtown mixed-use project.



Photo courtesy of Howard County Arts Council

Reference:

Coleen West, Executive Director | Howard County Arts Council
Howard County, MD
410 313 2787 | coleen@hocoarts.org



COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS

Selected Texas Client List

We also have extensive experience in Texas, and particularly in the Dallas Metroplex, with these clients.

City of Bedford	City of Dallas
City of Frisco	City of Lubbock**
City of Plano**	City of Round Rock
Collin County	Dallas Arts District
The Foundation for Jones Hall	Long Center for the Performing Arts
Texas Christian University	The Woodlands Township**
Lubbock Entertainment/Performing Arts Association	
MATCH [Midtown Arts Theater Center Houston]	ZACH Theatre
Perot Museum of Nature & Science	**repeat client

Selected Public Sector Client List

While we are based in New York City, our client roster includes municipalities, educational institutions, nonprofit arts organizations, community and private foundations, commercial developers, economic development agencies and various friends of the arts, all located across the United States and Canada.

We have completed hundreds of feasibility studies for arts venues for government and public agencies. In the interest of space, here is a select list of government/public sector clients. Many of these communities sit within larger metropolitan areas, much like the Town of Flower Mound. Many projects have explored partnerships with developers like the one considered by the Town. We would be pleased to provide additional detail on any client or project.

City of Plano (TX)	City of Carlsbad (CA)
The Woodlands Township (TX)	City of Round Rock (TX)
City of Frisco (TX)	City of Virginia Beach (VA)
City of Dallas (TX)	City of Fort Collins (CO)
Collin County (TX)	City of Waldport (OR)
City of West Hollywood (CA)	Arlington County (VA)
City of Pompano Beach (FL)	City of Portland (OR)
City of Mississauga (Ontario)	City of Scottsdale (AZ)
City of New York (NY)	City of Federal Way (WA)
Village of Southampton (NY)	UNC School of the Arts (NC)
City of Westminster (CO)	City/County of Denver (CO)
City of Schaumburg (IL)	Howard County (MD)
City of Edmond (OK)	George Mason University (VA)
East Carolina University (NC)	Fitchburg State University (MA)
West Muskingham School District (OH)	Bowling Green State University (OH)
California State University-Northridge (CA)	Folsom Lake College (CA)
University of Iowa (IA)	City of Aspen (CO)



COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS

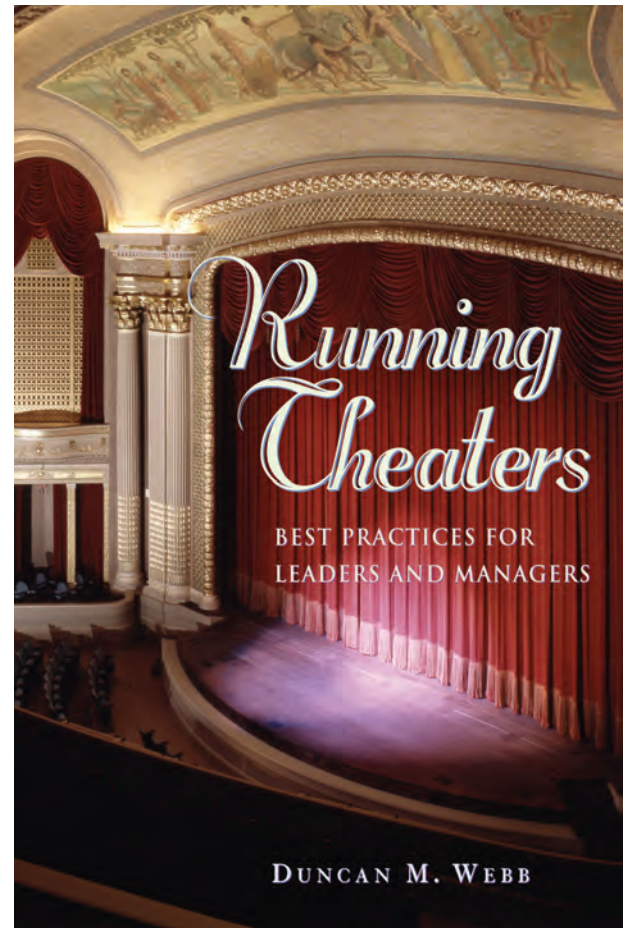
Publications

Buildings for the Arts

Duncan Webb is a founding member of CultureLab, an informal consortium of worldwide arts consultants and the Cultural Policy Centre at the University of Chicago. CultureLab was formed to break down the silos of research, policy and practice and create a new capacity and approach to tackling challenging issues in arts and culture. Duncan Webb and CultureLab served as advisors on the University of Chicago study, *Set in Stone: Building America's Next Generation of Arts Facilities* (1994-2008). Duncan also served as an advisor on the resulting book, *Buildings for the Arts*.

Running Theaters: Best Practices for Leaders and Managers

Duncan Webb's book reveals the best practices that consistently lead to operating successful theaters. Culled from surveys and interviews with more than fifty top theater managers and experts, this guide provides proven and successful strategies from managers, staff and volunteer leaders covering virtually every aspect of running a theater: audience development, fundraising, facility development, programming, community involvement and much more. Special sections cover physical maintenance, technology in theaters and staff and board development. The book was recently translated into Mandarin and is informing extensive cultural facility investment throughout China. A second edition is now in development.



The Performing Arts Center of the Future

Several years ago, Webb Mgmt hosted a conference in New York City to consider the future of performing arts facilities. Our expert panelists, relevant research and resulting discussions indicated that, on the whole, performing arts spaces will become smaller, more flexible, less permanent and less formal. Equally important is the idea of designing facilities that support amateur community programs and attract younger audiences with the possibility of an enriching social experience. A monograph outlining discussions and conclusions was published by Americans for the Arts.


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COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS



Duncan Webb

President

ROLE: PROJECT OVERSIGHT & MANAGEMENT, CLIENT/COMMUNITY FACILITATION & ENGAGEMENT, CONCLUSIONS & RECOMMENDATIONS, FINANCIAL PROJECTIONS

Duncan M. Webb founded Webb Management Services, Inc. to provide management consulting services to the arts and cultural industries. Since its founding in 1997, the firm has successfully completed more than 400 consulting assignments for the advancement of cultural communities, organizations and facilities.

Duncan's career in the arts began onstage as a lovesick maiden in a 1969 production of Gilbert and Sullivan's *Patience*. After college, he became a banker, spending seven years in commercial lending and international finance. In 1986, after many years of volunteer work in the arts, he came into the field as a producer of experimental, industrial, and commercial theatre, with such credits as the Canadian premieres of *Changing Bodies*, *Children of a Lesser God*, *Blood Brothers*, *Orphans*, *Marshall Bravestarr* and *Barbie and the Rockers*. He also developed marketing and sponsorship programs for the Canadian premiere of *Les Misérables*.

A Certified Management Consultant (CMC), Duncan has been an active speaker and published writer on arts management and the development, operation and financing of arts facilities. Webb's book *"Running Theaters: Best Practices for Managers and Leaders"* was the first book ever written on the management of performing arts facilities. A second edition is now in development. He recently taught a course entitled *"Managing in an Arts Environment"* in the Arts Administration graduate program at Baruch College (CUNY.)

Number of Cultural Facility Projects Completed

400+

Years of Experience | Arts Administration

5

Years of Experience | Cultural Facility Planning

29

Education

Bachelor's Degree in Economics, University of Western Ontario

Master's Degree in Business Administration, University of Toronto

Recent Project Experience

Oneonta Theatre Feasibility Study, Oneonta, NY

Feasibility Study for Proctor's Theatre Expansion, Schenectady, NY

Feasibility Study for Arts Facilities & a Park City Arts District, Park City, UT

Operating Scenarios for White Eagle Hall, Jersey City, NJ

Feasibility Study for Performing & Visual Arts Facilities, The Woodlands, TX

NextStage: The Future of Denver's Performing Arts Complex, Denver, CO

Feasibility Study for an African American Cultural Center, Virginia Beach, VA

Feasibility Study for Expansion at Tulsa Performing Arts Center, Tulsa, OK

Feasibility Study for Expanded Performing & Visual Arts Facilities at the Goddard Center, Ardmore, OK

Feasibility Study for New Arts Facilities, Westminster, CO


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COMPANY PROFILE, CAPABILITIES & QUALIFICATIONS



Carrie Blake

Senior Consultant

ROLE: PROJECT MANAGEMENT, CLIENT/COMMUNITY FACILITATION & ENGAGEMENT, DIRECTION & OVERSIGHT OF RESEARCH, ANALYZING & SYNTHESIZING RESEARCH, DELIVERABLE DEVELOPMENT

Carrie is a management consultant, researcher, project manager and administrator dedicated to the cultural sector. Since 2006, she has been a senior member of the Webb Management team. In that role, she has directed research and analysis on more than 250 studies and plans. Her recent research with Dance/NYC focused on New York City's vast fiscally sponsored arts landscape and informed the City's first ever cultural plan.

Before joining the firm, Carrie was the Associate Producer for the Office of Arts + Cultural Programming at Montclair State University (NJ) where she played a pivotal role in the establishment of Peak Performances, an ambitious new presenting, producing and commissioning program. Collaborating with innovative, experimental artists from across the nation and around the world, Carrie coordinated regional, national and world premieres while working to establish identity, presence, structure and policy for MSU's new venture.

Prior to working at MSU, Carrie developed and managed fundraising events and campaigns for both The Drama League, a New York City-based nonprofit committed to developing artists and audiences for the American theatre, and the Madison Museum of Contemporary Art (Madison, WI). While in Madison, she also supported the marketing function of the Madison Civic Center as management prepared for expansion to what is now the Overture Center.

Carrie is a proud alumna of the Bolz Center for Arts Administration at the University of Wisconsin-Madison School of Business where she completed several consulting projects, including business planning and market research for arts organizations. Her independent graduate research focused on the university arts presenters' multifarious existence within university and community contexts.

Number of Cultural Facility Projects Completed

250+

Years of Experience | Arts Administration

10

Years of Experience | Cultural Facility Planning

14

Education

Bachelor's Degree in Music, University of Kentucky

Bachelor's Degree in Arts Administration, University of Kentucky

Master's Degree in Business, Bolz Center for Arts Administration, University of Wisconsin-Madison

Selected Project Experience

Oneonta Theatre Feasibility Study, Oneonta, NY

Operating Scenarios for White Eagle Hall, Jersey City, NJ

Analysis & Planning for the Memorial Auditorium, Burlington, VT

Needs Assessment for Performing & Visual Arts Facilities, Howard County, MD

NextStage: The Future of Denver's Performing Arts Complex, Denver, CO

Feasibility Study for an African American Cultural Center, Virginia Beach, VA

Feasibility Study for New Arts Facilities, Westminster, CO

Utilization Study for the Arts at BGSU, Bowling Green, OH



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METHODOLOGY

Project Understanding

Established in 1961, the Town of Flower Mound has quickly grown and become one of the most desirable places to live in the Metroplex given its convenient location, beautiful surroundings and high quality of life, particularly for families. The Town's Cultural Arts Commission has led the advancement of public arts and creative initiatives for years, most recently overseeing the development of a Cultural Master Plan to advance the arts and culture as the Town continues to mature.

With a cultural plan in place, discussions around the need for a new cultural arts venue have evolved, and the Town wishes to understand if and how a new cultural arts center might be developed to meet community needs, respond to community plans and priorities and build on its record of success.

Our firm, **Webb Mgmt, is a consulting practice exclusively dedicated to the development and operation of arts facilities.** Over more than 20 years, we have developed more than 425 feasibility studies, business plans, strategic plans and provided specialized research and consulting for communities, arts facilities and organizations.

We are pleased to respond to your RFP for a Cultural Arts Center Feasibility Study with this submission, which presents our qualifications and approach to helping you understand the viability of a cultural arts center in Flower Mound. **Our proposed process will first evaluate the idea in terms of its market viability--considering audience demand, user demand, existing offerings and facilities and Flower Mound's broader goals and issues. If a new center is viable, and should you choose to move forward with the planning work, we will then help you prepare for its development and ongoing operation by creating a business plan for the recommended venue.**



Image: Town of Flower Mound, Cross Timbers Gazette; Brenda Gribbin, artist



METHODOLOGY

Approach

Our approach to developing a feasibility study for a new cultural arts center in Flower Mound would be based on a process that we have developed and used with over 425 public and private entities in our work around North America. Following are key elements of that approach.

- **Our approach is rooted in research and analysis.** To us, a feasibility study like this one must address supply and demand issues related to the potential venue. Our first goal in Flower Mound will be to understand whether the market has capacity to support programs and events that might take place in a new cultural arts center. Additional research would consider community plans and goals, particularly given the Town's desire to leverage arts and culture toward increased quality of life, the competitive situation for arts facilities and programs, and demand for particular types of cultural space such as exhibition, classroom, rehearsal and performance space. In addition, this planning must consider the experience of similar planning projects, communities and organizations.
- **Our work is truly objective.** Unlike physical planners like architects and designers, we would not see our work with you as the beginning of an extended working relationship. Our job will be to provide you with clear and concise information in a timely fashion to inform your decision-making. In fact, on many of our projects we have recommended that a community not proceed with a project.
- **We believe that physical, operating and financial perspectives are critical and inter-related.** We will help you consider the operating implications of various physical choices involved in developing and operating a venue, such as those around capacity (various seat counts) and flexibility (flexible vs fixed seating) so that you are well-prepared, if and when it comes time to work with architects and designers.
- **We believe that collaboration is key to a successful planning process.** We would develop our work in close collaboration with you. Our process is interactive, iterative and progressive, such that by the time the planning is complete, you will have strong understanding and ownership of the study as well as the ability to communicate its outcomes to potential funders, partners and your community.
- **The only thing certain with studies and plans for arts facilities is change.** Our work for you will be flexible enough to encourage and accommodate new opportunities as they arise. For example, any financial scenarios we develop would be delivered in a spreadsheet format so that you can modify the model as needed.



METHODOLOGY

Scope of Services

The feasibility study process we are proposing for the Town of Flower Mound is organized into two parts. The first includes research and analysis to assess the viability of a new cultural arts center. If a new arts center is recommended, this work would also describe (in narrative terms) how the facility should be activated and positioned within the Flower Mound cultural scene. If the conclusion of the first phase of work is positive, and the client wishes to continue, we will develop a business/management plan for the recommended facility. Following is a description of the tasks involved in each component of the study.

Phase One: Needs Assessment

Materials Review: To begin, we will continue our review of studies on the arts and cultural development in and around Flower Mound such as the newly released Cultural Arts Master Plan. We will also review community planning documents like the Town's Comprehensive Plan and other relevant market studies related to Flower Mound and the DFW Metroplex.

Individual Interviews/Focus Groups: Also at the beginning of the study process, we would like to work with the project's leadership to coordinate a minimum of 10-20 one-on-one and group meetings with a broad cross-section of Flower Mound, including arts and cultural leaders, and leaders from the education, business, political, tourism and downtown sectors. This effort should also include strong participation on the part of any potential development partners. Typically, our conversations with these individuals inform our research and analysis on supply and demand issues facing the project. However, we understand that many of these people may have been engaged for the cultural arts planning process and will work closely with you to develop a list of agreed upon individuals and groups and ensure that we can collect the information we need without fatiguing key constituents.

Forces + Trends: We will review and summarize relevant sections of sector-wide research and reports to explore broader issues in the arts and cultural sector that may have a bearing on the development and operation of a new cultural arts center in Flower Mound, such as trends in arts audiences and consumer behavior, the role of the arts in community development, the role of the arts in education, changing views on public support of the arts and economic challenges facing the nonprofit arts sector.

Market Review: Considering recent market studies, and using relevant local and regional inputs, as well as data from Environics (a market research and resources company), we will evaluate the potential for audience development around Flower Mound in terms of population size, characteristics and potential, including the following steps:

MARKET AREA DEFINITION: Define primary and secondary market areas for a new cultural arts center in Flower Mound using information from preliminary discussions, ticket buyer data collected from local arts facilities and organizations like the Actors Conservatory Theatre, Theatre FMPAT, Flower Mound Community Orchestra, Lewisville Lake Symphony and Voices of Flower Mound (as possible) and our own experience defining and analyzing the regional market for previous work in the Metroplex and on



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Scope of Services continued

similar projects in other regions.

- **RESIDENT MARKET:** Once the market is defined, we will conduct a demographic analysis of the defined market area, focusing on characteristics associated with arts and entertainment participation, as presented in the National Endowment for the Arts' Survey of Public Participation in the Arts. Using previously referenced demographic data from Environics, we will discuss the quality and capacity of the market to support additional arts activity in terms of its education level, age, race, socio-economic status and other key demographic indicators.
- **NON-RESIDENT MARKET:** We will also consider the size and characteristics of the non-resident segments of the Flower Mound and Metroplex markets, including those visiting friends and relatives, business travelers and tourists. We will review available data and consider the potential for this market segment to participate in programming at a new center.
- **SPECIAL INTEREST MARKETS:** Finally, we will define and estimate the size of any target markets for the new arts center, such as school children in grades K-12 given the Town's strong support for arts education, older adults with interest in lifelong learning in the arts, special needs populations or other groups.

Existing Facilities + Competitive Analysis: We will research the use and evaluate the condition of existing and planned cultural facilities in Flower Mound and the DFW region. We will visit facilities, interview facility operators and users, and conduct secondary research to understand the size/capacity, physical facility features, program content (including arts education programming), quality and availability of existing facilities. We will also consider how gaps in the inventory are limiting opportunities for programming and audience participation, and how a new cultural arts center in Flower Mound might impact the operation of existing and other planned facilities.

Uses + Users: We will survey and meet (individually or in workshop settings) with representatives of local and regional arts organizations, regional presenters and producers, event planners and other community constituents to assess demand for performing arts, entertainment and meeting facilities and the potential levels of use from broad sectors of the community. We will work with any potential users to understand their physical space needs, potential frequency of use and capacity to pay for access to a new cultural arts center and its amenities.

Potential Partners: We will identify and evaluate potential partners from the public, private and educational sectors that might play a role in the development and operation of a new venue. This will certainly include any potential developers that the City has been speaking with, but may also include other potential partners such as the School District or others.

Touring Product Potential: We will conduct research on touring programs and presenting facilities in the region. This will include interviewing regional and national promoters and impresarios, as well as agents and artist representatives, to assess the potential to bring additional touring programs to Flower Mound. We will also connect with DFW arts organizations who may be interested in run-out performances in Flower Mound. This will lead



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Scope of Services continued

us to identify and evaluate opportunities for presenting programs that might take place at a new venue, suggesting the kinds of product, positioning and presenting partnerships that are likely to succeed.

Benefits, Impacts & Community Goals: We will meet with a cross-section of community leadership to review planning goals and priorities in order to determine how investment in a new venue can play a role in pursuing broader community goals, including augmented education programs, community development, corporate recruitment and cultural tourism.

Recommendations & Facility Concept: Based on the analysis described above, we will offer conclusions and recommendations on the viability of a new venue and then, if appropriate, describe the capacity, form, flexibility and combination of spaces (including amenities) that should be included to respond to the market opportunity.

We will provide examples of comparable facilities and spaces in peer markets around the country, and specifically in the DFW Metroplex, to provide context and help describe recommendations, including detail on the size, components, activity, development scenario and success factors to illustrate and further validate the potential development in Flower Mound.

Workshop, Report + Presentation: We will deliver our work in draft form and meet with the project team in a workshop setting to discuss each component of the analysis and how it contributed to our overall position on the project. At this point, we will also facilitate a community workshop to share details of the process and findings and collect feedback to help us assess the level of community support before the report is finalized. We will incorporate feedback and deliver a final report.

Phase Two: Management/Business Plan

If the first phase of the study yields positive results and there is a consensus on the proposed arts center concept, we will begin a second round of work – preliminary management/business plan that details how the recommended venue should be programmed and operated, and estimates construction and annual operating costs for the arts center concept. This effort will include the following tasks.

Define Goals & Practices: To begin the business planning, we will define the vision and operating goals for the recommended arts center, covering such areas as community access, cost-recovery objectives and maximizing utility and community benefits.

Comparable Models: We will conduct additional research on comparable facilities throughout North America, and particularly in the DFW region, to inform the business plan. Key areas of research include governance, operating and funding costs/models, capital cost models, the scheduling of facilities, relationships with partners and users, levels of utility and cost, availability of similar or competing facilities, partnerships used to develop and sustain facilities, economic impacts and key factors that lead to successful operation. This effort will result in tables that summarize operating metrics to inform assumptions and projections made for the new arts center in Flower Mound.

Ownership & Management Model: We will identify and evaluate options, and propose



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Scope of Services continued

an operating model for the recommended arts center concept, addressing ownership, governance and operating issues such as community access, scheduling and public events. This effort will consider the merits and challenges around public and private, non-profit and commercial third party operator options. We will also suggest any other necessary elements of a governance structure to support sustainability. And we will advise the Town on opportunities for outside service providers in areas such as programming, ticketing and food and beverage operations.

Operations Workshop (with users): We will work with the Town to invite potential users of the new arts center to participate in a lively workshop where we will hone in on operating policies and practices and confirm activity estimates. Discussions will be centered around operating issues like rental rates, food service, and booking policy, culminating in a mock scheduling exercise where participants are asked to “reserve” dates needed during a typical year in the new spaces.

Programming Plan: Perhaps the most critical parts of the business plan address how often spaces will be used and how they will be animated. We will develop a programming plan for the venue and its spaces, describing program types, content and frequency with a strong focus on arts education and connections to adjacent and nearby schools. We will list types and levels of use in each space by outside renters and internally-produced and presented activity, also estimating how that utilization will evolve over time.

Facility Management Issues: We will suggest how the new venue should be operated in areas of scheduling, booking horizons, front of house operations, production management, capital planning, financial systems and controls, ticketing, marketing, security, parking management, food, beverage and other services.

Staffing & Leadership Plan: We will identify staffing requirements, set compensation ranges and recommend hiring dates relative to the opening of the center. We will also provide direction on how to develop volunteer resources to support the center’s operation.

Pro-forma Operating Budget: We will construct an Excel-based pro-forma operating budget for six years of operations, starting the year before the venue opens. This financial model will be extremely detailed, including all sources of operating revenues and expenses, appropriate capital reserves, and the likely result of operations (any operating gap.) It will also account for the ‘honeymoon period’ that most arts facilities see, with increasing revenues in years 1 and 2 which then stabilize in subsequent years.

Economic & Tourism Impacts: We will forecast the economic impact of the new venue on Denton County, including the impacts of construction, operation and ancillary spending associated with audiences. Data from the region’s Arts & Economic Prosperity Report 5 will inform estimates for audience spending beyond the cost of a ticket for resident and tourist audiences. The RIMS II model developed by the U.S. Bureau of Economic Analysis will inform estimates for the direct and indirect impacts of the venue on Flower Mound, including outputs, increased earnings and employment.

Critical Path Plan: As a final step, we will create a critical path plan that identifies key milestones and deadlines in the execution of the business plan, from the finalization of plans through the facility’s opening.



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Scope of Services continued

Workshop, Final Report + Presentations: Here again, we will deliver a draft report and present and discuss the management/business plan in draft form with the project team. If the team desires it, we may also facilitate a community meeting at which the results of the planning process are presented and discussed with the public. We will incorporate feedback and issue a final comprehensive report that incorporates both phases of work and an executive summary.

Community Engagement

We understand that, as a community, Flower Mound has been discussing the development of a cultural arts center, and also been engaged in cultural planning, for some time. This feasibility study will require an engagement plan that allows us to collect all of the information necessary to direct the project and also provide key stakeholders with the right opportunities to participate in the effort. We would work with the Town's project team and Cultural Arts Commission to finalize the right engagement strategy before we begin, considering the following elements.

Kick-off Meetings + Communications Strategy:

We would begin the planning process with a set of kick-off meetings with representatives from project team to guide the development of the plan. Together, we would finalize the details of the plan's schedule and logistics, including the community engagement strategy.

Individual Interviews/Focus Groups:

As noted, at the out-set of the study process, we would work with the Town to identify a list and coordinate a minimum of 10-20 one-on-one and group meetings with a broad cross-section of Flower Mound, including arts and cultural leaders, and leaders from the education, business, political, tourism and downtown sectors. This group should also include potential operators and development partners.

Public Meetings:

We could facilitate at least two public gatherings during the study to audiences determined by the Town's project team, sharing information on process, findings and recommendations. These presentations would invite comments in an open, inclusive and informal setting.

Digital Surveys/Engagement:

Again, working with the Town's project team, we could create and implement web-based survey tools to collect information from study participants and the public. We would also suggest the utilization of other online tools and provide content for those channels.

Deliverables

Over the course of the study we would deliver the following information to the Town:


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- Digital copies (PDF format) of reports that detail our research, conclusions and recommendations, including an Executive Summary that briefly describes the process and results.
- 15 copies of Executive Summary and bound copies of the comprehensive study delivered 4 weeks following the conclusion of our work and final presentation to staff and Council.
- A multi-tab Excel-based workbook in paper and electronic form with a detailed six-year pro-forma operating budget. Three tabs would be integrated, including an activity profile and revenue related to activities and programs, financials including all revenues, expenses and the result of operations and benchmarks that compare operating assumptions made for any recommended arts center to similar facilities in other communities;
- Research, data and materials used to analyze the market, competitive situation for arts programming and facilities and project the economic impacts of the project.
- Any raw survey data, summaries or other content related to community engagement efforts.

Timeline

We are ready and willing to begin work as soon as notice to proceed is received. We anticipate completing each phase of work over two 12 week periods, depending on our ability to access the resources and people needed in a timely manner. With support and timely feedback from the Town, clear project dates and milestones and an engagement plan finalized at the outset of the project, we will be able to complete Phase one in December, with presentations to the Cultural Arts Commission in January and Town Council in February.

Work Sample

We have worked with many public sector clients that place our work in the public realm for reference and use by the community. Our recent work in The Woodlands is a good example of this, and can be found at this web address.

<https://www.thewoodlandstownship-tx.gov/1396/Cultural-Arts-Study>



Project Schedule Phase One

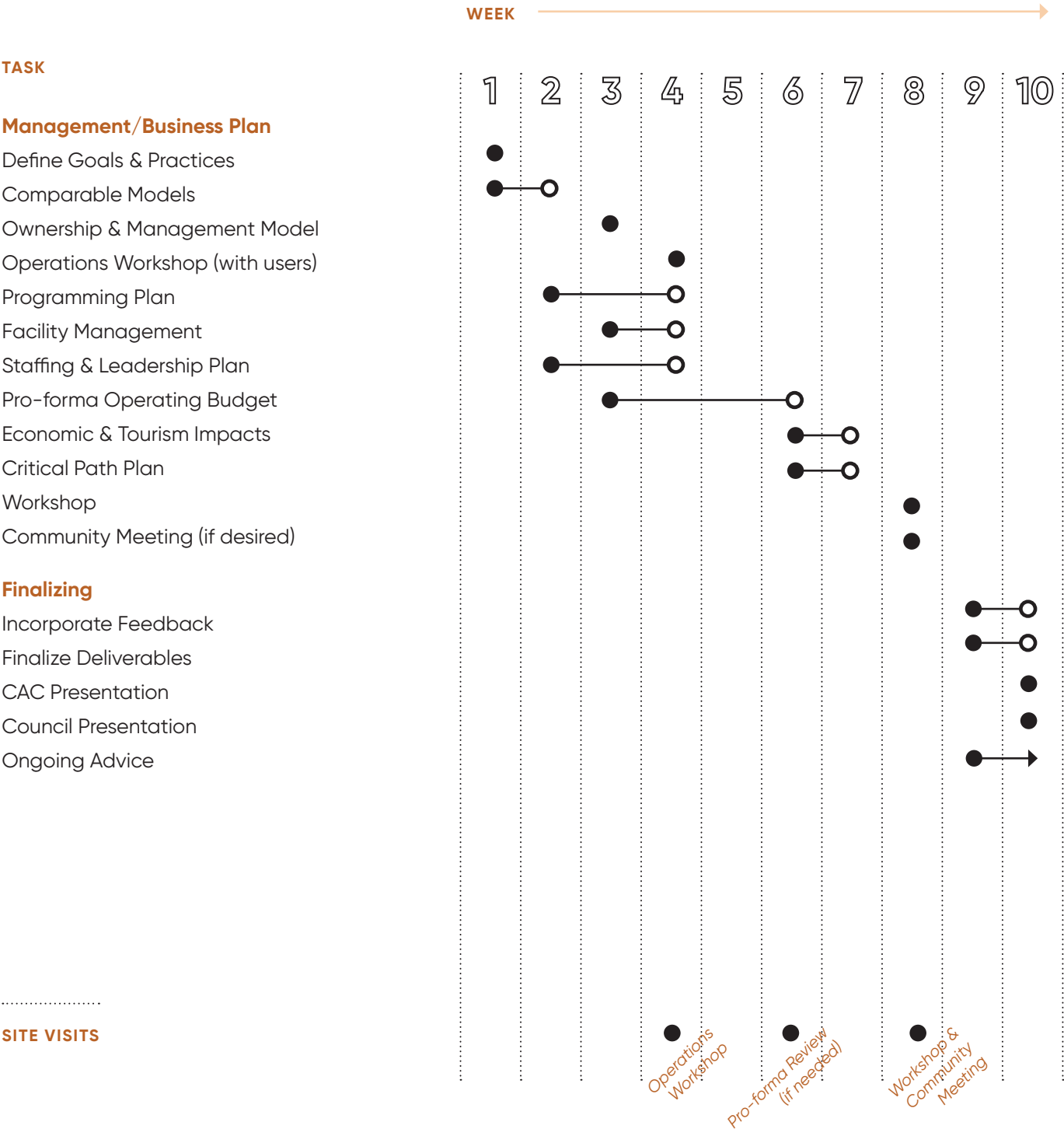
Workshop & Community Meeting



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TIMELINE

Project Schedule Phase Two [if needed]



SITE VISITS


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REQUIRED SERVICES & FEES

Fee Proposal & Arrangements

We propose fixed professional fees and expenses as follows to complete the services described in this proposal. Fees are split between the two phases of work. There is no need to contract more than one phase at a time.

PHASE	FEE	EXPENSES
Needs Assessment:	\$24,500	
Travel (3 trips at 1,200)		\$3,600
Market Data		\$400
Total:	\$24,500	\$4,000
 Management/Business Plan:	 \$22,500	
Travel (3 trips at 1,200)		\$3,600
BEA Economic Multipliers		\$275
Total:	\$22,500	\$3,875

We typically bill fees monthly based on the progress of the study. Expenses would be billed monthly as incurred with no mark-up.

This proposal is valid for a period of 30 days, beginning on October 1, 2019.



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PROOF OF INSURANCE

Client#: 87823		WEBBMANA																																																																				
ACORD™		CERTIFICATE OF LIABILITY INSURANCE																																																																				
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THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER. IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).																																																																						
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<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSR LTR</th> <th style="text-align: left;">TYPE OF INSURANCE</th> <th style="text-align: left;">ADDL SUBR INSR WVD</th> <th style="text-align: left;">POLICY NUMBER</th> <th style="text-align: left;">POLICY EFF (MM/DD/YYYY)</th> <th style="text-align: left;">POLICY EXP (MM/DD/YYYY)</th> <th style="text-align: left;">LIMITS</th> </tr> <tr> <td>A</td> <td> ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER: </td> <td>X</td> <td>PHSD1407054</td> <td>02/03/2019</td> <td>02/03/2020</td> <td> EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$ </td> </tr> <tr> <td>A</td> <td> ☐ AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY </td> <td></td> <td>PHSD1407054</td> <td>02/03/2019</td> <td>02/03/2020</td> <td> COMBINED SINGLE LIMIT (Ea accident) \$Included BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ </td> </tr> <tr> <td>A</td> <td> ☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB CLAIMS-MADE ☐ DED ☒ RETENTION \$10000 </td> <td></td> <td>PHUB660621</td> <td>02/03/2019</td> <td>02/03/2020</td> <td> EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ </td> </tr> <tr> <td colspan="7"> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N ☒ N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below </td> </tr> <tr> <td>A</td> <td>Property</td> <td></td> <td>PHSD1407054</td> <td>02/03/2019</td> <td>02/03/2020</td> <td>BPP: \$25,000</td> </tr> <tr> <td>A</td> <td>Professional Liability</td> <td></td> <td>PHSD1407054</td> <td>02/03/2019</td> <td>02/03/2019</td> <td>see below</td> </tr> </table>	INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	X	PHSD1407054	02/03/2019	02/03/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY		PHSD1407054	02/03/2019	02/03/2020	COMBINED SINGLE LIMIT (Ea accident) \$Included BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB CLAIMS-MADE ☐ DED ☒ RETENTION \$10000		PHUB660621	02/03/2019	02/03/2020	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N ☒ N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below							A	Property		PHSD1407054	02/03/2019	02/03/2020	BPP: \$25,000	A	Professional Liability		PHSD1407054	02/03/2019	02/03/2019	see below	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Professional Liability Limits: Each Claim: \$1,000,000, Aggregate:\$1,000,000, Deductible: \$5,000 Heather Pizzuto City of Carlsbad Library & Cultural Arts Department are included as additional insured on General Liability policy per the attached endorsement.																				
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CERTIFICATE HOLDER 				CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 																																																																		

*building creativity***ACKNOWLEDGEMENT OF ADDENDUM****Acknowledgment of Addenda**

The undersigned acknowledges receipt of the Township's Request for Proposals and the following attachments and addendums to the Township's Solicitation Package.

ACKNOWLEDGMENT OF ADDENDA

DW Addendum No. 1 Dated 7/19/19

Failure to acknowledge receipt of all attachments and amendments may cause Proposer to be considered nonresponsive to the solicitation. Acknowledged receipt of each attachment and addendum must be clearly established and included with proposal.

Authorized Signature: Duncan Webb
Company Name: Webb Management Services
Title: President
Date: 8/1/19



199 CHURCH STREET, NEW YORK, N.Y. 10007-1100
| nysif.com

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

***** 133948512

WEBB MANAGEMENT SERVICES INC
501 FIFTH AVENUE SUITE 1202
NEW YORK NY 100174005



SCAN TO VALIDATE
AND SUBSCRIBE

POLICYHOLDER WEBB MANAGEMENT SERVICES INC 501 FIFTH AVENUE SUITE 1202 NEW YORK NY 100174005		CERTIFICATE HOLDER TOWN OF FLOWER MOUND 2121 CROSS TIMBERS ROAD FLOWER MOUND TX 75028	
POLICY NUMBER M1327 585-4	CERTIFICATE NUMBER 232075	POLICY PERIOD 07/15/2019 TO 07/15/2020	DATE 9/6/2019

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1327 585-4, COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW, AND, WITH RESPECT TO OPERATIONS OUTSIDE OF NEW YORK, TO THE POLICYHOLDER'S REGULAR NEW YORK STATE EMPLOYEES ONLY.

IF YOU WISH TO RECEIVE NOTIFICATIONS REGARDING SAID POLICY, INCLUDING ANY NOTIFICATION OF CANCELLATIONS, OR TO VALIDATE THIS CERTIFICATE, VISIT OUR WEBSITE AT [HTTPS://WWW.NYSIF.COM/CERT/CERTVAL.ASP](https://www.nysif.com/cert/certval.asp). THE NEW YORK STATE INSURANCE FUND IS NOT LIABLE IN THE EVENT OF FAILURE TO GIVE SUCH NOTIFICATIONS.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

NEW YORK STATE INSURANCE FUND

DIRECTOR, INSURANCE FUND UNDERWRITING

VALIDATION NUMBER: 1041363898



TOWN COUNCIL AGENDA ITEM NO. 23

REGULAR ITEM

DATE: October 7, 2019

FROM: Brittnei Barnett, Grants & Financial Analyst

ITEM: Consider approval of a resolution authorizing the Town's Emergency Management Officer to accept the Staffing for Adequate Fire and Emergency Response (SAFER) Grant from the U.S. Department of Homeland Security submitted under FEMA's Fiscal Year 2018 SAFER Grant Program.

BACKGROUND INFORMATION: The Town applied for and was awarded a SAFER grant from the U.S. Department of Homeland Security submitted under FEMA's 2018 Fiscal Year Safer Grant Program. The purpose of the SAFER Grant Program is to provide funding directly to fire departments to assist in increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments.

If approved, the Flower Mound Fire Department will use the funds to help partially pay for the personnel hired to staff Fire Station 7. The total funding amount awarded is \$2,768,534.25, and will be disbursed on a reimbursement basis over a period of three years. Over this three-year period, the Town will provide a match totaling \$1,720,980.75.

The grant agreement must be accepted through the FEMA Grants Outcomes (FEMA GO) system. Because of this, the Town's Emergency Management Officer will be given the authority to electronically accept the award on the Town's behalf.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$4,489,515.00

Proposed (Revenue):	Account Number(s):
(\$4,489,515.00)	SAFER Grant Fund
Proposed Expenditure:	Account Number(s):
\$4,489,515.00	SAFER Grant Fund

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

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

ATTACHMENTS:

1. Resolution
2. SAFER Grant Award Package

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

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

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE TOWN'S EMERGENCY MANAGEMENT OFFICER TO ACCEPT GRANT FUNDING AWARDED THROUGH THE STAFFING FOR ADEQUATE FIRE AND EMERGENCY'S RESPONSE (SAFER) GRANT ISSUED BY THE U.S. DEPARTMENT OF HOMELAND SECURITY; AUTHORIZING THE TOWN'S EMERGENCY MANAGEMENT OFFICER TO ACCEPT AND APPLY THE FUNDING IN ACCORDANCE WITH GRANT REQUIREMENTS; AND PLEDGING THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL GRANT REQUIREMENTS.

WHEREAS, the Town Council of the Town of Flower Mound finds it in the best interest of the citizens of Flower Mound that the Staffing for Adequate Fire and Emergency Response (SAFER) Grant from the U.S. Department of Homeland Security be accepted and implemented under FEMA's Fiscal Year 2018 SAFER Grant Program to allow the Town of Flower Mound Fire Department to hire personnel to staff Fire Station 7; and

WHEREAS, the Town Council authorizes the Town's Emergency Management Officer to accept the award on behalf of the Town.

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

SECTION 1

The Town of Flower Mound Town Council approves and accepts the awarded grant amount of \$2,768,534.25 from the U.S. Department of Homeland Security and understands and agrees to provide the Town's funding match in the amount of \$1,720,980.75.

SECTION 2

The Town of Flower Mound acknowledges that the terms, provisions, and conditions of the SAFER Grant Program will be adhered to.

SECTION 3

The Town's Emergency Management Officer is authorized to take all steps necessary to accept the grant award and to comply with the intent of this Resolution.

SECTION 4

This Resolution shall be effective upon its adoption.

RESOLUTION NO._____

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Brandon Barth
FLOWER MOUND, TOWN OF
2121 CROSS TIMBERS ROAD
FLOWER MOUND, TX 75028



EMW-2018-FH-00093

Dear Brandon Barth,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2018 Staffing for Adequate Fire and Emergency Response (SAFER) Grant funding opportunity has been approved in the amount of \$2,768,534.25 in Federal funding.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2018 SAFER Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Bridget Bean', is written over a light blue horizontal line.

Bridget Bean
Acting Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2018 Staffing for Adequate Fire and Emergency Response

Recipient: FLOWER MOUND, TOWN OF

DUNS number: 027941160

Award number: EMW-2018-FH-00093

Summary description of award

The purpose of the SAFER Grant Program is to provide funding directly to fire departments and volunteer firefighter interest organizations to assist in increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application — including budget information — was consistent with the SAFER Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY2018 Staffing for Adequate Fire and Emergency Response (SAFER) funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded

The amount of the award is detailed in the attached Obligating Document for Award.

The following is the approved budget for this award (including Federal share plus your cost share, if applicable) and summarizes the financial aspects of the grant:

Object Class	First Year	Second Year	Third Year	Total
Personnel	\$1,048,920.00	\$1,048,920.00	\$1,048,920.00	\$3,146,760.00
Fringe benefits	\$447,585.00	\$447,585.00	\$447,585.00	\$1,342,755.00
Travel	\$0.00	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00	\$0.00
Supplies	\$0.00	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00	\$0.00
Construction	\$0.00	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00	\$0.00
Indirect charges	\$0.00	\$0.00	\$0.00	\$0.00
Federal	\$1,122,378.75	\$1,122,378.75	\$523,776.75	\$2,768,534.25
Non-federal	\$374,126.25	\$374,126.25	\$972,728.25	\$1,720,980.75
Total	\$1,496,505.00	\$1,496,505.00	\$1,496,505.00	\$4,489,515.00

2 C.F.R. § 200.308 identifies the limits to the changes that can be made and when prior approval is required from FEMA, but this provision does not apply to the breakdown by year. If you have questions about which changes require FEMA's prior approval, please contact your Grants Management Specialist.

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2018 SAFER NOFO.

Approved request details:

Hiring of Firefighters

Firefighter Position

BENEFITS FUNDED

a. Cost of position includes 295 overtime hours built into the salary. b. According to our Personnel and Administrative Regulations Manual, all regular full-time employees of the Fire Department, in accordance with State law for fire personnel, receive longevity pay of four dollars (\$4.00) for each full month of service, not to exceed twenty-five (25) years. c. All regular full-time employees are covered by medical, dental, and vision insurance on the first day of the month following employment. The average cost to the town is \$16,262.75 per employee per year. d. The rate for workers' compensation coverage is calculated based off of rates provided by the Town's insurance company. The salary calculation for a firefighter's pay includes \$556.06 annually for this coverage. e. The Town provides group term life, accidental death and dismemberment, and long term disability insurance coverage for all regular full-time employees. The cost of providing this insurance coverage to employees is paid by the Town. The Town's Life Insurance rate for firefighters is \$4.25 bi-monthly. The Town's Long-Term Disability rate for firefighters is \$3.86 bi-monthly. f. All employees of the Town are covered under the Federal Insurance Contributions Act (FICA) in accordance with Federal law. The Town's FICA rate is 7.65%. This rate includes 6.20% for Social Security and 1.45% for Medicare. g. The Town of Flower Mound is a member of the Texas Municipal Retirement System. The purpose of this system is to provide a plan for the retirement of employees of Texas municipalities. Participation in this system is compulsory for all regular employees who are scheduled to work a minimum of one thousand (1,000) hours annually. The plan requires a contribution be made by means of payroll deductions. The Town contributes 10.69%. This rate is updated every fiscal year.

NUMBER OF FIREFIGHTERS	ANNUAL SALARY PRICE	ANNUAL BENEFITS	TOTAL PER FIREFIGHTER
15	\$69,928.00	\$29,839.00	\$99,767.00
3 YEAR TOTAL			
	\$4,489,515.00		

Agreement Articles

Program: Fiscal Year 2018 Staffing for Adequate Fire and Emergency Response

Recipient: FLOWER MOUND, TOWN OF

DUNS number: 027941160

Award number: EMW-2018-FH-00093

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Article 41	Disposition of Equipment Acquired Under the Federal Award
Article 42	Environmental Planning and Historic Preservation

Article 1	Assurances, Administrative Requirements, Cost Principles, Representations and Certifications
	DHS financial assistance recipients must complete either the Office of Management and Budget(OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances -Construction Programs as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations(C.F.R) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.
Article 2	DHS Specific Acknowledgements and Assurances
	All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. 2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit updates every two years, not every time a grant is awarded. Recipients should submit the completed tool, including supporting materials to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool. .
Article 3	Acknowledgement of Federal Funding from DHS
	Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.
Article 4	Activities Conducted Abroad
	Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article 5	Age Discrimination Act of 1975 Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
Article 6	Americans with Disabilities Act of 1990 Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.
Article 7	Best Practices for Collection and Use of Personally Identifiable Information (PII) Recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.
Article 8	Civil Rights Act of 1964 – Title VI Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.
Article 9	Civil Rights Act of 1968 Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (See 42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D)
Article 10	Copyright Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article 11	Debarment and Suspension Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.
Article 12	Drug-Free Workplace Regulations Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101).
Article 13	Duplication of Benefits Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.
Article 14	Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX Recipients must comply with the requirements of Title IX of the Education Amendments of 1972 Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.
Article 15	Energy Policy and Conservation Act Recipients must comply with the requirements of The Energy Policy and Conservation Act Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
Article 16	False Claims Act and Program Fraud Civil Remedies Recipients must comply with the requirements of The False Claims Act, 31 U.S.C. § 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.
Article 17	Federal Debt Status All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)
Article 18	Federal Leadership on Reducing Text Messaging while Driving Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article 19 Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article 20 Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, codified as amended at 15 U.S.C. § 2225.

Article 21 Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidancepublished-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article 22 Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article 23 National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article 24 Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article 25	Non-supplanting Requirement Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.
Article 26	Notice of Funding Opportunity Requirements All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated hereby reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.
Article 27	Patents and Intellectual Property Rights Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.
Article 28	Procurement of Recovered Materials States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.
Article 29	Rehabilitation Act of 1973 Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
Article 30	Reporting of Matters Related to Recipient Integrity and Performance If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.
Article 31	Reporting Subawards and Executive Compensation Recipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article 32	SAFECOM Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.
Article 33	Terrorist Financing Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.
Article 34	Trafficking Victims Protection Act of 2000 Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000, (TVPA) codified as amended by 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.
Article 35	Universal Identifier and System of Award Management (SAM) Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.
Article 36	USA Patriot Act of 2001 Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.
Article 37	Use of DHS Seal, Logo and Flags Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
Article 38	Whistleblower Protection Act Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.
Article 39	Acceptance of Post Award Changes In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

Article 40 Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. § 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. § 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article 41 Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

Article 42 Environmental Planning and Historic Preservation

DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review process. This review does not address all Federal, state, and local requirements. Acceptance of Federal funding requires recipient to comply with all Federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize Federal funding. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA's Environmental and Historic Preservation (EHP) screening form and instructions go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. Failure to provide requisite information could result in delays in the release of grant funds. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Obligating document

1. Agreement No. EMW-2018-FH-00093	2. Amendment No. N/A	3. Recipient No. 75-1366210	4. Type of Action AWARD	5. Control No. WX02684N2019T		
6. Recipient Name and Address FLOWER MOUND, TOWN OF 2121 CROSS TIMBERS RD FLOWER MOUND, TX 75028		7. Issuing FEMA Office and Address Grant Programs Directorate 500 C Street, S.W. Washington DC, 20528-7000 1-866-927-5646		8. Payment Office and Address FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20742		
9. Name of Recipient Project Officer Brittni Barnett	9a. Phone No. 972-874-6040	10. Name of FEMA Project Coordinator Staffing for Adequate Fire and Emergency Response (SAFER) Grant Program		10a. Phone No. 1-866-274-0960		
11. Effective Date of This Action 09/13/2019	12. Method of Payment OTHER - FEMA GO	13. Assistance Arrangement COST SHARING	14. Performance Period 03/11/2020 to 03/10/2023 Budget Period 03/11/2020 to 03/10/2023			
15. Description of Action a. (Indicate funding data for awards or financial changes)						
Program Name Abbreviation	Assistance Listings No.	Accounting Data (ACCS Code)	Prior Total Award	Amount Awarded This Action + or (-)	Current Total Award	Cumulative Non-Federal Commitment
SAFER	97.083	2019-F8-GF01 - P431-xxxx-4101-D	\$0.00	\$2,768,534.25	\$2,768,534.25	\$1,720,980.75
Totals			\$0.00	\$2,768,534.25	\$2,768,534.25	\$1,720,980.75
b. To describe changes other than funding data or financial changes, attach schedule and check here: N/A						
16. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) This field is not applicable for digitally signed grant agreements						

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)	DATE
18. FEMA SIGNATORY OFFICAL (Name and Title)	DATE
Bridget Bean, Acting Assistant Administrator Grant Programs Directorate	09/13/2019



TOWN COUNCIL AGENDA ITEM NO. 24

REGULAR ITEM

DATE: October 7, 2019

FROM: Brian Waltenburg PE, Assistant Director of Engineering

ITEM: **Consider approval of an Interlocal Cooperative Agreement with Denton County for the extension of Kirkpatrick Road; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: The Interlocal Cooperative Agreement (ICA) provides \$3,475,000 of Denton County 2008 Transportation Road Improvement funds (TRIP-O8) for Flower Mound's Capital Improvements Program (CIP) Kirkpatrick Road Phase 3 project. The ICA funds will be used for the purpose of providing for the construction associated with the extension of Kirkpatrick Road, as a 4-lane divided urban roadway on a new alignment, completing its connection to Garden Ridge. This will help cover the cost of the Town's Kirkpatrick Road Phase 3 CIP project, currently estimated at \$8,718,000.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: If disapproved, the Town will be required to use an additional \$3,475,000 of Town funds to complete the Kirkpatrick Road extension project.

FISCAL IMPACT: (\$3,475,000)

Proposed Expenditure/(Revenue):

(\$3,475,000)

Account Number(s):

506-4793 Interlocal Funds

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

LEGAL REVIEW: Tim Sralla, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the Interlocal Cooperative Agreement as to form and legality.

ATTACHMENTS:

1. Interlocal Cooperative Agreement

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

THE STATE OF TEXAS §
 §
 COUNTY OF DENTON §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
 DENTON COUNTY, TEXAS, AND THE TOWN OF FLOWER MOUND, TEXAS**

THIS AGREEMENT is made, entered into and executed by and between Denton County, Texas, a duly organized political subdivision of the State of Texas, engaged in the administration of county government and related services for the citizens of Denton County, Texas, hereinafter “the County;” and the Town of Flower Mound, Texas, a political subdivision of the State of Texas, engaged in the administration of municipal government and related services for the citizens of the Town of Flower Mound, Texas, hereinafter “the Town.” The County and the Town are collectively referred to herein as “the Parties.”

WHEREAS, the County and the Town mutually desire to enter into this Agreement for the purpose of providing for construction associated with the extension of Kirkpatrick Road as a 4-lane divided urban roadway on new alignment, completing its connection to Garden Ridge, located within the municipal limits of the Town and Denton County Commissioner Precinct #3, hereinafter “the Project;” and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code Chapter 791, hereinafter “the Act,” provides authorization for a local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act and the County and the Town hereby mutually agree to be subject to the provisions of the Act; and

WHEREAS, the County and the Town value the timely completion of the Project which involves roads which are an integral part of the County’s road system and the Parties are undertaking the Project to facilitate safe travel on an improved roadway; and

NOW, THEREFORE, this Agreement is hereby made and entered into by the County and the Town upon and for the mutual consideration stated herein:

WITNESSETH:**I.**

Pursuant to Texas Government Code §791.011, the County and the Town hereby enter into this Agreement in order to perform certain governmental functions and services in the area of streets, roads and drainage. The purpose of this Agreement is to provide a governmental function or service that each party is authorized to perform individually.

II.

The County and the Town hereby agree that the scope of the Project shall be limited to providing for construction associated with the extension of Kirkpatrick Road as a 4-lane divided urban roadway, from current terminus south of FM 1171 at Spanish Oak to current terminus west of Garden Ridge at Blue Sky Lane, at a total estimated project cost of SEVEN MILLION NINE HUNDRED EIGHTEEN THOUSAND AND NO/100 DOLLARS (\$7,918,000.00).

III.

The County hereby agrees to contribute an amount toward satisfactory completion of the Project which shall not exceed THREE MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$3,475,000.00), provided that any and all funding is approved by formal action of the Denton County Commissioners Court.

IV.

The Town hereby agrees to provide all engineering required for satisfactory design of the Project.

V.

This exchange of in-kind services between the County and the Town is deemed adequate consideration for the obligations exchanged by the Parties herein.

VI.

As the Town proceeds with the completion of the Project, the Town shall submit invoices for reimbursement to the Denton County Auditor, Jeff May, 401 W. Hickory Street, Suite 423, Denton, Texas 76201, on a monthly basis and the County shall reimburse the Town for all approved expenses related to the Project within thirty (30) calendar days of receipt of an invoice from the Town, provided that all expenditures are made in a manner

which is consistent with the terms of this Agreement. Upon satisfactory completion of the design, the County and the Town shall prepare and complete a full audit of the Project. The Town shall submit a copy of all invoices to Mr. John Polster, c/o Innovative Transportation Solutions, Inc., 2701 Valley View Lane, Farmers Branch, Texas 75234, at the same time invoices are submitted to the Denton County Auditor.

VII.

As required by Texas Transportation Code §251.012 and as evidenced by the signature of the Town's representative below, the governing body of the Town by the execution of and approval of this Agreement hereby approves of the expenditure of County money to finance the construction, improvement, maintenance or repair of a street or alley in the County that is located in the Town.

VIII.

This Agreement may be terminated in whole, or in part, by the County or the Town upon thirty [30] days written notice to the other party. In the event of termination by the County, the County shall pay all approved invoices submitted up to and including the date of termination.

IX.

This Agreement represents the entire integrated agreement between the County and the Town and supersedes all prior negotiations, representations and agreements, either oral or written. This Agreement may be amended only by written instrument signed by both of the Parties. Notices shall be directed as follows:

For Town: Honorable Steve Dixon, Mayor
 Town of Flower Mound, Texas
 2121 Cross Timbers Road
 Flower Mound, Texas 75028

Copy To: Ms. Theresa Scott, Town Secretary
 Town of Flower Mound, Texas
 2121 Cross Timbers Road
 Flower Mound, Texas 75028

For County: Honorable Andy Eads
Denton County Judge
110 West Hickory Street, 2nd Floor
Denton, Texas 76201

Copy To: Denton County District Attorney's Office - Civil Division
1450 East McKinney Street, Suite 3100
Denton, Texas 76209

X.

The covenants, terms and conditions herein are to be construed under the laws of the State of Texas and are performable by the Parties in Denton County, Texas. The Parties mutually agree that venue for any dispute or obligation arising from this Agreement shall lie in Denton County, Texas.

XI.

The Town agrees and understands that the Town, its employees, servants, agents and representatives shall at no time represent themselves to be employees, servants, agents and representatives of the County.

XII.

The Town agrees to accept full responsibility for the acts, negligence and omissions of all City employees, agents, subcontractors and contract laborers and for all other persons doing work under a contract or agreement with the Town.

XIII.

This Agreement is not intended to extend the liability of the Parties beyond that provided for by law. Neither the County nor the Town waive, nor shall be deemed to have hereby waived, any immunity or defense that would otherwise be available to it against claims made by third parties.

XIV.

In the event that any portion of this Agreement shall be found to be contrary to law, it is the intent of the Parties hereto that the remaining portions shall remain valid and in full force and effect to the fullest extent possible.

XV.

The undersigned officers and agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto, and each party hereby certifies to the other that any necessary resolutions extending said authority have been duly passed and are now in full force and effect.

XVI.

This Agreement becomes effective when signed by the last party whose signing makes the respective agreement fully executed and the term of this Agreement is for the life of the Project beginning on the date of execution of this Agreement and continuing until the Project is completed.

Executed this _____ day of _____, 2019.

DENTON COUNTY, TEXAS

110 West Hickory
Denton, Texas 76201

By: _____
Honorable Andy Eads
Denton County Judge
Acting by and on behalf of the authority
the Denton County Commissioners Court

ATTEST:

By: _____
Denton County Clerk

APPROVED AS TO FORM:

By: _____
Assistant District Attorney

TOWN OF FLOWER MOUND, TEXAS

2121 Cross Timbers Road
Flower Mound, Texas 75028

By: _____
Honorable Steve Dixon
Mayor of the Town of Flower Mound, Texas
Acting by and on behalf of the authority
of the Town of Flower Mound, Texas

ATTEST:

By: _____
Town Secretary

APPROVED AS TO FORM:

By: _____
Town Attorney

COUNTY AUDITOR'S CERTIFICATE

I hereby certify funds are available to accomplish and pay the obligation of Denton County, Texas, under this Agreement.

Denton County Auditor

APPROVAL OF INTERLOCAL COOPERATION AGREEMENT

Denton County, Texas, acting by and through the Denton County Commissioners Court, having been advised of the Project, with a total contribution by Denton County which shall not exceed THREE MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$3,475,000.00) which shall be paid to the Town of Flower Mound, Texas, hereby gives its specific written approval to the Project prior to beginning the Project satisfaction of Texas Government Code §791.014.

The description of the Project to be undertaken and its location are as follows: construction services associated with the extension of Kirkpatrick Road as a 4-lane divided urban roadway on new alignment from current terminus south of FM 1171 at Spanish Oak to current terminus west of Garden Ridge at Blue Sky Lane, located within the municipal limits of the Town and Denton County Commissioner Precinct #3.

The local governments which requested the Project and with whom the agreement is by and between are Denton County, Texas, and the Town of Flower Mound, Texas.

By vote on the date below, the Denton County Commissioners Court has approved the Project identified above and authorized execution of this document by the presiding officer of the Denton County Commissioners Court.

Date: _____

By: _____

Presiding Officer of the Denton
County Commissioners Court



TOWN COUNCIL AGENDA ITEM NO. 25

REGULAR ITEM

DATE: October 7, 2019

FROM: James Hoefert, Environmental Review Analyst

ITEM: **Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Block B, Lot 13, of Oakbridge at Flower Mound Phase 2. The property is generally located at 2233 Sullenberger Way. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its September 12, 2019, meeting).**

BACKGROUND INFORMATION: Block B, Lot 13, of the Oakbridge at Flower Mound is generally located at 2233 Sullenberger Way. The site is approximately 0.41 acres in size. The site is currently zoned for Planned Development District No. 129 (PD-129) with Single-Family District-10 (SF-10) uses and is master planned for medium density residential uses. According to the original tree survey for the project, the lot contains two (2) specimen trees. The applicant is requesting to remove one (1) of the specimen trees from the lot in order to build a house. The specimen tree proposed for removal (Tree #1892 – 30” pecan) is in good condition and is located within the proposed buildable area of the lot.

The Town’s tree ordinance requires that specimen trees removed from the site be replaced at a rate of two times their caliper inches. Based on its size, 60” of replacement trees, equaling twenty (20) three-inch caliper trees, will be required for the one (1) specimen tree being requested for removal on this site. The applicant would also lose the six (6) credits previously received for the initial attempt to preserve the specimen tree.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its September 12, 2019, meeting. The ECC recommended approval of the requested permit to remove the specimen trees. A link to the ECC meetings can be found at: <https://tx-flowermound.civicplus.com/index.aspx?NID=969>

As of September 25, 2019, staff has not received feedback related to this item.

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

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

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

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

Toll Brothers

AMERICA'S LUXURY HOME BUILDER®

August 26, 2019

Michael Todd
Area Production Manager,
Toll Brothers Inc.
Flower Mound

To Whom It May Concern,

I am writing this letter with the intent of showing the hardship we have encountered due to an error by our Land Development Team. In the development of the Phase II of our Oakbridge at Flower Mound, the Land Development Team tried to save as many trees as possible as they are both great for the community as both a resource/aesthetic but also as they are a sought-after feature for new buyers which sets our Flower Mound communities apart from our communities in other municipalities in which we build homes.

The error that I am referring to is located on our Lot 74 which is 2233 Sullenberger Way, Flower Mound Texas, 75028 – Legal Lot 13/Block B. This lot has a specimen tree that was not scheduled by the Land Development Team for removal. Unfortunately, due to the location of the tree, there is not plan that Toll Brothers has in our community offerings, the either plans available in this community to our prospective buyers, that would fit on the delivered pad with the tree remaining in place. This is true regardless of the hand of house, left or right, for all eight plans offered.

We are requesting the approval to remove this specimen tree so that the home that has been purchased for this lot by our buyer can be built. Please let me know if there are any actions/questions that need to be taken/answered. I can be reached at 817-825-1739.

Thank you,



Michael G. Todd

Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 10/6/08 - present)

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

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

Name:

Gregory D. Massengale

Address:

11376 Kline Dr.
Dallas, TX 75229

Phone:

Applicant's Legal Interest in the Property:

Certified Arborist TX-3953A

2. Property Owner(s)

Name(s): Toll Brothers Inc.
Address: 2555 SW Grapevine Parkway #100
Grapevine, TX 76051

3. Location and Legal Description of Property:

2233 Sullenberger Way Lot 13 Block B
Flower Mound, TX 75028

Page 2 of 3.

4. Owner's Authorization of Representation

I, Michael G. Todd, the owner of the above described real property, do hereby authorize Bretlett Tree Experts to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Trees), of the Land Development Regulations of the Town of Flower Mound, Texas Code of Ordinances.

Michael G. Todd
Signature of Owner



Given Under My Hand and Seal of Office
This the 1 Day of August, 2019
Meghan Lee Metcalf
Notary Public
In and For Tarrant County, Texas.

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

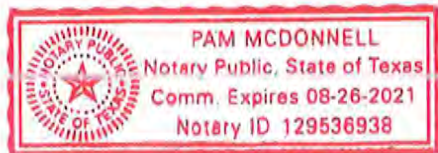
Subject to criminal penalties contained in Subpart B, the Land Development Regulations of the Town of Flower Mound, Texas Code of Ordinances, I Gary Messing do hereby swear or affirm that all of the Information contained herein and submitted herein is, to the best of my knowledge, true, correct and complete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

Gary Messing
Signature of Applicant

Landscape Architect License No. _____
State of Licensure _____
Or ISA Certified Arborist No. TX-3953A

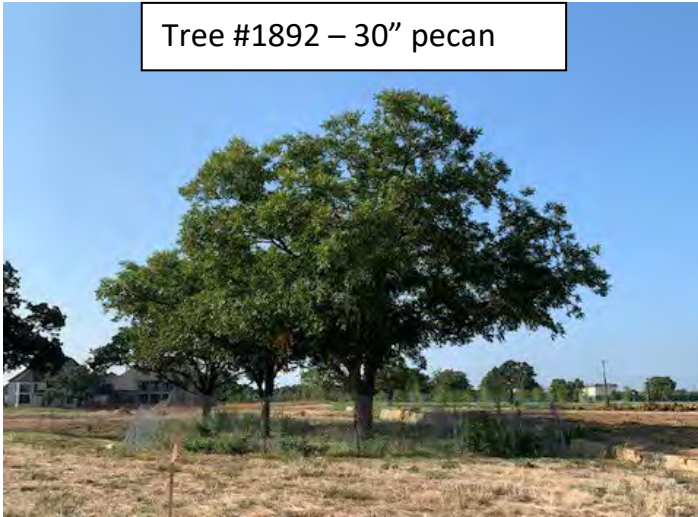
Given Under My Hand and Seal of Office
This the 1 Day of August, 2019
Megan Lee Metcalf
Notary Public
In and For Tarrant County, Texas

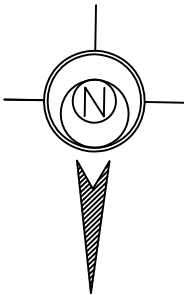
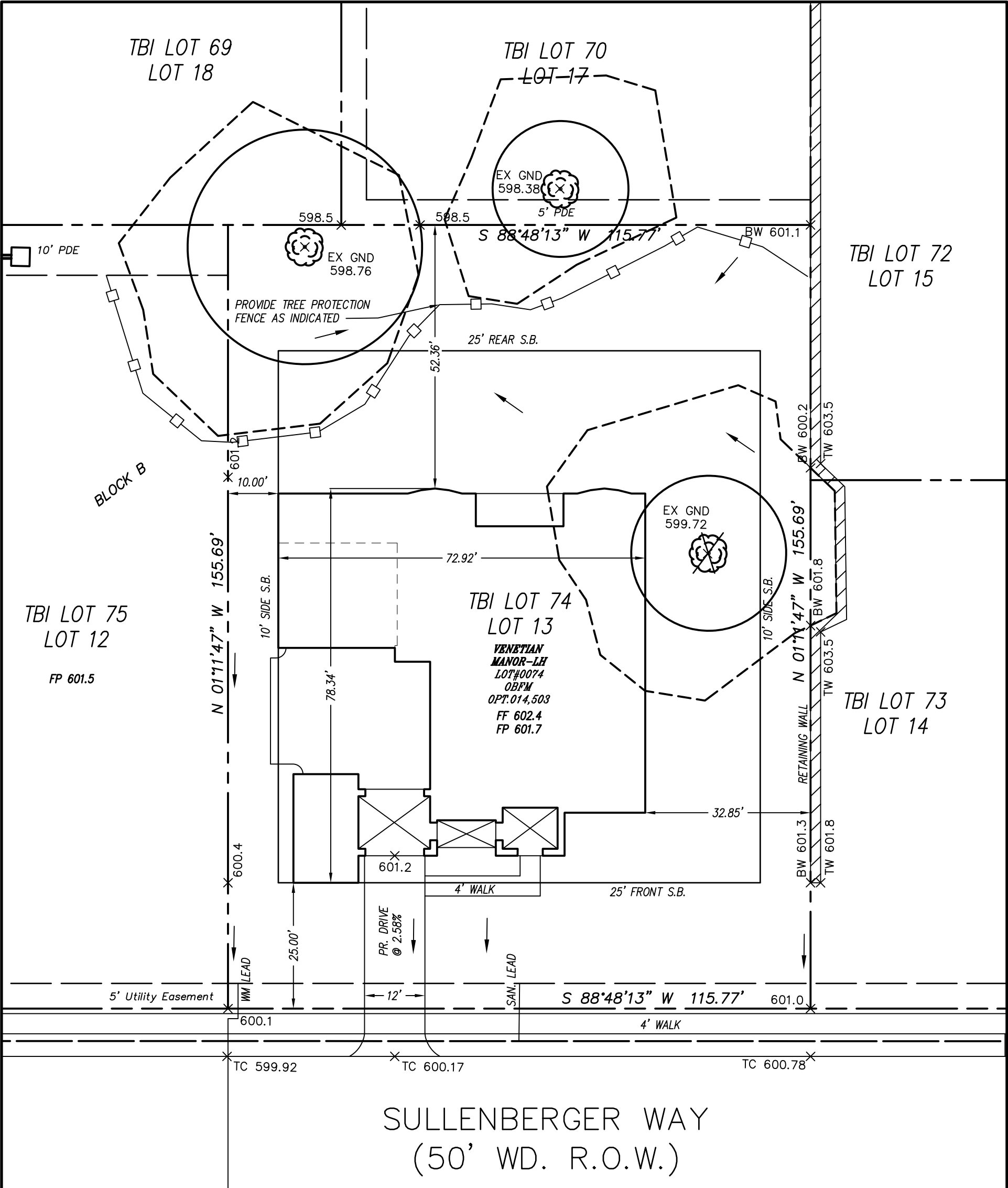
6. Received by Town of Flower Mound on (Date) 8/26/2019 by (initials) JRH.



2233 Sullenberger Way -
Specimen tree proposed for removal

Tree #1892 – 30" pecan

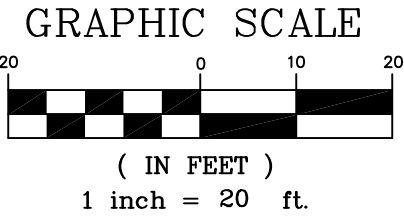




LOT AREA = 18,024 S.F.
HOUSE AREA = 4,344 S.F.
LOT COVERAGE = 24.1%

LEGEND

- FIRE HYDRANT
- LIGHT POLE
- WATER VALVE
- WATER METER
- GAS METER
- DRAIN
- TELEPHONE PEDESTAL
- MAILBOX
- STORM MANHOLE
- STONE RETAINING WALL



REV. 8-29-2019 -MAT- TREE FENCE
REV. 8-14-2019 -SRB- OPTION 503
REV. 6-21-2019 -SRB- PER CITY COMMENTS

PLOT PLAN
2233 SULLENBERGER WAY

LOT 13 OF BLOCK B, OAKBRIDGE AT FLOWER MOUND PHASE TWO, AN ADDITION TO THE TOWN OF FLOWER MOUND J. WHITE SURVEY ~ ABSTRACT NO. 1341, DENTON COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NUMBER 2014-23777, OFFICIAL RECORDS, DENTON COUNTY, TEXAS

TB LOT No. 74

Land Planning
Engineering
Land Surveying

2557 SW GRAPEVINE PKWY
Suite 100
GRAPEVINE, TX 76051
TEL: (817) 329-8770 ext. 2280
TBPLS Firm No. 10194237

CIVIL ENGINEERS - LAND SURVEYORS - LANDSCAPE ARCHITECTS - LAND PLANNERS

DESIGNED:	DRAWN: SRB	CHECKED: MAT
SCALE: 1" = 20'	DATE: 31 MAY 2019	DWG.: 3499-LOT 74-PP



TOWN COUNCIL AGENDA ITEM NO. 26

REGULAR ITEM

DATE: October 7, 2019

FROM: James Hoefert, Environmental Review Analyst

ITEM: **Public Hearing to consider an application for a tree removal permit for six (6) specimen trees on property proposed for development as St. Philip the Apostle Catholic Church. The property is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road. (The Environmental Conservation Commission recommended approval by a vote of 5-0-1 at its September 12, 2019, meeting).**

BACKGROUND INFORMATION: The St. Philip the Apostle Catholic Church development is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road. The site is approximately 40.59 acres in size. The site is currently zoned for Agriculture (A) use and is master planned for the Cross Timbers Conservation Development District. According to the tree survey for the project, the site contains fifty-seven (57) specimen trees. The applicant is requesting to remove six (6) trees. The specimen trees proposed for removal are all in good condition and are located within the proposed buildable area.

The following six (6) specimen trees being requested for removal: Tree #767 – 24” post oak; Tree #768 – 29” post oak; Tree #769 – 27” post oak; Tree #792 – 27” post oak; Tree #797 – 27” post oak; and Tree #815 – 23” blackjack oak.

The Town’s tree ordinance requires that specimen trees removed from the site be replaced at a rate of two times their caliper inches. Based on their sizes, 314” of replacement trees, equaling 105 three-inch caliper trees, will be required for the six (6) specimen trees being requested for removal on this site. In addition, protected trees removed from the buildable area will also require replacement at a tree-for-tree rate. The developer is proposing to preserve a significant number of existing protected and specimen trees on the site, so there will be credits available for the preservation of those trees. Protected tree mitigation / replacement will be determined with the record plat application – once final engineering has been completed for the project.

BOARD REVIEW/CITIZEN FEEDBACK: This application was considered by the Environmental Conservation Commission (ECC) at its September 12, 2019, meeting. The ECC recommended approval of the requested permit to remove the specimen trees. A link to the ECC meetings can be found at: <https://tx-flowermound.civicplus.com/index.aspx?NID=969>

As of September 25, 2019, staff has not received feedback related to this item.

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

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

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

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

August 16, 2019

James Hoefert
Environmental Review Analyst
1001 Cross Timbers Road
Flower Mound, Texas 75028



LANDSCAPE ARCHITECTURE
SITE PLANNING
TREE MITIGATION

Re: St. Philip Church : Tree Removal Application

Mr. Hoefert,

As required, we are submitting this document explaining the reasons for the tree removal at St. Philip Church. The purpose of the removal of (6) six Specimen Trees is for site development for a new church.

Tree 767 – 24” Post Oak: Tree is proposed to be removed due the required fire lane turn around. The tree falls within the required fire lane.

Tree 768 – 29” Post Oak: Tree is proposed to be removed due the required fire lane turn around. More than 25% of the critical rootzone will be impacted.

Tree 769 – 27” Post Oak: Tree is proposed to be removed due to the required fire lane turn around. More than 25% of the critical root zone will be impacted.

Tree 792 – 27” Post Oak: Tree is proposed to be removed due to close proximity to the water utilities as well as the required fire lane alignment.

Tree 797 – 27” Post Oak: Tree is proposed to be removed due to the location alignment of the water utilities as well as the required fire lane.

Tree 815 – 23” Black Jack Oak: Tree is proposed to be removed due to its close proximity to the proposed church building. It is also in close proximity to required handicap parking. More than 25% of the critical root zone will be impacted.

If you should have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leonard", followed by a horizontal line.

Leonard Reeves, RLA, ASLA, PLA
Studio 13 Design Group
386. West Main Street
Lewisville, TX 75057

Studio 13 Design Group
386 W. Main Street
Lewisville, Texas 75057
469-635-1900
www.studio13.bz

Town of Flower Mound
Application for:
TREE REMOVAL PERMIT

(Effective for Developments submitted 10/6/08 - present)

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

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

Name:

LEONARD W REEVES

Address:

386 W. MAIN ST.

LEWISVILLE TX 75057

Phone:

469-635-1900

Applicant's Legal Interest in the Property:

LANDSCAPE DESIGNER / ARCHITECT

2. Property Owner(s)

Name(s):

MICHAEL F. OLSON, STD

Address:

BISHOP OF THE CATHOLIC DIOCESE OF FT. WORTH

800 W. LOOP 820 SOUTH

FT. WORTH TX 76108

3. Location and Legal Description of Property:

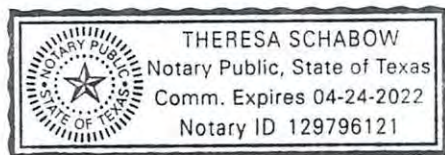
JOSEPH CLARK SURVEY, ABSTRACT No 231 * the RAE E SKILLERN TRUST SURVEY ABSTRACT No. 1732

SOUTHWEST CORNER FM 1171 (CROSS TIMBERS) * FLOWER MOUND RD.

Page 2 of 3.

4. Owner's Authorization of Representation

I, Rev. Msgr. E. James Hart, Attorney-in-fact for Michael F. Olson, S.T.D., Bishop of the Catholic Diocese of Fort Worth, the owner of the above described real property, do hereby authorize LEONARD W. REEVES to represent my interests and to file an Application for Tree Removal Permit for said real property, pursuant to the terms and provisions of Chapter 94 (Trees), of the Land Development Regulations of the Town of Flower Mound, Texas Code of Ordinances.



E. James Hart
Signature of Owner

Rev. Msgr. E. James Hart, Attorney-in-fact for Michael F. Olson, S.T.D., Bishop of the Catholic Diocese of Fort Worth

Given Under My Hand and Seal of Office

This the 21 Day of August, 2019

Theresa Schabow

Notary Public

In and For Tarrant County, Texas.

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

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

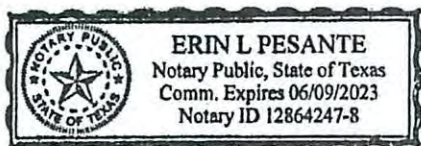
Leonard W. Reeves
Signature of Applicant

Signature of Applicant

Landscape Architect License No. 1977

State of Licensure TEXAS

Or ISA Certified Arborist No. _____



Given Under My Hand and Seal of Office

This the 20 Day of August, 2019

Erin L. Pesante

Notary Public

In and For Denton County, Texas

6. Received by Town of Flower Mound on (Date) 8/21/2019 by (initials) JRH.

St. Philip the Apostle Catholic Church -
Specimen trees proposed for removal

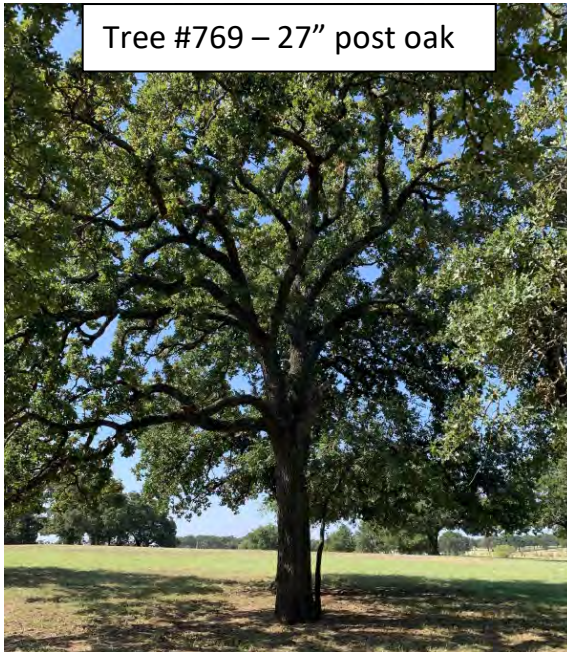
Tree #767 – 24" post oak



Tree #768 – 29" post oak



Tree #769 – 27" post oak

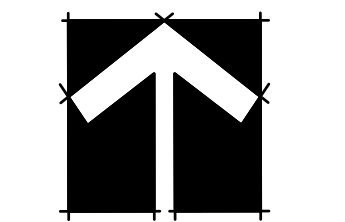


Tree #792 – 27" post oak





TBAE Firm #BR643



0 25 0 5

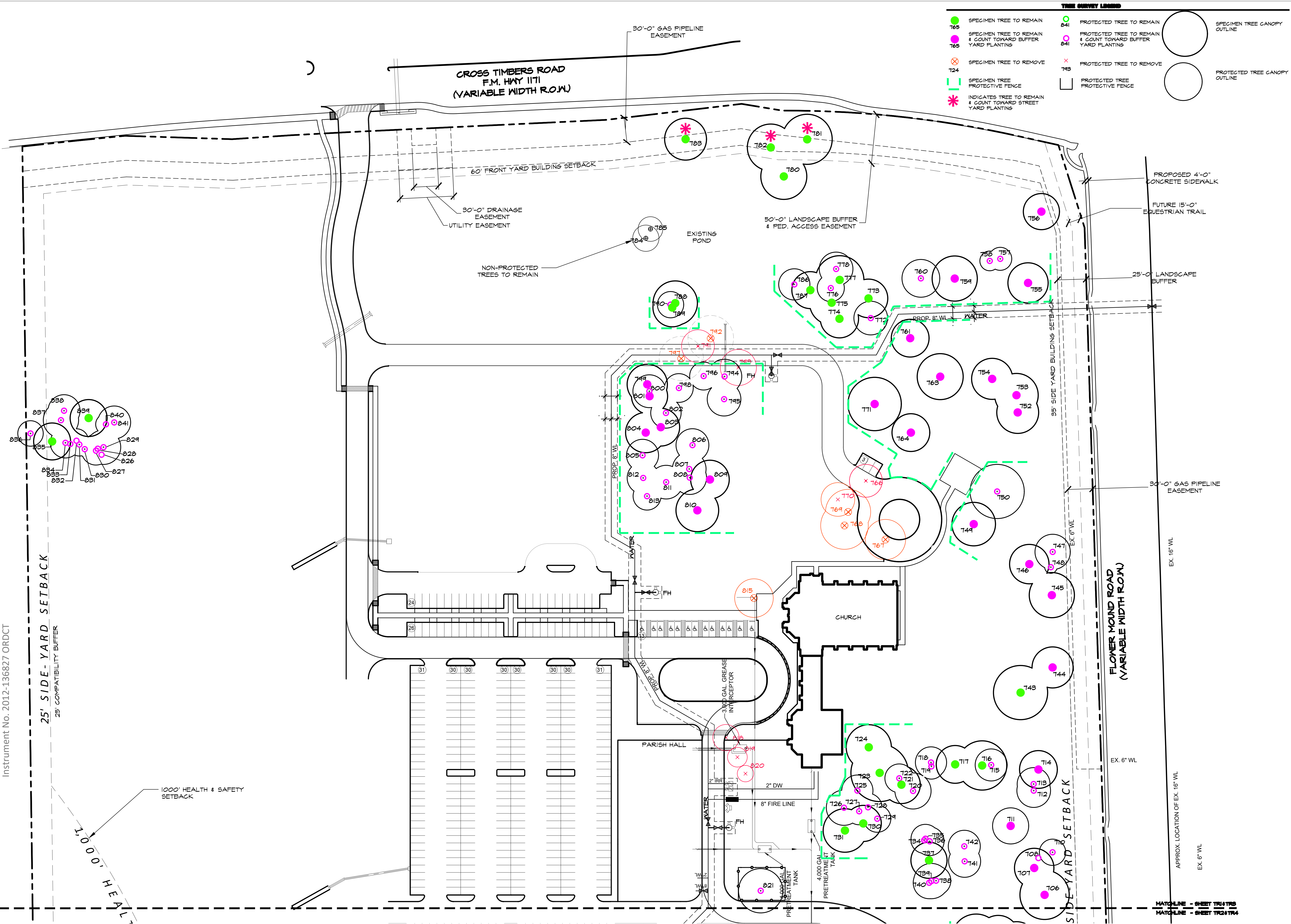
bar is one inch on original
drawing. If not one inch on this
sheet, adjust scale as necessary.

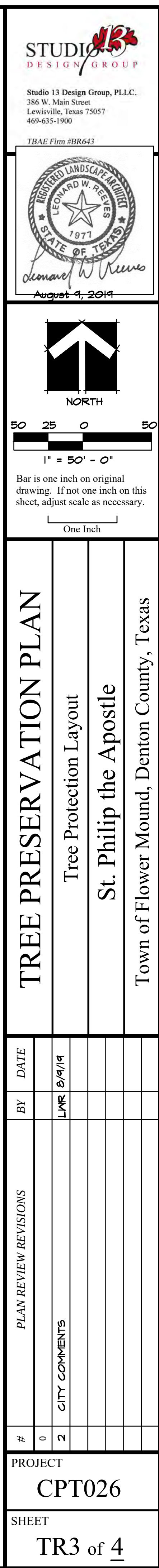
One Inch

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

PROJECT	CPT026
SHEET	TR 1 of 4





NOT TO SCALE



TOWN COUNCIL AGENDA ITEM NO. 27

REGULAR ITEM

DATE: October 7, 2019

FROM: Poornima Kashyap, Senior Planner

ITEM: **Consider a request for a Site Plan (SP19-0006 - St. Philip The Apostle Catholic Church, Phase 1) to develop a church, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances. The property is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road. *(The Planning and Zoning Commission recommended approval of the site plan by a vote of 5 to 1 at its September 23, 2019, meeting.)***

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report

LEGAL REVIEW: N/A

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



PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 4

REGULAR ITEM

DATE: September 23, 2019

FROM: Poornima Kashyap, Senior Planner

ITEM: Consider a request for a Site Plan (SP19-0006 - St. Philip The Apostle Catholic Church, Phase 1) to develop a church, with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances and a request for additional height pursuant to Section 98-1031(d) Additional height, of the Code of Ordinances. The property is generally located at the southwest corner of Cross Timbers Road and Flower Mound Road.

I. ITEM SUMMARY

This application has been reviewed by DRC and determined to be ready for consideration by the Planning and Zoning Commission. There are exception requests to the Town's regulations regarding compatibility buffer and maximum building height, which necessitate special consideration by the Commission (see Analysis below).

The project has a companion application, Record Plat (RP19-0005), for consideration on the same agenda.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this request is to obtain site plan approval to develop a three-story, approximately 15,979 square feet church building. The land use for this property is Cross Timbers Conservation Development District and zoning is Agricultural (A), which allows the development of the property for a church use by right. The net site acreage is approximately 39.52 acres. As a part of the site plan application, the applicant is requesting certain exceptions:

A. Exception to Section 82-302 Compatibility Buffer

The residential compatibility standards apply when a non-residential development is proposed adjacent to an existing residential use or zoning, or property designated for residential use on the comprehensive master plan.

For churches, the landscape setback shall consist of a minimum 25-foot landscape buffer, with native shade trees, a minimum three-inch caliper and of species included in section 94-66 of this Code, approved tree lists, provided at a ratio of one tree per 500 square feet of buffer area. Additionally, churches shall be exempt from the

requirements of subsection (1) of this section, requiring the construction of a brick wall or masonry wall with stucco or mortar wash finish.

The proposed development shares approximately 1,337 linear feet of western property boundary with vacant property zoned Agricultural (A), which allows the development of single-family residences in compliance with the Agricultural district regulations. The applicant is requesting a waiver to both landscaping and fencing requirements along the entire length of the western property boundary. The applicant has provided a letter of support from the adjacent property owner [Attachment A(3)].

B. Exception to Sec. 98-1031, Maximum Height

The subject property is zoned Agricultural (A) and the maximum permitted height within this zoning district is 35 feet measured to the highest point of the flat roof surface. The calculation of building height shall exclude chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten feet in height. Additional height above that permitted by district regulations may be granted by the Planning and Zoning Commission at the time of site plan approval.

• Building	3 stories
• Peak Height	80' - 0"
• Mean Height	64' - 6"
• Tower Height	120' - 0"

The applicant has provided an overall masterplan showing the current proposal for your consideration and future expansion for informational purposes. The current site plan depicts a 12,579 square-foot church, 3,400 square foot parish hall, a columbarium, and associated parking. The sanctuary is one story with high ceilings and an open choir loft in the back of the sanctuary. The tower portion is three stories and the parish hall and the office building to the south of the church is two stories.

Nonresidential or multifamily buildings, more than one story, main or accessory, shall be set back from the property line adjacent to an existing or proposed residential use five feet for every one foot of building height. The tallest part of the building is 120 feet which requires a compatibility setback of 600 feet measured from the western property line. The building is setback approximately 918.7 feet from the western property line.

Access to the subject site is from Cross Timbers Road to the north and Walshingham Drive to the south. The required parking for the Church is calculated at the ratio of one space per three seats in the auditorium. Per the Town's code, where parking ratios are specified in terms of the number of seats, this shall be interpreted to mean maximum seating capacity as determined using the standards of the uniform building code or maximum. The maximum seating capacity of the main sanctuary is 910. Based on this number, the required parking is 303 spaces and the site plan depicts 334 parking spaces which is within the allowable 20 percent deviation.

The proposed building elevations comply with the design standards in the Town's Urban Design Plan. Primary building materials include brick, stone, and stucco. The landscape plan depicts the proposed landscape buffer, streetyard buffer and parking lot trees. Due

to the location of the site that has frontage on three streets, the expansiveness of the site, and the size and location of the building proposed under phase one construction, the applicant is required to plant 220 new trees to satisfy the requirements of street buffer, street yard, and parking lot tree requirements. This is in addition to preserving 95 protected trees and 51 specimen trees. The landscape plan and building elevations comply with applicable town standards.

The property is located within the Cross Timbers Conservation Development District (CTCDD) and is located outside the Town's wastewater service area. The property will contain commercial septic system to serve the proposed development.

Environmental Conservation Commission

On [September 12, 2019](#), the Environmental Conservation Commission (ECC) recommended approval of a permit to remove six specimen trees on the site. The item will be forwarded to the Town Council for consideration at the same time as the subject project.

III. ATTACHMENTS

A. Background Information

1. Vicinity Map
2. Letter of Intent
3. Letter of Support for Compatibility Buffer Exception

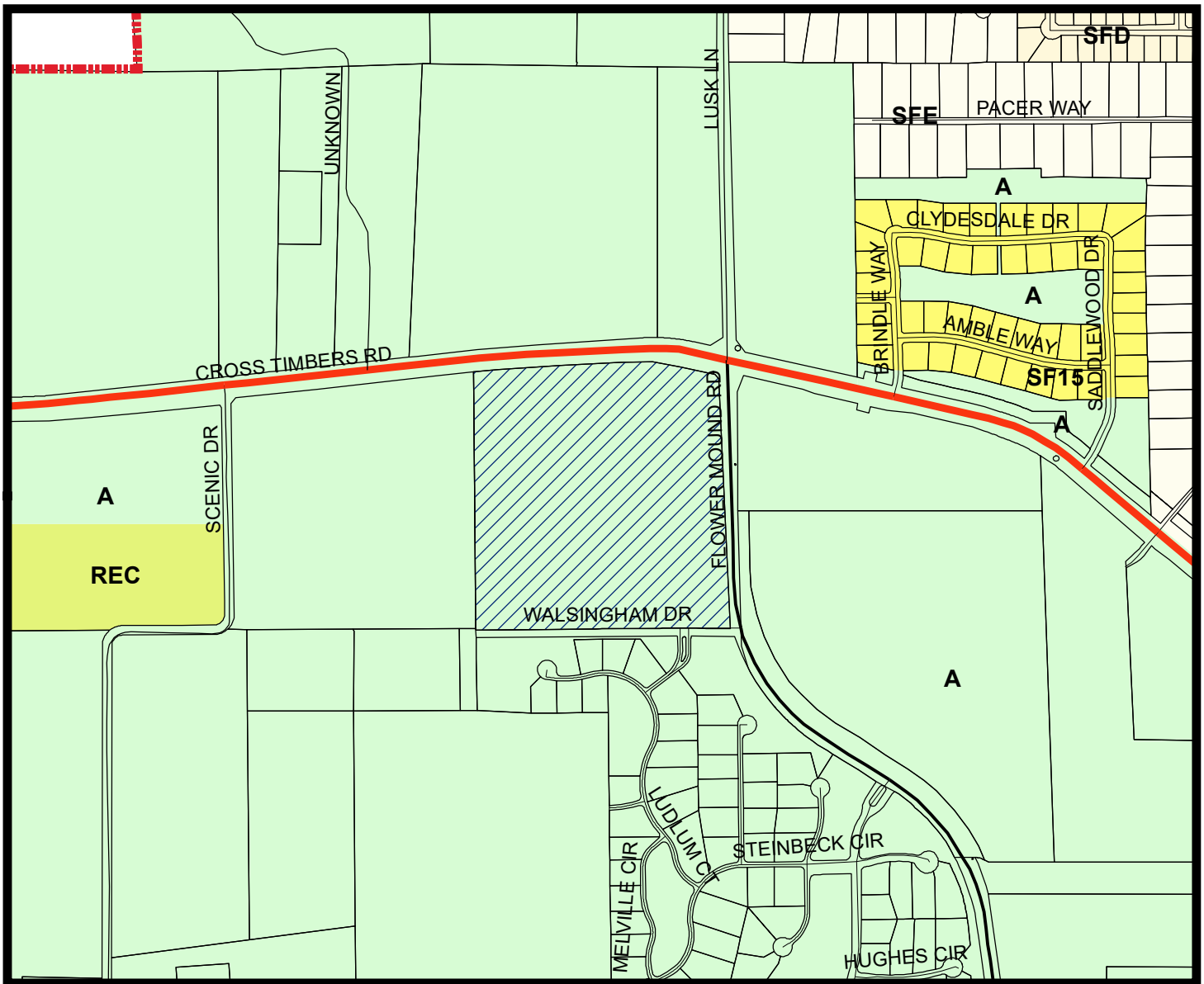
B. Application Details

1. Site Plan Package



Vicinity Map

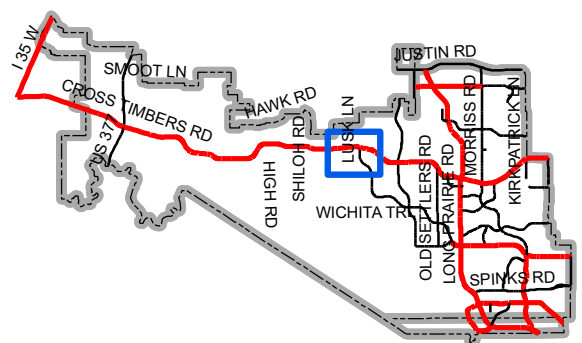
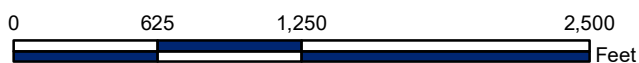
Reference Project: RC19-0005 & SP19-0006



LEGEND

- Agriculture
- Recreation
- Single Family 15
- Single Family Density
- Single Family Estate

Subject Property



Map Location

Original: March 27, 2019

Revised: May 31, 2019

Revised: July 16, 2019

Revised: August 17, 2019

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Subject: **Letter of Intent for Site Plan Application (SP19-0006) and Record
Plat Application (RC19-0005)**
 St. Philip the Apostle Catholic Church
 5201 Cross Timbers Road
 Southwest Corner of Cross Timbers and Flower Mound Roads

To whom it may concern:

Please accept the Letter of Intent to process a Site Plan and Record Plat and related drawings with the Town of Flower Mound.

The project site is 40.59 acres and currently zoned Agriculture (A). We are not proposing a zoning change as church and related uses are an allowed use.

We are proposing 1 platted lot with right-of-way being dedicated for future Walsingham Drive on the south. The lot will be owned in its entirety by the Catholic Diocese of Ft. Worth and no common areas are proposed.

We have included a Master Plan for the property for informational purposes. The Master Plan includes the Church building and related uses including Parish Hall building, Office Cloister building, Education Cloister building (for religious education classes), Rectory building, and open air Columbarium. The project is anticipated to be constructed in three (3) phases as shown on the Master Plan.

The Site Plan for Phase 1 is the subject of this submittal and consideration by the appropriate bodies. Phase 1 will consist of Phase 1 of the Church building, which includes extension of a portion of the connected Office Cloister building to house the church offices, religious education classrooms and parish hall until future permanent buildings for these uses are built in the later phases. Phase 1 Church and Office Cloister building combined is 15,979 square feet and is the only building being constructed on the property with Phase 1. Phase 1 also includes the phase 1 of the parking lot, a trash dumpster/enclosure, related drive aisles and the Columbarium.

We are requesting the following exceptions to Town code of ordinances:

- Height exception to the main building and the tower. The maximum height for Agriculture (A) district is 35 feet. We are requesting a mean main building height of 64'-6", a peak main building height of 80'-0" and a tower height of 120'-0".
- Exception to the Compatibility Buffer along the west side of the property. The reason for the exception is our development project is over 300 feet from the west property line. We have provide a letter of support for the adjacent property owner.

Please let us know if you have any questions. We look forward to working with the Town of Flower Mound on this project.

Sincerely,

Jeff Miles

St. Philip the Apostle Catholic Church

Building Committee Member

Cell [REDACTED]

Cc. Scott Martsolf, Martsolf Architecture, [REDACTED]
Phil Armentrout, Martsolf Architecture, [REDACTED]
John Bezner, Civil Point Engineers, Inc., 9 [REDACTED]
Leonard Reeves, Studio 13 Design Group, [REDACTED]

Ms. Poornima Kashyap, AICP
Senior Planner, Planning Services Division
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Subject: Exception to the Compatibility Buffer between
St. Philip the Apostle Church property and
Shady Oaks Family Ranch, Ltd. Property

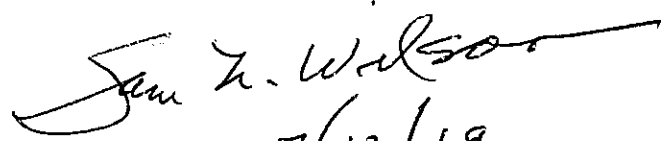
Dear Ms. Kashyap,

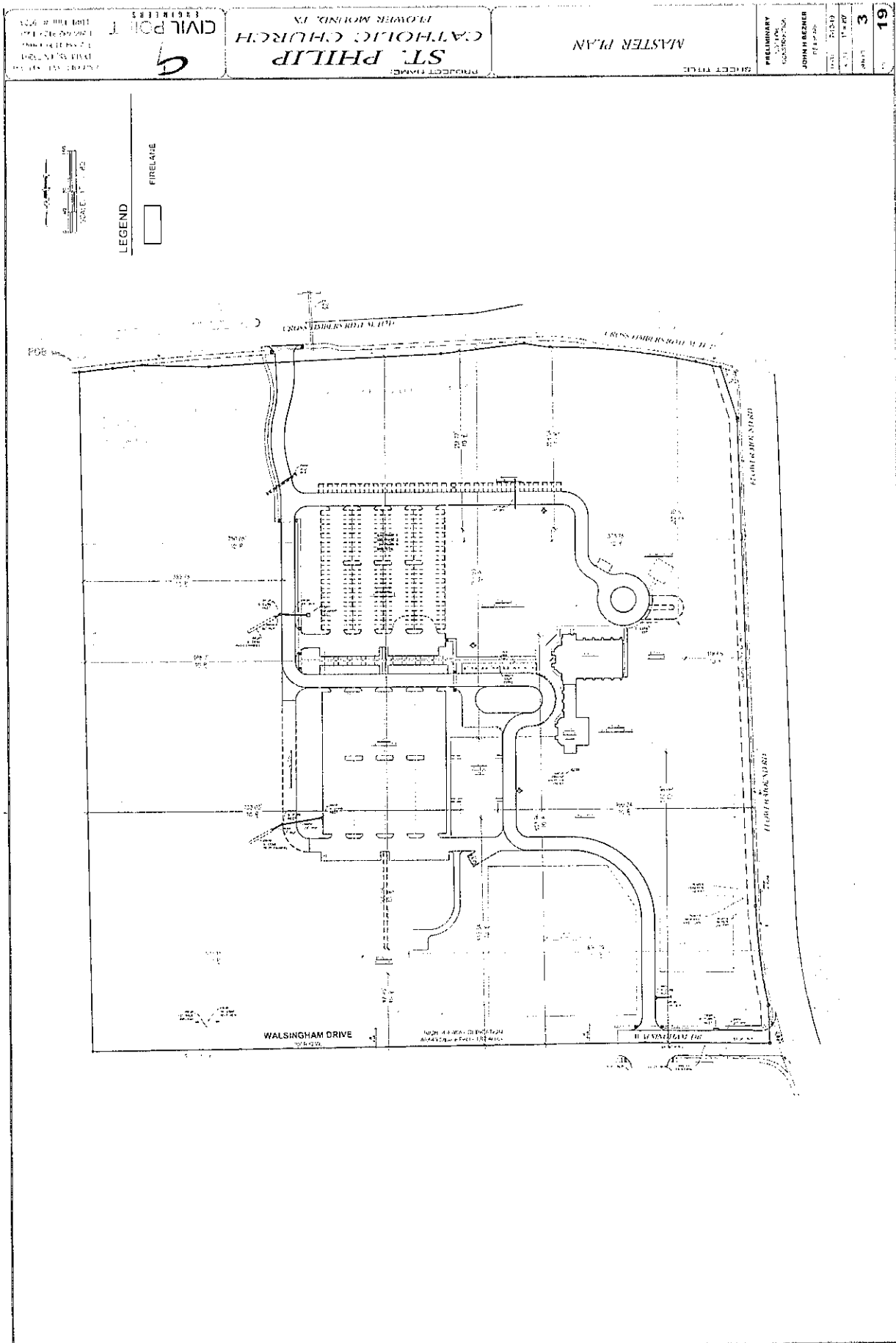
I represent the property owner, Shady Oaks Family Ranch, Ltd., which owns property fronting Cross Timbers Road and adjacent to the west of property line of the Catholic Diocese of Ft. Worth tract. I understand the Diocese is developing a church campus for St. Philip the Apostle Catholic Church. The attached Master Plan was provided to me by Church representatives.

The Church has requested my support of an Exception to the Town required Compatibility Buffer, which I understand is normally required of a new church project when adjacent to a residential property. It is my understanding the closest structure will be the west side of their driveway, which is over 300 feet away from our common property line. I also understand their closest building, when the project is completely built out, will be over 500 feet away from our common property line. I am also told the land between their driveway and closest building and our common property line will remain undeveloped, other than for drainage and stormwater detention and possibly agriculture uses as allowed under the Town ordinances.

Knowing the above conditions, we support their request to eliminate the compatibility buffer. Please convey our support to the Planning & Zoning Commission and Town Council, as needed. Also, feel free to contact me if you have any questions.

Sincerely,


7/12/19



2626 COLE AVE., STE. 300
DALLAS, TX 75204
972-554-1100 (Office)
1-866-682-8129 (Fax)
TBPE Firm #: 9723

CIVIL POINT

ENGINEERS

PROJECT NAME:

ST. PHILIP CATHOLIC CHURCH
FLOWER MOUND, TX

SHEET TITLE:

MASTER PLAN

PRELIMINARY
NOT FOR
CONSTRUCTION

JOHN H BEZNER
PE # 98469

DATE

7-15-19

SCALE

1" = 80'

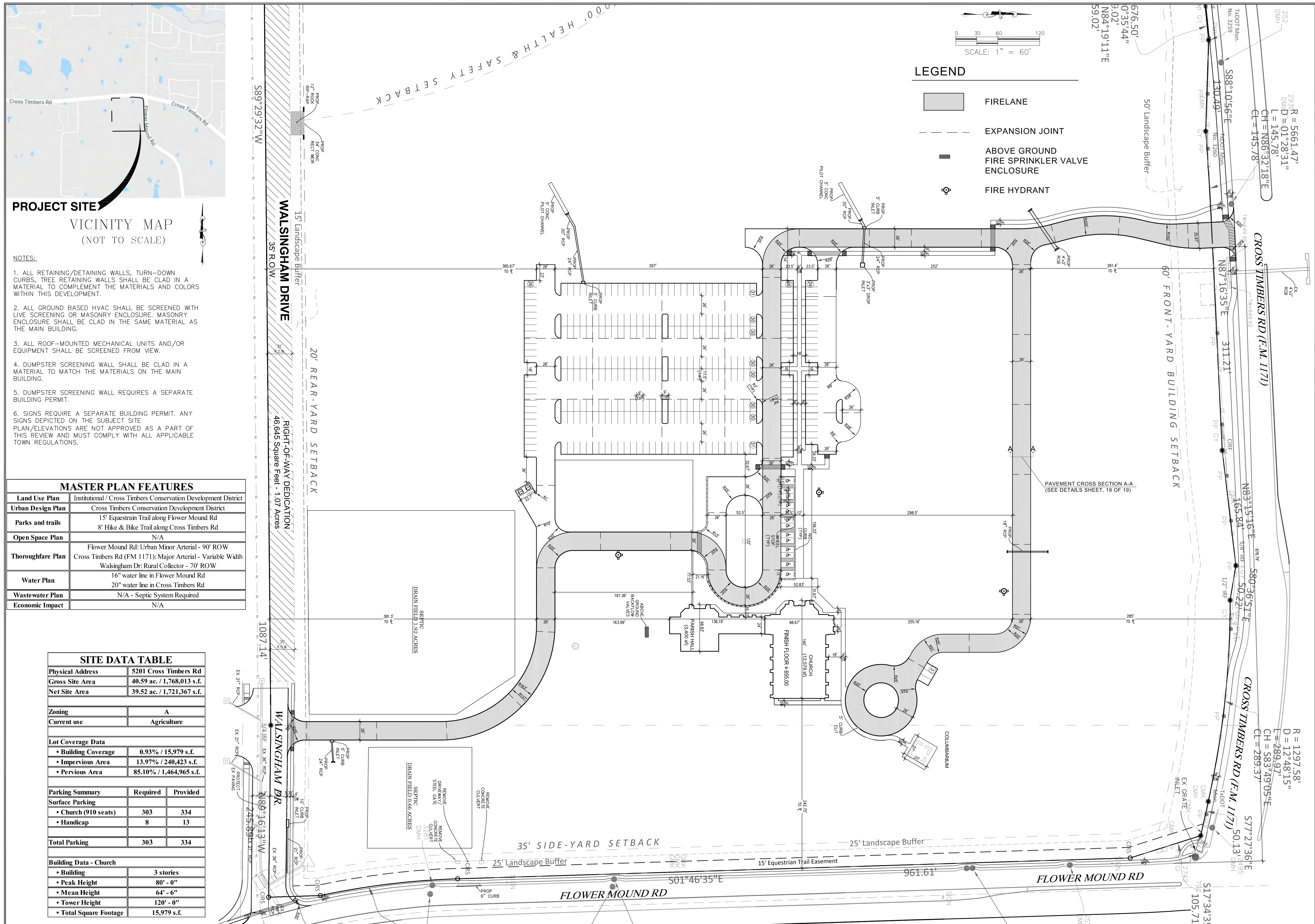
SHEET

3

OF

19

This master plan site map illustrates the proposed layout for St. Philip Catholic Church and its associated facilities. The site is bounded by Cross Timbers Rd (F.M. 1171) to the north, Flower Mound Rd to the east, and Walsingham Drive to the south. The plan includes a 60' front-yard building setback, a 25' side-yard setback, and a 1,000' health & safety setback. The church building is centrally located, with a columbarium to its northeast and a statue to its southwest. The parking lot is divided into three phases: Phase 1 (300 spaces), Phase 2 (240 spaces), and Phase 3 (180 spaces). The site also features a septic drain field, a columbarium, a church, a temporary parish hall, a parish hall, a rectory, and a statue. The plan includes detailed survey data, including bearings, distances, and curve information. The site is surrounded by a 50' landscape buffer and a 15' landscape buffer. The plan also shows the location of existing and proposed structures, including the church, columbarium, and parking lot. The site is bounded by Cross Timbers Rd (F.M. 1171) to the north, Flower Mound Rd to the east, and Walsingham Drive to the south. The plan includes a 60' front-yard building setback, a 25' side-yard setback, and a 1,000' health & safety setback. The church building is centrally located, with a columbarium to its northeast and a statue to its southwest. The parking lot is divided into three phases: Phase 1 (300 spaces), Phase 2 (240 spaces), and Phase 3 (180 spaces). The site also features a septic drain field, a columbarium, a church, a temporary parish hall, a parish hall, a rectory, and a statue. The plan includes detailed survey data, including bearings, distances, and curve information. The site is surrounded by a 50' landscape buffer and a 15' landscape buffer.



CIVIL POINT

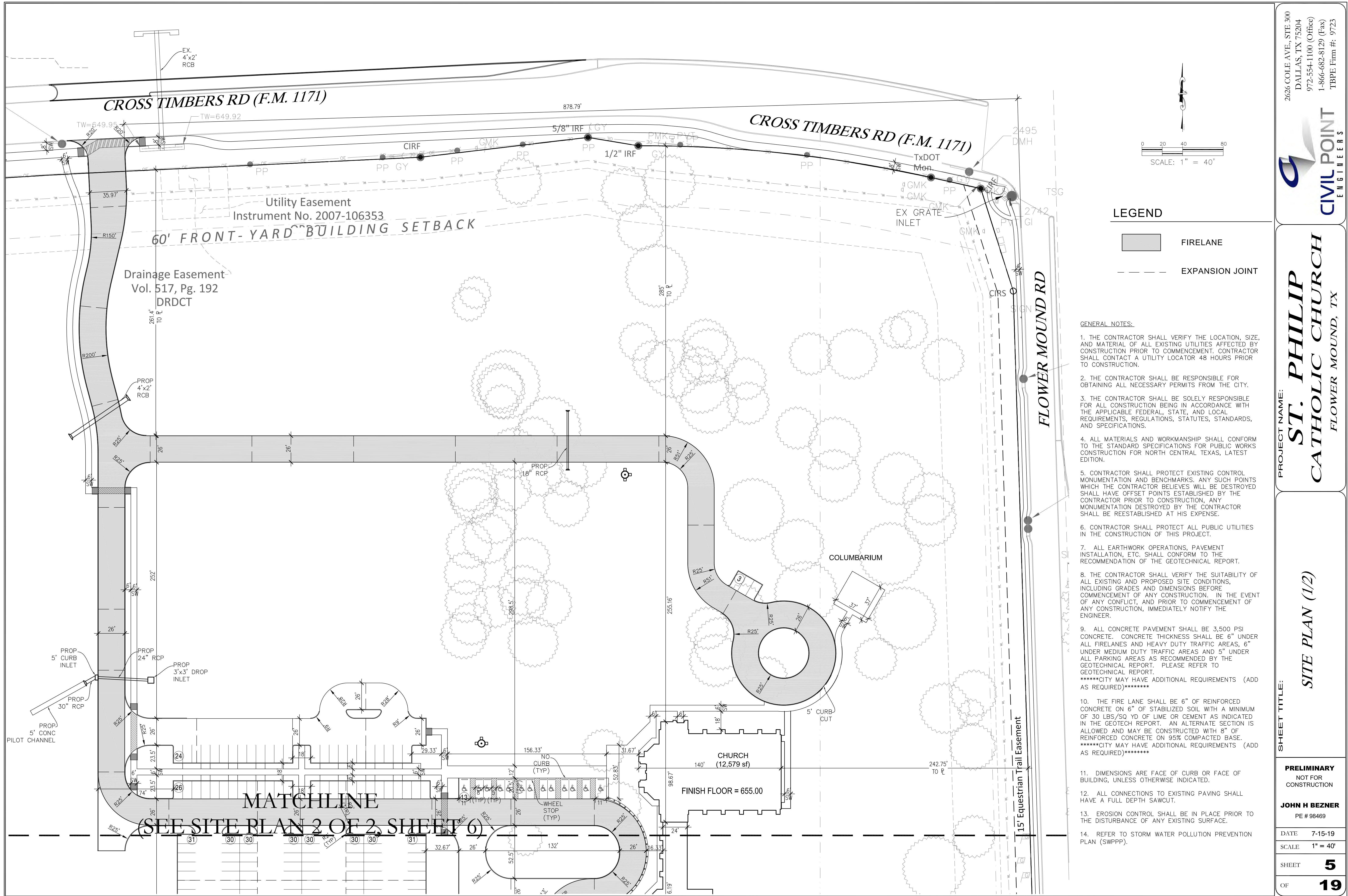
TITLE: *OVERALL SITE PLAN*
PHASE 1

PRELIMINARY
NOT FOR
CONSTRUCTION

DATE	7-15-19
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SHEET **4**
OF **10**

OF 19



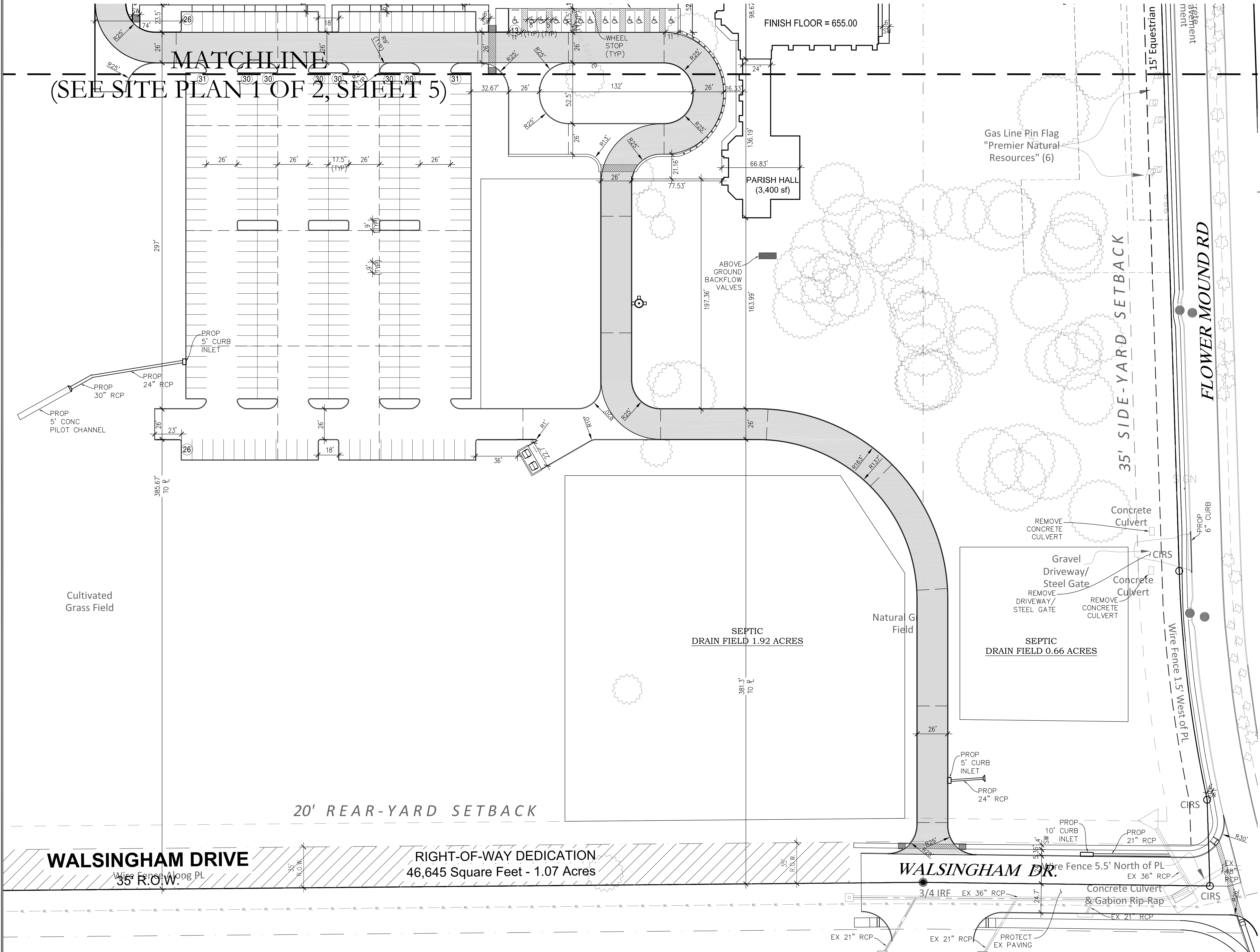
2626 COLE AVE., STE 300
DALLAS, TX 75204
972-554-1100 (Office)
1-866-682-8129 (Fax)
TBPE Firm #: 9723

CIVIL POINT
ENGINEERS

PROJECT NAME:
ST. PHILIP CATHOLIC CHURCH
FLOWER MOUND, TX

SHEET TITLE:
SITE PLAN (1/2)

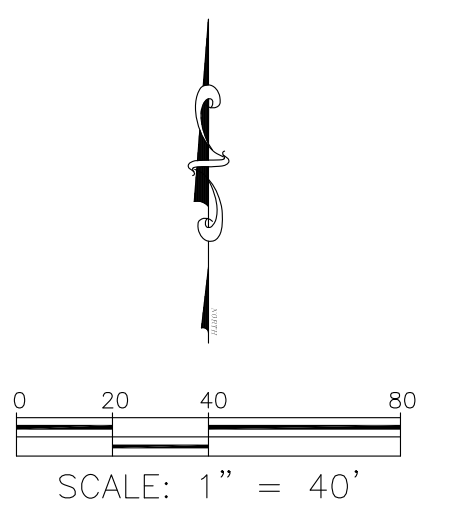
PRELIMINARY NOT FOR CONSTRUCTION
JOHN H BEZNER PE #98469
DATE 7-15-19
SCALE 1" = 40'
SHEET 5
OF 19



LEGEND

FIRELANE

EXPANSION JOINT



2626 COLE AVE., STE 300
DALLAS, TX 75204
972-554-1100 (Office)
1-866-682-8129 (Fax)
TBP Firm #: 9723

CIVIL POINT
ENGINEERS

PROJECT NAME:
**ST. PHILIP
CATHOLIC CHURCH**
FLOWER MOUND, TX

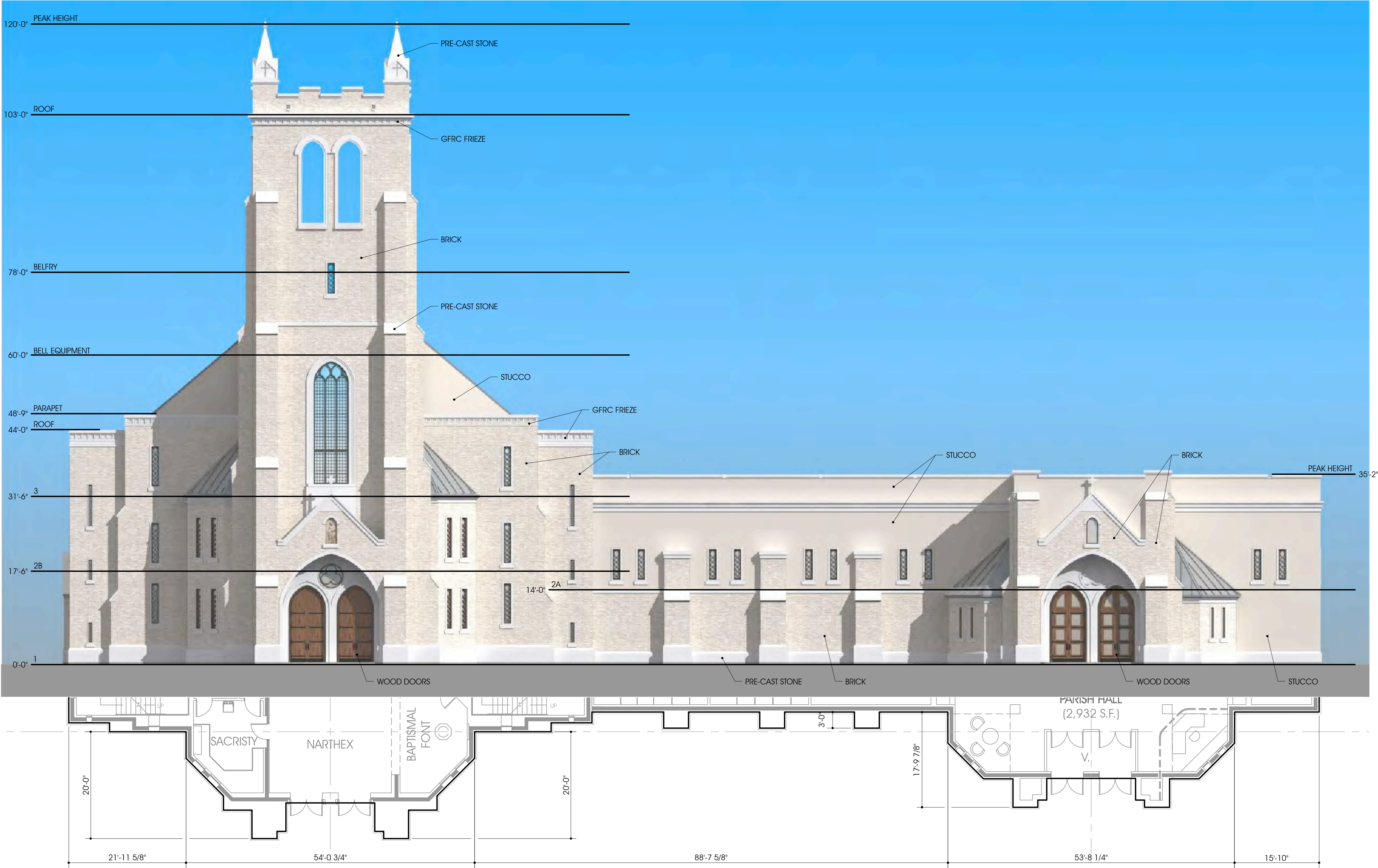
SHEET TITLE:
SITE PLAN (2/2)

PRELIMINARY NOT FOR CONSTRUCTION
JOHN H BEZNER PE # 98469
DATE 7-15-19
SCALE 1" = 40'
SHEET 6
OF 19

MATERIALS AND COLORS	
BRICK	MAGNUM BRICK CO., OLD ENGLISH
PRECAST STONE	ADVANCED ARCHITECTURAL STONE, CLASSIC WT
STUCCO	TEXAS STUCCO SUPPLY, FINE, 3098 CRESCENT
FRIEZE	GFRC TO MATCH PRECAST STONE
STANDING SEAM METAL ROOF	PAC-CLAD, CHARCOAL
STOREFRONT METAL	BAUT ALUMINUM, DARK BRONZE

NOTE: ANY EXTERNAL ELECTRICAL
PANELS WILL BE PAINTED/TEXTURED TO
MATCH THE MATERIAL OF THE BUILDING

MATERIAL TABULATION CHART					
		North	South	East	West
1.	Total Facade S.F.	7,665 s.f.	7,706 s.f.	9,996 s.f.	9,373 s.f.
2.	Facade S.F. (exclusive of doors and windows)	6,506 s.f.	6,738 s.f.	9,068 s.f.	8,208 s.f.
3.	Doors and Windows S.F.	1,159 s.f.	968 s.f.	928 s.f.	1,165 s.f.
4.	Primary Masonry Totals	6,506 s.f. and 100% of 6,506 s.f.	6,738 s.f. and 100% of 6,738 s.f.	9,068 s.f.	8,208 s.f.
	- Brick S.F.	5,258 s.f. and 81% of 6,506 s.f.	4,446 s.f. and 66% of 6,738 s.f.	2,022 s.f. and 22% of 9,068 s.f.	5,797 s.f. and 71% of 8,208 s.f.
	- Precast Stone S.F.	692 s.f. and 11% of 6,506 s.f.	586 s.f. and 9% of 6,738 s.f.	602 s.f. and 7% of 9,068 s.f.	719 s.f. and 9% of 8,208 s.f.
	- Stucco S.F.	556 s.f. and 8% of 6,506 s.f.	1,706 s.f. and 25% of 6,738 s.f.	6,444 s.f. and 71% of 9,068 s.f.	1,692 s.f. and 20% of 8,208 s.f.
5.	Secondary Masonry Totals - None				



1 WEST ELEVATION / ARTICULATION PLAN
Scale: 3/32" = 1'-0"

ARCHITECTURE
SCOTT MARTSOLF - ARCHITECT

410 East 6th Street
Fort Worth, Texas 76102

Phone: (817) 820-0005
Fax: (817) 820-0008

SAINT PHILIP
THE APOSTLE
CATHOLIC
CHURCH

5201 CROSS TIMBERS RD
FLOWER MOUND, TX 75022

NOT FOR CONSTRUCTION

Drawing Title:

WEST ELEVATION /
ARTICULATION PLAN

Project No.

1905

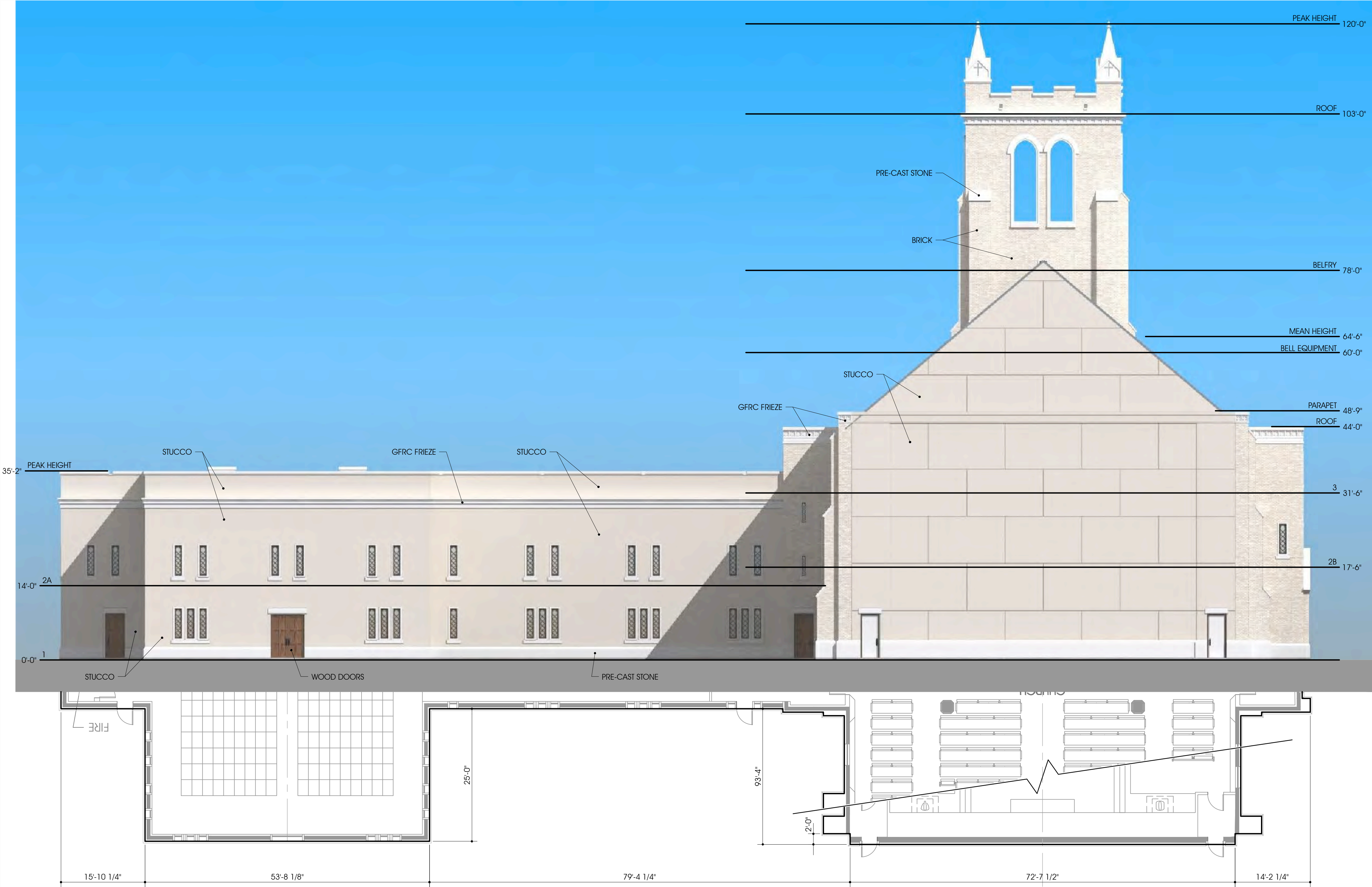
Date:

7/9/2019

Sheet No.

A3.1

MATERIAL TABULATION CHART					
		North	South	East	West
1.	Total Facade S.F.	7,665 s.f.	7,706 s.f.	9,996 s.f.	9,373 s.f.
2.	Facade S.F. (exclusive of doors and windows)	6,506 s.f.	6,738 s.f.	9,068 s.f.	8,208 s.f.
3.	Doors and Windows S.F.	1,159 s.f.	968 s.f.	928 s.f.	1,165 s.f.
4.	Primary Masonry Totals	6,506 s.f. and 100% of 6,506 s.f.	6,738 s.f. and 100% of 6,738 s.f.	9,068 s.f.	8,208 s.f.
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	- Precast Stone S.F.	692 s.f. and 11% of 6,506 s.f.	586 s.f. and 9% of 6,738 s.f.	602 s.f. and 7% of 9,068 s.f.	719 s.f. and 9% of 8,208 s.f.
	- Stucco S.F.	556 s.f. and 8% of 6,506 s.f.	1,706 s.f. and 25% of 6,738 s.f.	6,444 s.f. and 71% of 9,068 s.f.	1,692 s.f. and 20% of 8,208 s.f.
5.	Secondary Masonry Totals - None				



1 EAST ELEVATION / ARTICULATION PLAN
Scale: 3/32" = 1'-0"

ARCHITECTURE
SCOTT MARTSOLF - ARCHITECT

410 East 6 th Street
Fort Worth, Texas 76102

Phone: (817) 820-0005
Fax: (817) 820-0008

SAINT PHILIP
THE APOSTLE
CATHOLIC
CHURCH

5201 CROSS TIMBERS RD
FLOWER MOUND, TX 75022

NOT FOR CONSTRUCTION

Drawing Title:

EAST ELEVATION /
ARTICULATION PLAN

Project No.

1905

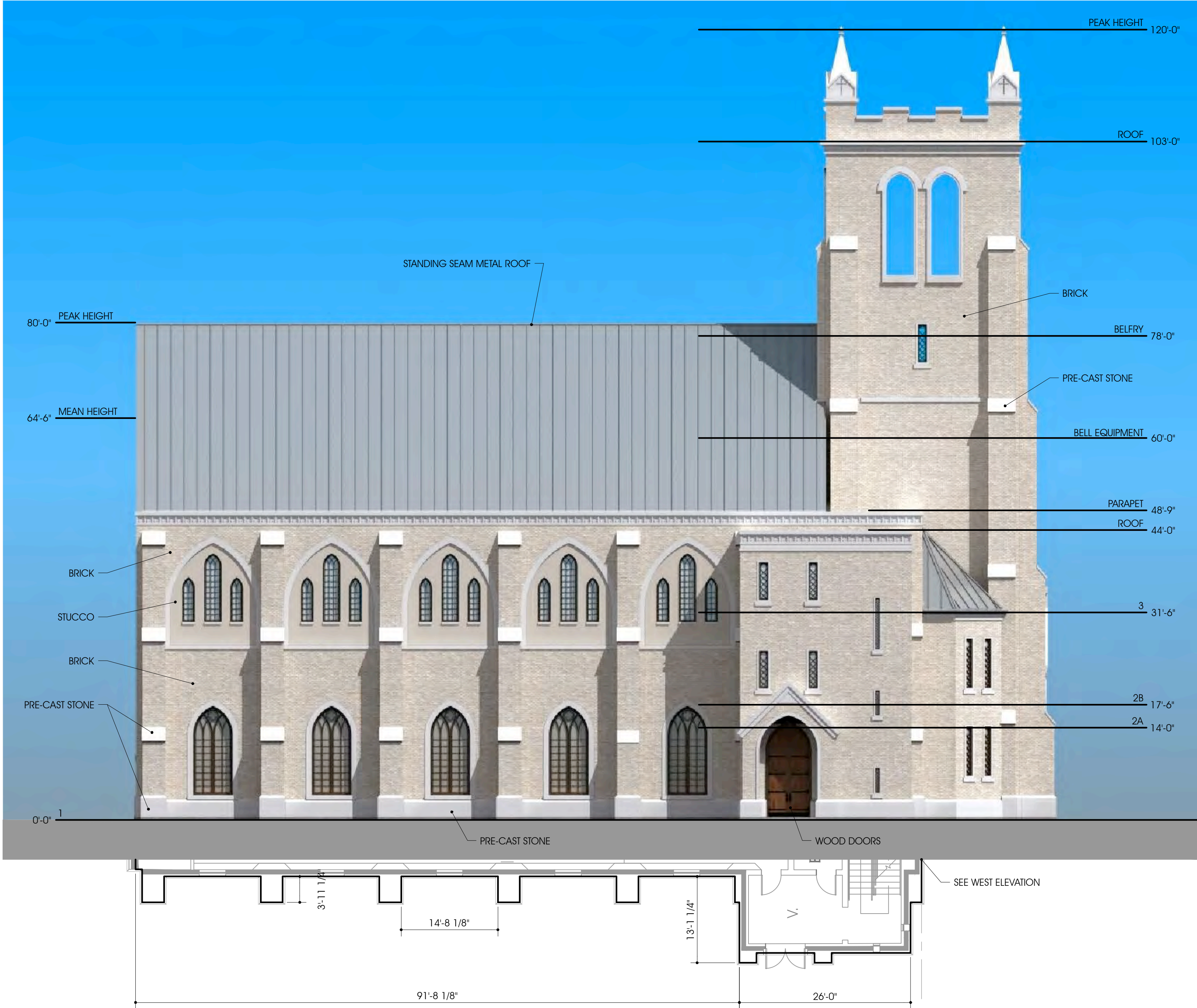
Date:

7/9/2019

Sheet No.

A3.2

MATERIAL TABULATION CHART					
		North	South	East	West
1.	Total Facade S.F.	7,665 s.f.	7,706 s.f.	9,996 s.f.	9,373 s.f.
2.	Facade S.F. (exclusive of doors and windows)	6,506 s.f.	6,738 s.f.	9,068 s.f.	8,208 s.f.
3.	Doors and Windows S.F.	1,159 s.f.	968 s.f.	928 s.f.	1,165 s.f.
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	- Brick S.F.	5,258 s.f. and 81% of 6,506 s.f.	4,446 s.f. and 66% of 6,738 s.f.	2,022 s.f. and 22% of 9,068 s.f.	5,797 s.f. and 71% of 8,208 s.f.
	- Precast Stone S.F.	692 s.f. and 11% of 6,506 s.f.	586 s.f. and 9% of 6,738 s.f.	602 s.f. and 7% of 9,068 s.f.	719 s.f. and 9% of 8,208 s.f.
	- Stucco S.F.	556 s.f. and 8% of 6,506 s.f.	1,706 s.f. and 25% of 6,738 s.f.	6,444 s.f. and 71% of 9,068 s.f.	1,692 s.f. and 20% of 8,208 s.f.
5.	Secondary Masonry Totals - None				



1 NORTH ELEVATION / ARTICULATION PLAN

Scale: 3/32" = 1'-0"

ARCHITECTURE
SCOTT MARTSOLF - ARCHITECT

410 East 6 th Street
Fort Worth, Texas 76102

Phone: (817) 820-0005
Fax: (817) 820-0008

SAINT PHILIP
THE APOSTLE
CATHOLIC
CHURCH

5201 CROSS TIMBERS RD
FLOWER MOUND, TX 75022

NOT FOR CONSTRUCTION

Drawing Title:

NORTH ELEVATION /
ARTICULATION PLAN

Project No.

1905

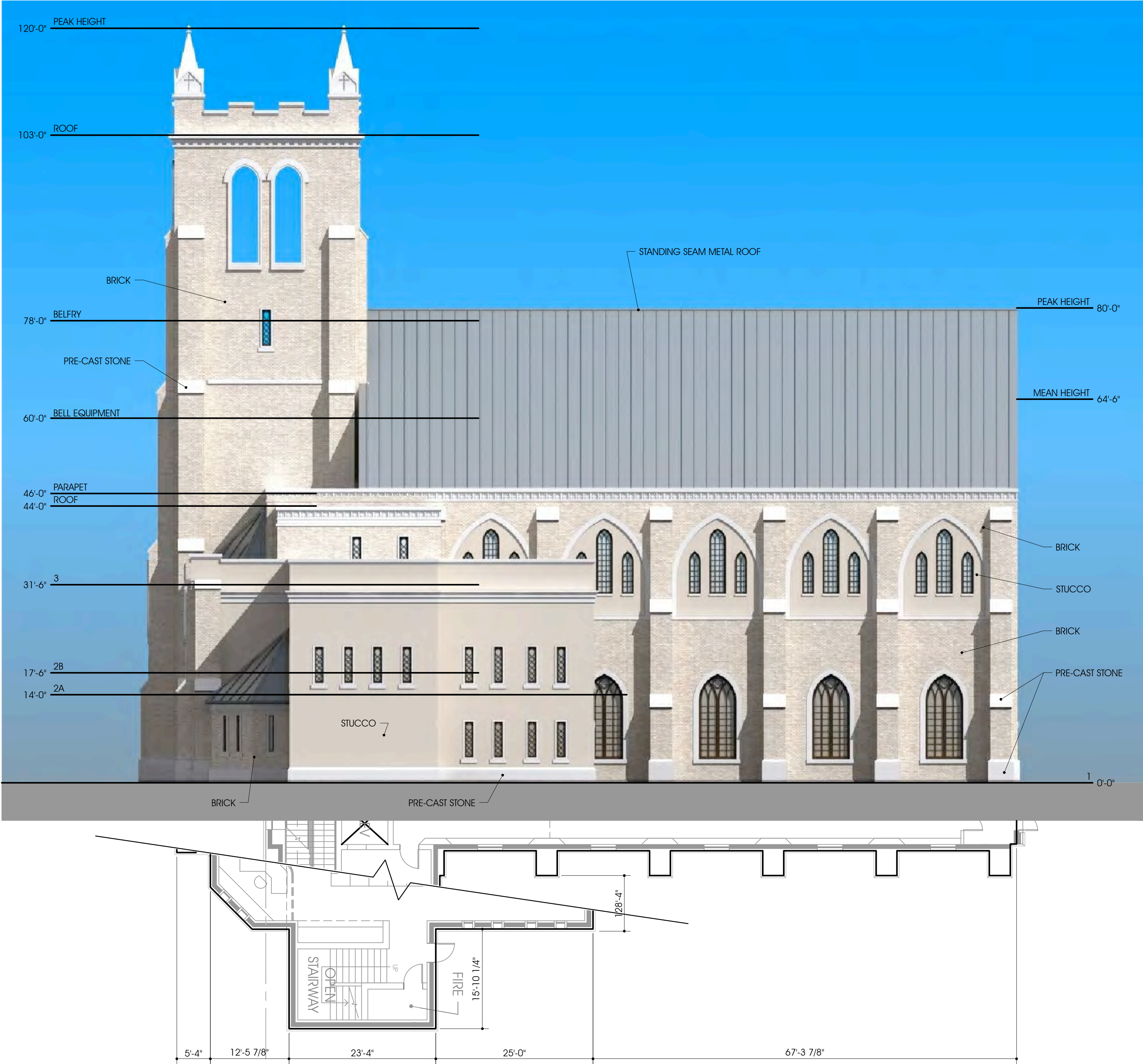
Date:

7/9/2019

Sheet No.

A3.3

MATERIAL TABULATION CHART					
		North	South	East	West
1.	Total Facade S.F.	7,665 s.f.	7,706 s.f.	9,996 s.f.	9,373 s.f.
2.	Facade S.F. (exclusive of doors and windows)	6,506 s.f.	6,738 s.f.	9,068 s.f.	8,208 s.f.
3.	Doors and Windows S.F.	1,159 s.f.	968 s.f.	928 s.f.	1,165 s.f.
4.	Primary Masonry Totals	6,506 s.f. and 100% of 6,506 s.f.	6,738 s.f. and 100% of 6,738 s.f.	9,068 s.f.	8,208 s.f.
	- Brick S.F.	5,258 s.f. and 81% of 6,506 s.f.	4,446 s.f. and 66% of 6,738 s.f.	2,022 s.f. and 22% of 9,068 s.f.	5,797 s.f. and 71% of 8,208 s.f.
	- Precast Stone S.F.	692 s.f. and 11% of 6,506 s.f.	586 s.f. and 9% of 6,738 s.f.	602 s.f. and 7% of 9,068 s.f.	719 s.f. and 9% of 8,208 s.f.
	- Stucco S.F.	556 s.f. and 8% of 6,506 s.f.	1,706 s.f. and 25% of 6,738 s.f.	6,444 s.f. and 71% of 9,068 s.f.	1,692 s.f. and 20% of 8,208 s.f.
5.	Secondary Masonry Totals - None				



1 SOUTH ELEVATION / ARTICULATION PLAN
Scale: 3/32" = 1'-0"

ARCHITECTURE
SCOTT MARTSOLF - ARCHITECT

410 East 6 th Street
Fort Worth, Texas 76102

Phone: (817) 820-0005
Fax: (817) 820-0008

SAINT PHILIP
THE APOSTLE
CATHOLIC
CHURCH

5201 CROSS TIMBERS RD
FLOWER MOUND, TX 75022

NOT FOR CONSTRUCTION

Drawing Title:

SOUTH ELEVATION /
ARTICULATION PLAN

Project No.

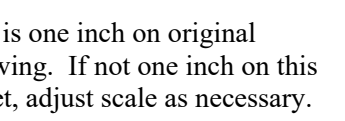
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Date:

7/9/2019

Sheet No.

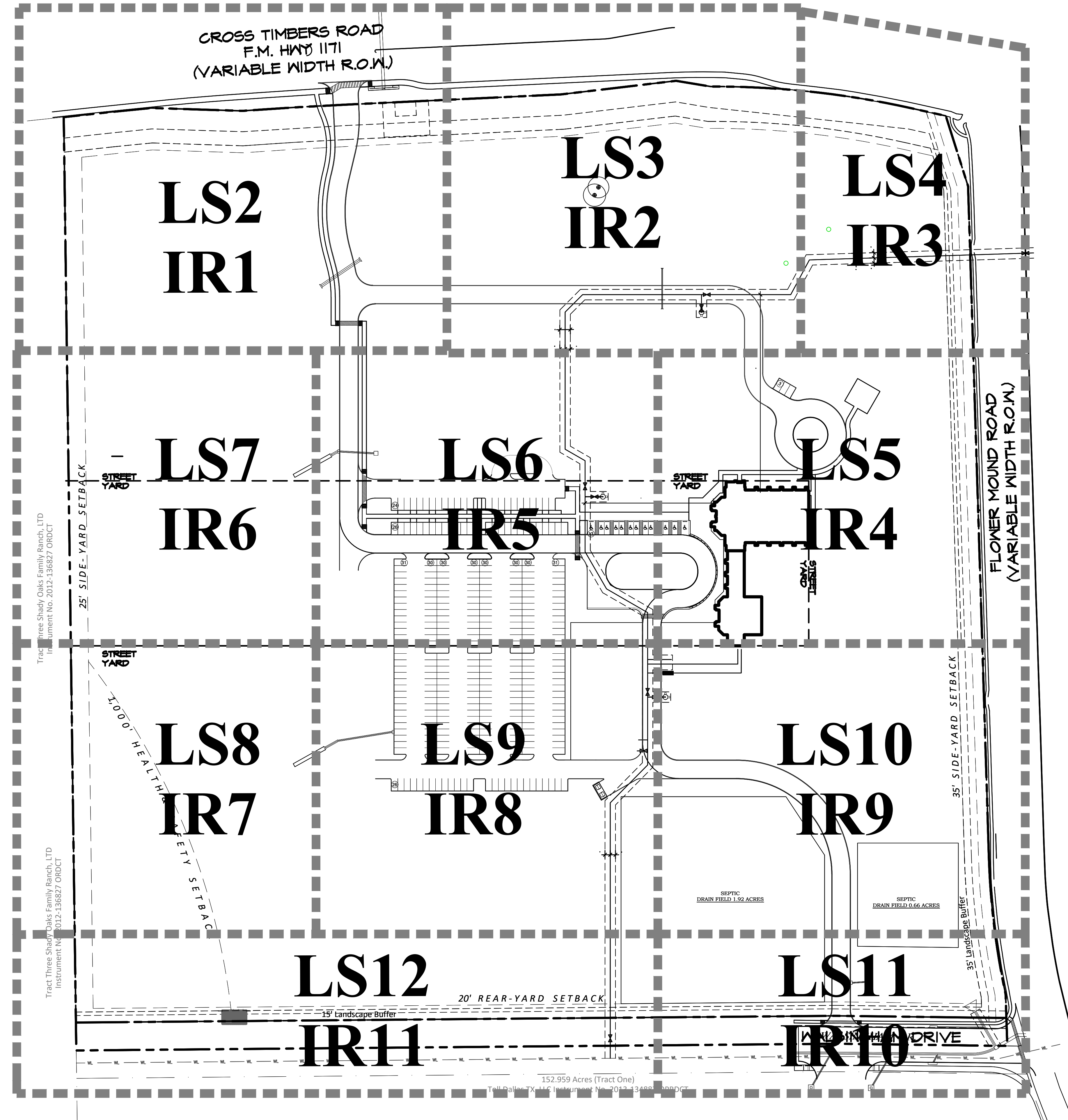
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Town of Flower Mound, Denton County, Texas

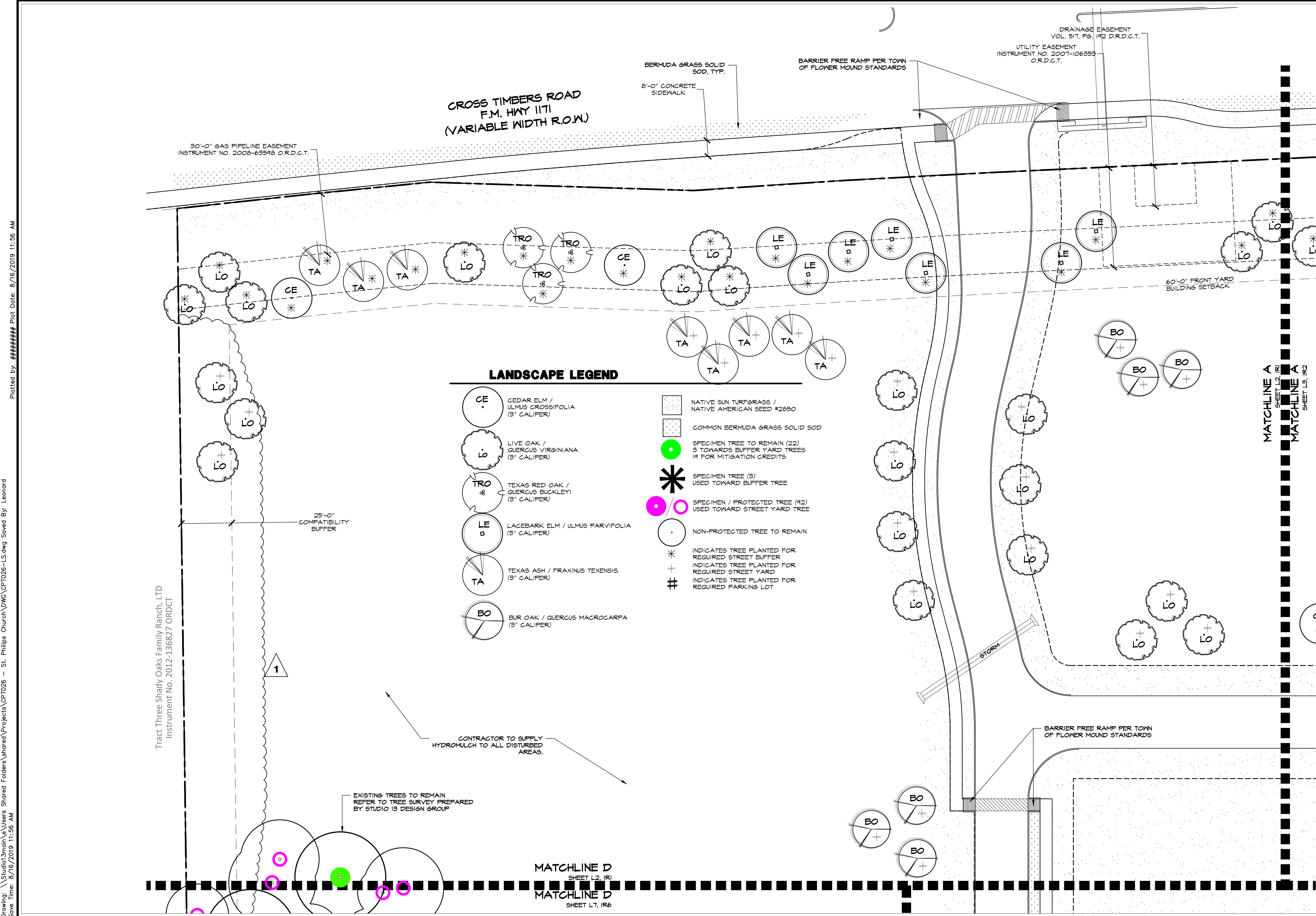
PROJECT
CPT026

SHEET
L1 of 13



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Save Time: 8/16/2019 11:56 AM



STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900
TBAE Firm #BR643

SEAL

LEONARD W. REYES
August 9, 2019

NORTH

20 10 0 10 20

1" = 20' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING			
Landscape Plans			
St. Philip the Apostle			
Town of Flower Mound, Denton County, Texas			
#	PLAN REVIEW REVISIONS	BY	DATE
1	REQUESTED VARIANCE ON COMPATIBILITY BUFFER	LWR	8/26/19
2	CITY COMMENTS	LWR	8/9/19
PROJECT			
CPT026			
SHEET			
L2 of 13			

30'-0" GAS PIPELINE EASEMENT
INSTRUMENT NO. 2008-63548 O.R.D.C.T.

50'-0" LANDSCAPE BUFFER
& PEDESTRIAN ACCESS EASEMENT

CROSS TIMBERS ROAD
F.M. HWY 1171
(VARIABLE WIDTH R.O.W.)

8'-0" CONCRETE SIDEWALK

BERMUDA GRASS SOLID
SOD, TYP.

CROSS TIMBER
F.M. HWY
(VARIABLE WID

EXISTING TREES TO REMAIN
REFER TO TREE SURVEY PREPARED
BY STUDIO 13 DESIGN GROUP

CONTRACTOR TO SUPPLY
HYDROMULCH TO ALL DISTURBED
AREAS.

EXISTING POND
TO REMAIN

15'-0" UTILITY
EASEMENT

WATER

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****WARNINGS****
EXISTING UTILITIES ARE SHOWN BASED ON AVAILABLE
RECORDS DRAWINGS AND ABOVE GROUND FIELD
SURVEY DATA, THEREFORE THERE MAY BE UTILITIES
PRESENT THAT ARE NOT SHOWN ON THESE
CONSTRUCTION PLANS. CONTRACTOR TO FIELD VERIFY
PRESENCE AND EXACT LOCATION OF ALL UTILITIES
PRIOR TO CONSTRUCTION AND USE CAUTION DURING
CONSTRUCTION. NOTIFY ENGINEER AND OWNER OF ANY
DISCREPANCIES.

STUDIO 13
DESIGN GROUP

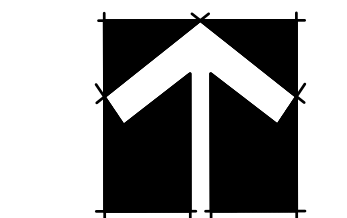
Studio 13 Design Group, PLLC
386 W. Main Street
Lewisville, Texas 75057
469-635-1900

TBAE Firm #BR643



Leonard W. Peebles

August 9, 2019



NORTH

20 10 0 20

1" = 20' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

#	PLAN REVIEW REVISIONS	BY	DATE
0			
2	CITY COMMENTS	LNR	8/4/19

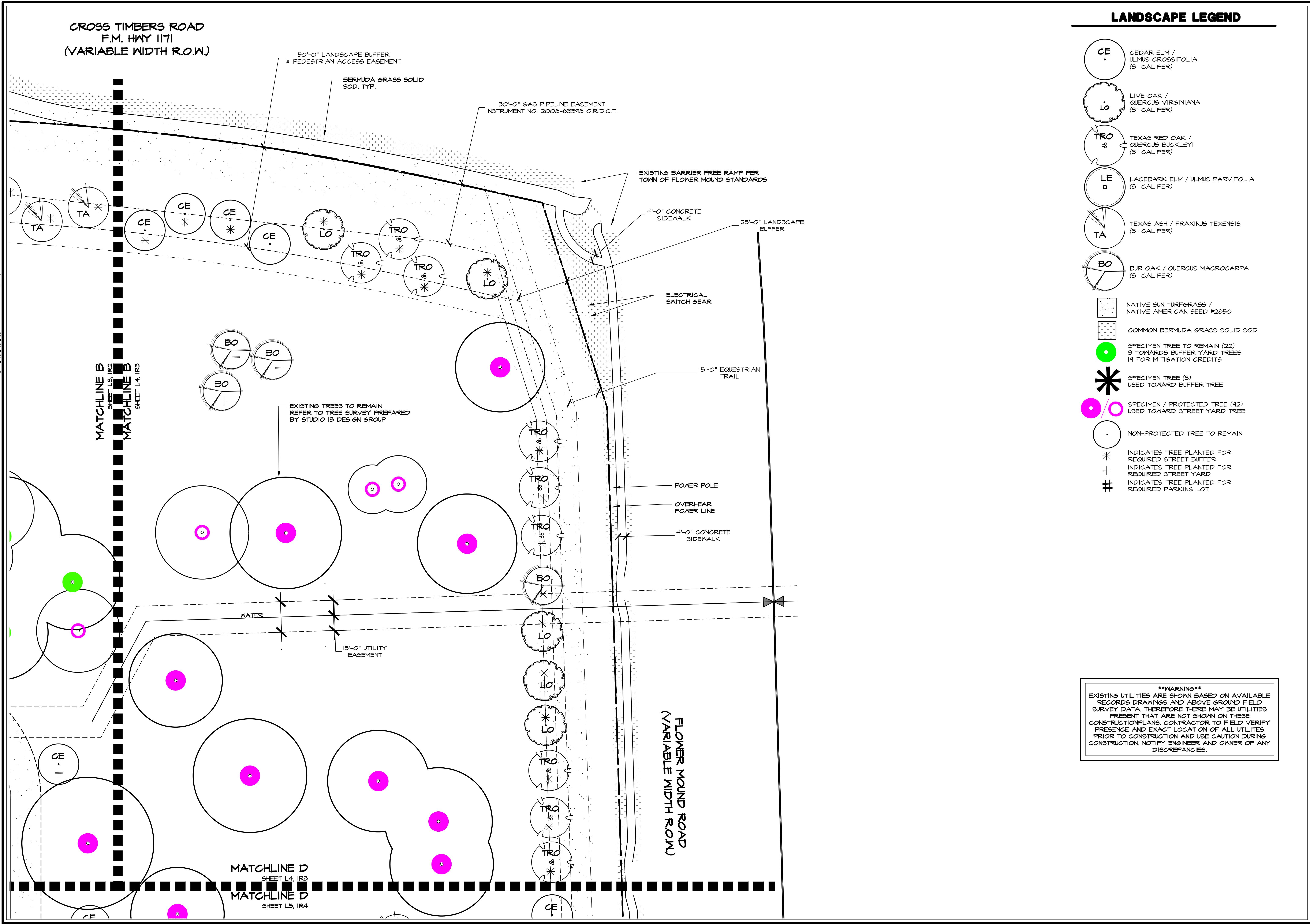
PROJECT

CPT026

SHEET

L3 of 13

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Plotted by: ##### Plot Date: 8/16/2019 11:56 AM



STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900
TBAE Firm #BR643

SEAL

August 4, 2019

NORTH

20 10 0 10 20

1" = 20' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

PLAN REVIEW REVISIONS	BY	DATE
	LNR	8/9/19

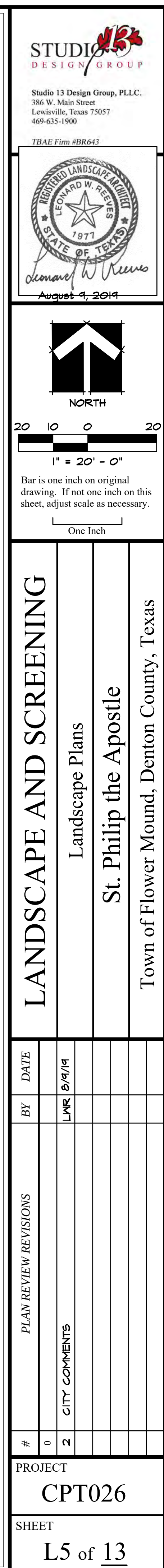
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2	

PROJECT

CPT026

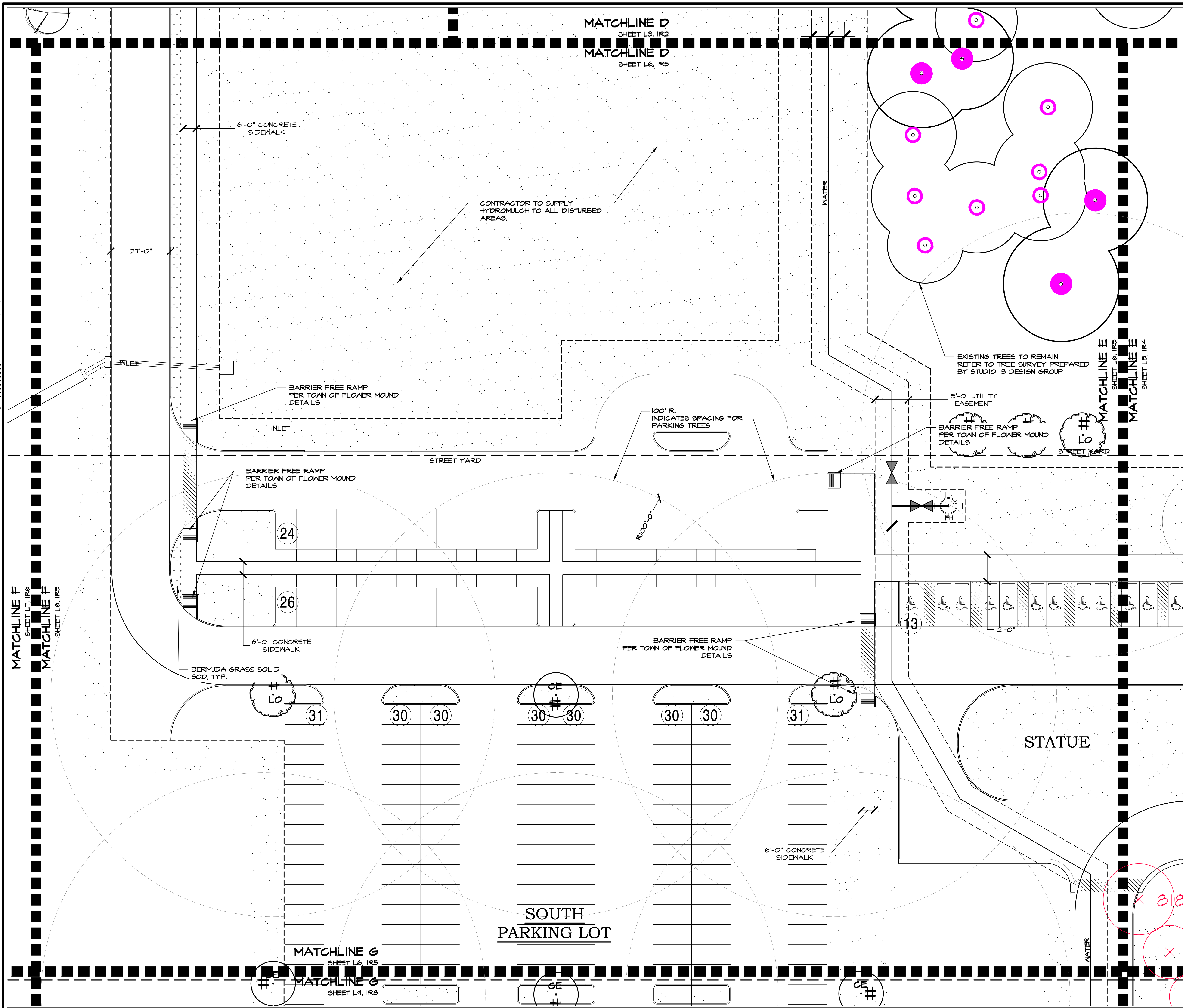
SHEET

L4 of 13



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Save Time: 8/16/2019 11:56 AM



LANDSCAPE LEGEND

CE

CEDAR ELM /
ULMUS CROSSIFOLIA
(3" CALIPER)

LO

LIVE OAK /
QUERCUS VIRGINIANA
(3" CALIPER)

TRO

TEXAS RED OAK /
QUERCUS BUCKLEYI
(3" CALIPER)

LE

LACEBARK ELM / ULMUS PARVIFOLIA
(3" CALIPER)

TA

TEXAS ASH / FRAXINUS TEXENSIS
(3" CALIPER)

BO

BUR OAK / QUERCUS MACROCARPA
(3" CALIPER)

NATIVE SUN TURFGRASS /
NATIVE AMERICAN SEED #2050

COMMON BERMUDA GRASS SOLID SOD

SPECIMEN TREE TO REMAIN (22)
3 TOWARDS BUFFER YARD TREES
19 FOR MITIGATION CREDITS

*

SPECIMEN TREE (3)
USED TOWARD BUFFER TREE

●/○

SPECIMEN / PROTECTED TREE (42)
USED TOWARD STREET YARD TREE

○

NON-PROTECTED TREE TO REMAIN

*

INDICATES TREE PLANTED FOR
REQUIRED STREET BUFFER

+

INDICATES TREE PLANTED FOR
REQUIRED STREET YARD

#

INDICATES TREE PLANTED FOR
REQUIRED PARKING LOT

****WARNING****
EXISTING UTILITIES ARE SHOWN BASED ON AVAILABLE RECORDS DRAWINGS AND ABOVE GROUND FIELD SURVEY DATA. THEREFORE THERE MAY BE UTILITIES PRESENT THAT ARE NOT SHOWN ON THESE CONSTRUCTION PLANS. CONTRACTOR TO FIELD VERIFY PRESENCE AND EXACT LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION AND USE CAUTION DURING CONSTRUCTION. NOTIFY ENGINEER AND OWNER OF ANY DISCREPANCIES.

STUDIO 13
DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900

TBAE Firm #BR643

LEONARD W. REEDS
1977
STATE OF TEXAS
August 4, 2019

NORTH

20 10 0 20

1" = 20' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

PLAN REVIEW REVISIONS	BY	DATE
	LWR	8/9/19

#	0	2							
CITY COMMENTS									

PROJECT

CPT026

SHEET

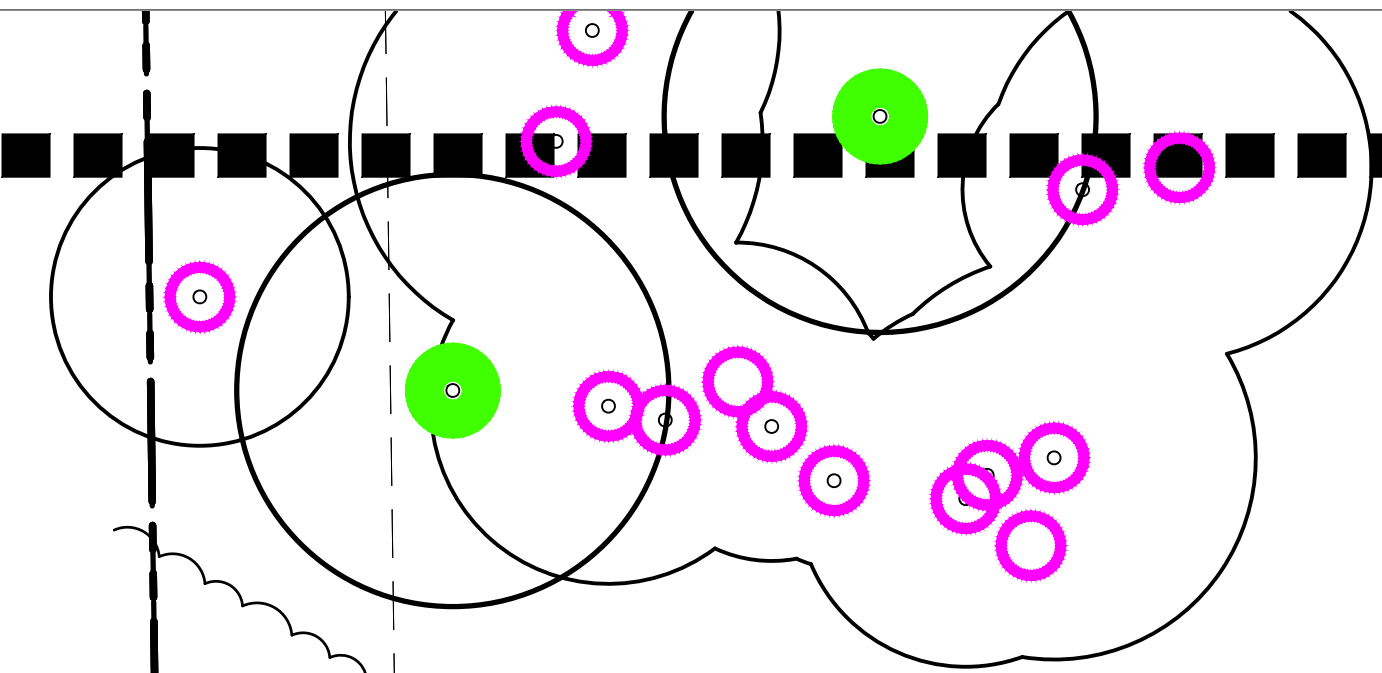
L6 of 13

Plotted by: ##### Plot Date: 8/16/2019 11:57 AM

Drawing: \\Studio13main\Users\Shared\Folders\Shared\Projects\CPT026 - St. Philips Church\DWG\CPT026-LS.dwg Saved By: Leonard
Save Time: 8/16/2019 11:56 AM

Tract Three Shady Oaks Family Ranch, LTD
Instrument No. 2012-136827 ORDCT

25' SIDE-YARD SETBACK



EXISTING TREES TO REMAIN
REFER TO TREE SURVEY PREPARED
BY STUDIO 13 DESIGN GROUP

CONTRACTOR TO SUPPLY
HYDROMULCH TO ALL DISTURBED
AREAS.

25'-0"
COMPATIBILITY
BUFFER

STREET YARD

MATCHLINE D
SHEET L2, IR1

MATCHLINE D
SHEET L7, IR6

MATCHLINE G
SHEET L7, IR6

MATCHLINE G
SHEET L8, IR7

MATCHLINE F
SHEET L7, IR6

MATCHLINE F
SHEET L6, IR5

MATCHLINE G
SHEET L6, IR5

MATCHLINE G
SHEET L9, IR8

LANDSCAPE LEGEND

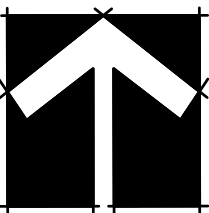
- CE CEDAR ELM /
ULMUS CROSSIFOLIA
(3" CALIPER)
- LO LIVE OAK /
QUERCUS VIRGINIANA
(3" CALIPER)
- TRO TEXAS RED OAK /
QUERCUS BUCKLEYI
(3" CALIPER)
- LE LACEBARK ELM / ULMUS PARVIFOLIA
(3" CALIPER)
- TA TEXAS ASH / FRAXINUS TEXENSIS
(3" CALIPER)
- BO BUR OAK / QUERCUS MACROCARPA
(3" CALIPER)
- NATIVE SUN TURFGRASS /
NATIVE AMERICAN SEED #2850
- COMMON BERMUDA GRASS SOLID SOD
- SPECIMEN TREE TO REMAIN (22)
3 TOWARDS BUFFER YARD TREES
19 FOR MITIGATION CREDITS
- SPECIMEN TREE (3)
USED TOWARD BUFFER TREE
- SPECIMEN / PROTECTED TREE (42)
USED TOWARD STREET YARD TREE
- NON-PROTECTED TREE TO REMAIN
- INDICATES TREE PLANTED FOR
REQUIRED STREET BUFFER
- INDICATES TREE PLANTED FOR
REQUIRED STREET YARD
- INDICATES TREE PLANTED FOR
REQUIRED PARKING LOT

****WARNING****
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RECORDS DRAWINGS AND ABOVE GROUND FIELD
SURVEY DATA. THEREFORE THERE MAY BE UTILITIES
PRESENT THAT ARE NOT SHOWN ON THESE
CONSTRUCTION PLANS. CONTRACTOR TO FIELD VERIFY
PRESENCE AND EXACT LOCATION OF ALL UTILITIES
PRIOR TO CONSTRUCTION AND USE CAUTION DURING
CONSTRUCTION. NOTIFY ENGINEER AND OWNER OF ANY
DISCREPANCIES.

STUDIO
DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900

TBAE Firm #BR643



20 10 0 20
1" = 20' - 0"

Bar is one inch on original
drawing. If not one inch on this
sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Landscape Plans

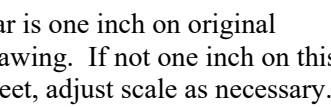
St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

#	PLAN REVIEW REVISIONS	BY	DATE
1	REQUESTED VARIANCE ON COMPATIBILITY BUFFER	ABC	3/26/19
2	CITY COMMENTS	LNR	8/9/19

PROJECT
CPT026

SHEET
L7 of 13



One Inch

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

PROJECT
CPT026

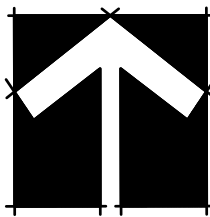
SHEET
L8 of 13



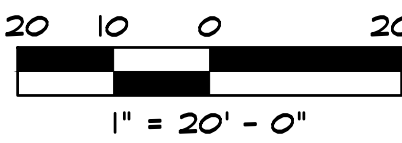


STUDIO 13
DESIGN GROUP

TBAE Firm #BR643



NORTH



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One Incl

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

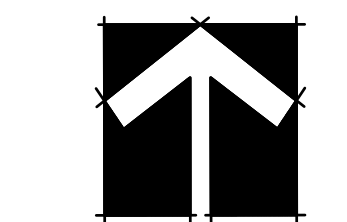
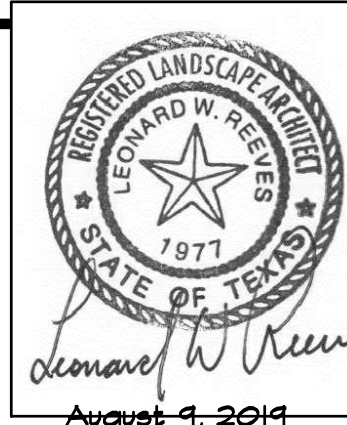
#	PLAN REVIEW REVISIONS	BY	DATE
0			
2	CITY COMMENTS	LWR	8/9/19

PROJECT CPT026

SHEET L9 of 13



TBAE Firm #BR643



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1" = 20' - 0"

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One Inc

LANDSCAPE AND SCREENING

Landscape Plans

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

#	PLAN REVIEW REVISIONS	BY	DATE
1	REQUESTED VARIANCE ON COMPATIBILITY BUFFER	ABC	3/26/19
2	CITY COMMENTS	LWR	8/9/19

PROJECT

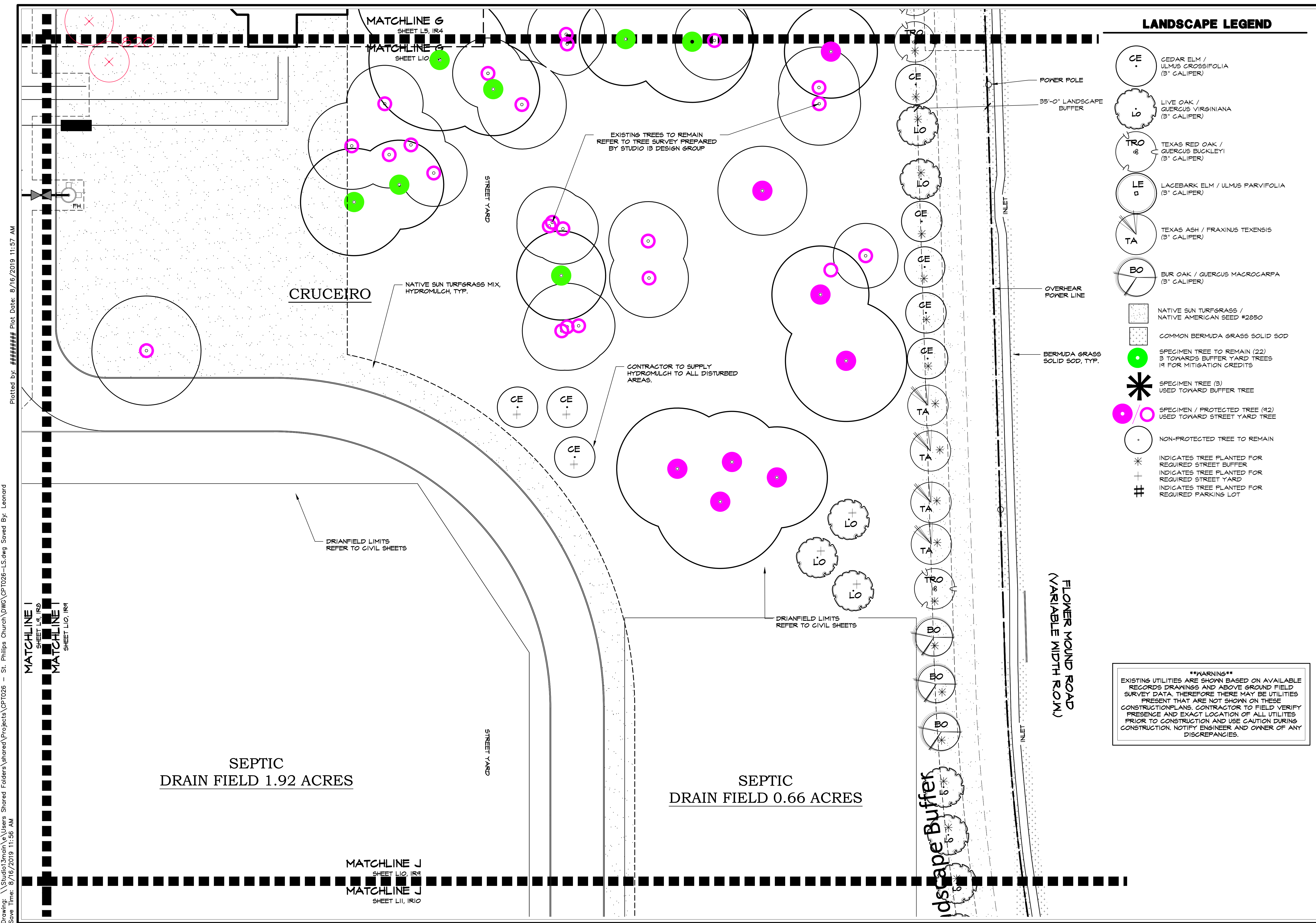
CPT026

SHEET

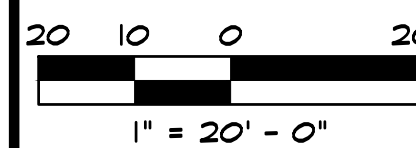
L10 of 13



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Save Time: 8/16/2019 11:56 AM



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386 W. Main Street
Lewisville, Texas 75057
469-635-1900



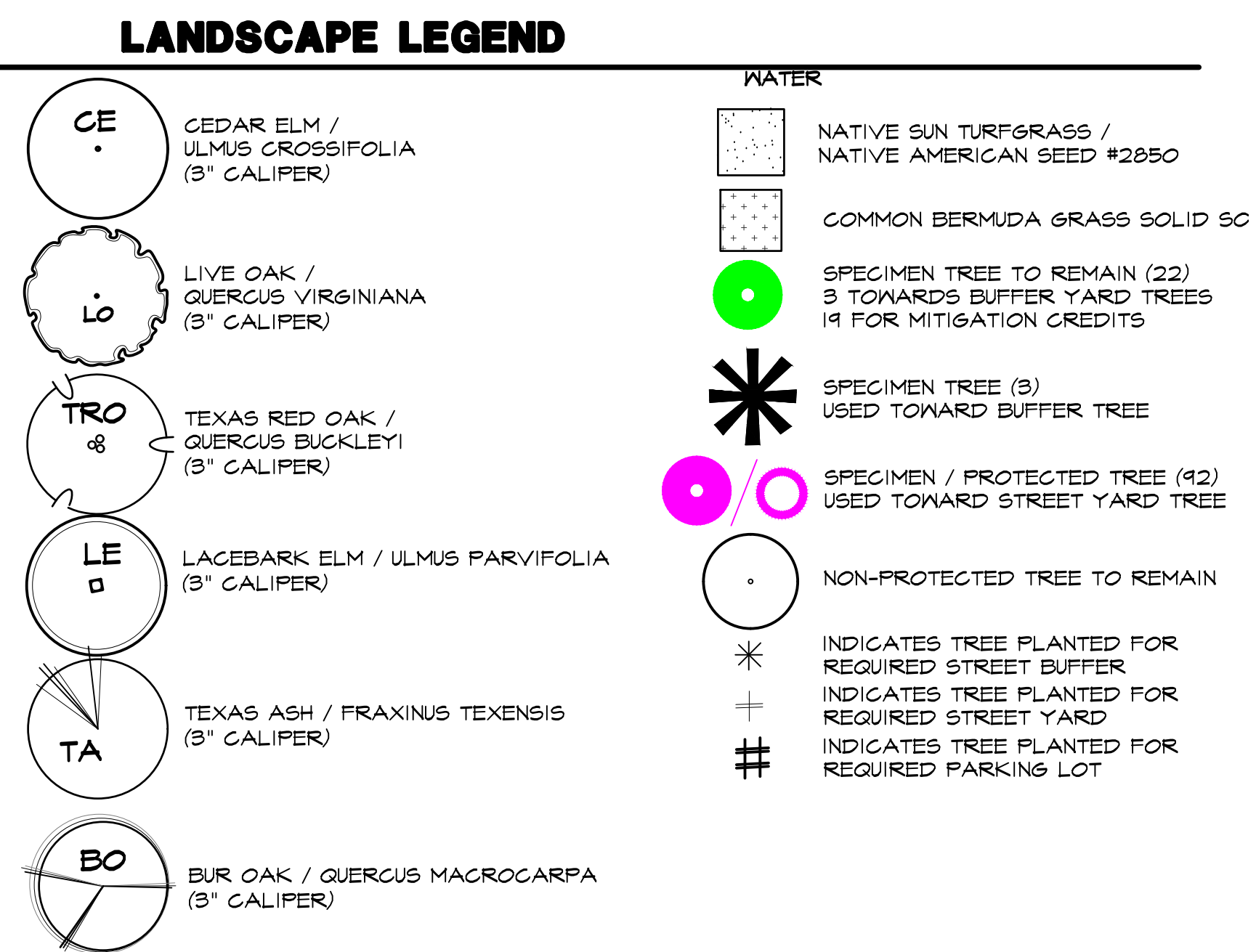
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One Inch

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

PROJECT
CPT026
SHEET
L11 of 13



*****WARNING*****
EXISTING UTILITIES ARE SHOWN BASED ON AVAILABLE RECORDS DRAWINGS AND ABOVE GROUND FIELD SURVEY DATA. THEREFORE THERE MAY BE UTILITIES PRESENT THAT ARE NOT SHOWN ON THESE CONSTRUCTION PLANS. CONTRACTOR TO FIELD VERIFY PRESENCE AND EXACT LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION AND USE CAUTION DURING CONSTRUCTION. NOTIFY ENGINEER AND OWNER OF ANY DISCREPANCIES.

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Save Time: 8/16/2019 11:56 AM
Plotted by: ##### Plot Date: 8/16/2019 11:57 AM

****WARNINGS****
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MATCHLINE J
SHEET L10, IRI10
MATCHLINE J
SHEET L12, IRI11

MATCHLINE L
SHEET L12, IRI11
MATCHLINE L
SHEET L12, IRI11

MATCHLINE K
SHEET L12, IRI11
MATCHLINE K
SHEET L11, IRI10

20' REAR-YARD SETBACK

DRAINFIELD LIMITS
REFER TO CIVIL SHEETS

15'-0" UTILITY
EASEMENT

WATER

WATER

15' Landscape Buffer

15'-0" LANDSCAPE
BUFFER

LANDSCAPE LEGEND

- CE CEDAR ELM / ULMUS CROSSIFOLIA (3" CALIPER)
- LO LIVE OAK / QUERCUS VIRGINIANA (3" CALIPER)
- TRO TEXAS RED OAK / QUERCUS BUCKLEYI (3" CALIPER)
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Tract Three Shady Oaks Family Ranch, LTD
Instrument No. 2012-136827 ORDCT

MATCHLINE J
SHEET L10, IRI9
MATCHLINE J
SHEET L12, IRI11

MATCHLINE L
SHEET L12, IRI11
MATCHLINE L
SHEET L12, IRI11

25'-0" COMPATIBILITY
BUFFER

1000'-0" HEALTH &
SAFETY SETBACK

15' Landscape Buffer

WATER

152.959 Acres (Tract One)
Toll Dallas TX, LLC Instrument No. 2013-134887 OPRDCT

STUDIO 13 DESIGN GROUP
Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900
TBAE Firm #BR643

LEONARD W. REEDS
STATE OF TEXAS
August 4, 2019

NORTH

20 10 0 10 20

1" = 20' - 0"

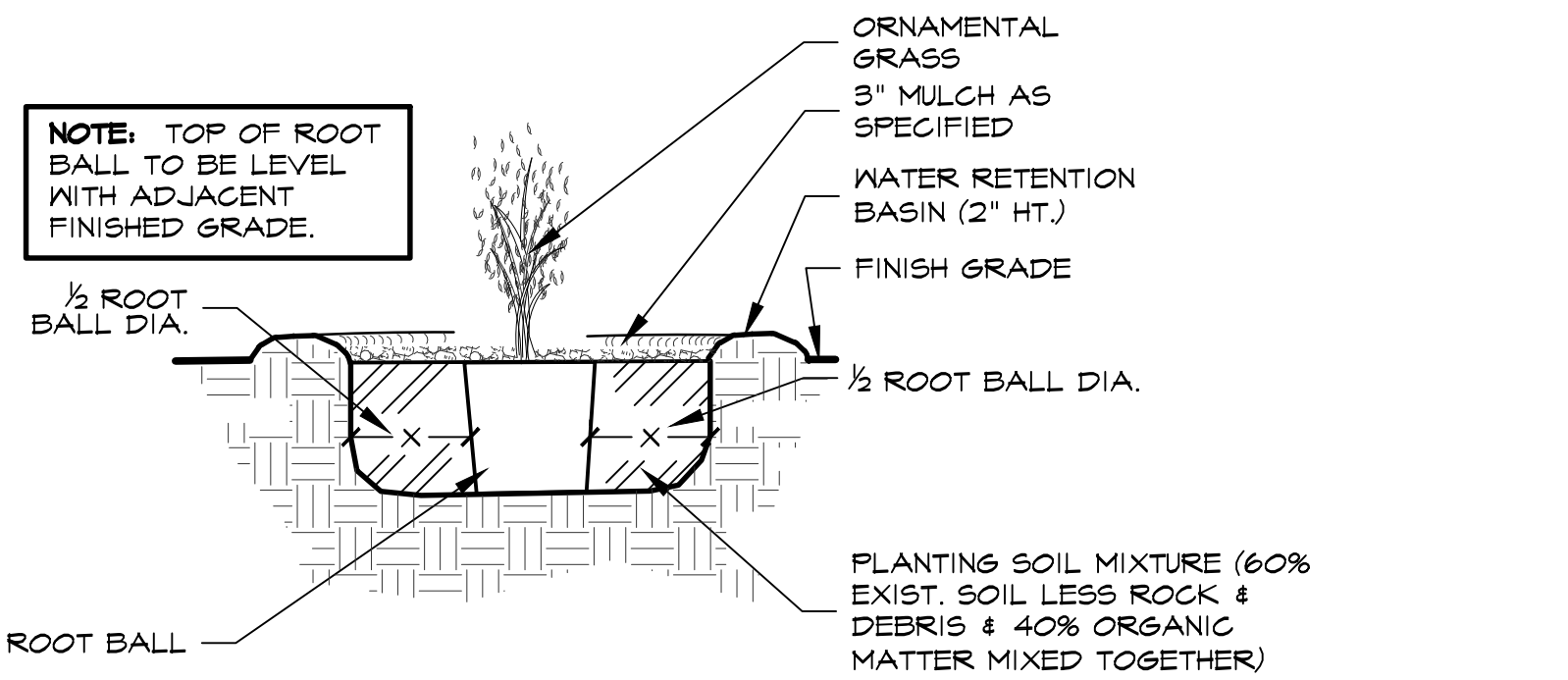
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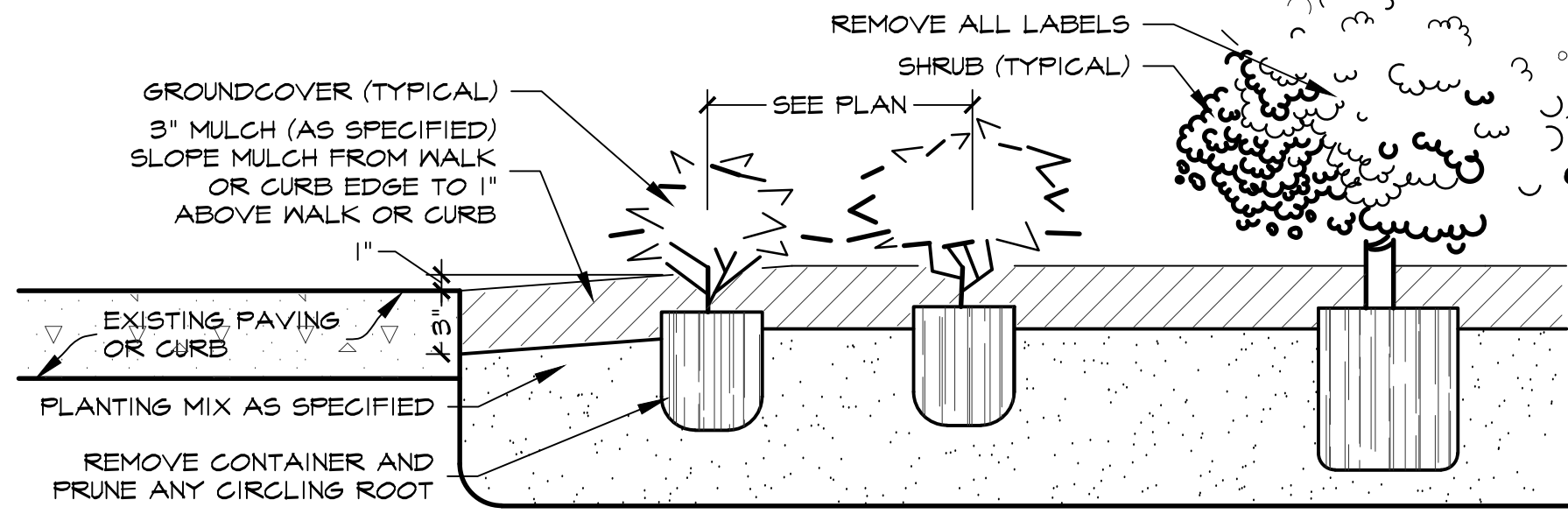
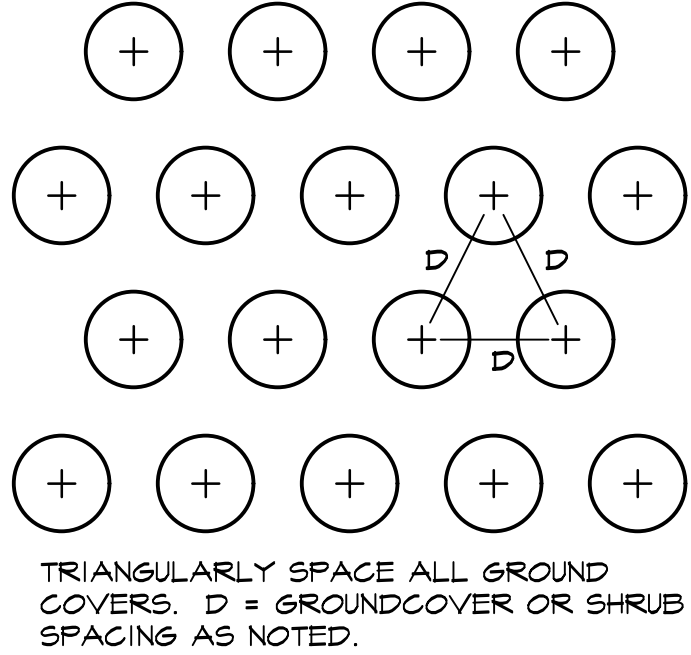
LANDSCAPE AND SCREENING	
Landscape Plans	
St. Philip the Apostle	
Town of Flower Mound, Denton County, Texas	

#	PLAN REVIEW REVISIONS	BY	DATE
1	REQUESTED VARIANCE ON COMPATIBILITY BUFFER	ABC	3/26/19
2	CITY COMMENTS	LNR	8/9/19

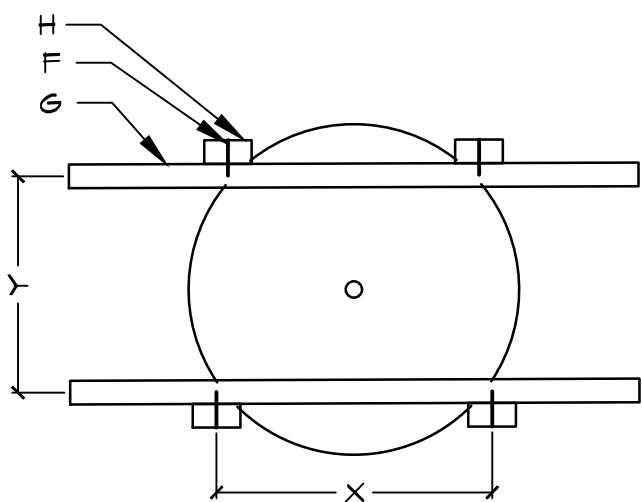
PROJECT	
CPT026	
SHEET	
L12 of 13	



1 POCKET PLANTING ORNAMENTAL GRASS DETAIL
NOT TO SCALE



2 SHRUB AND GROUNDCOVER PLANTING DETAIL
NOT TO SCALE



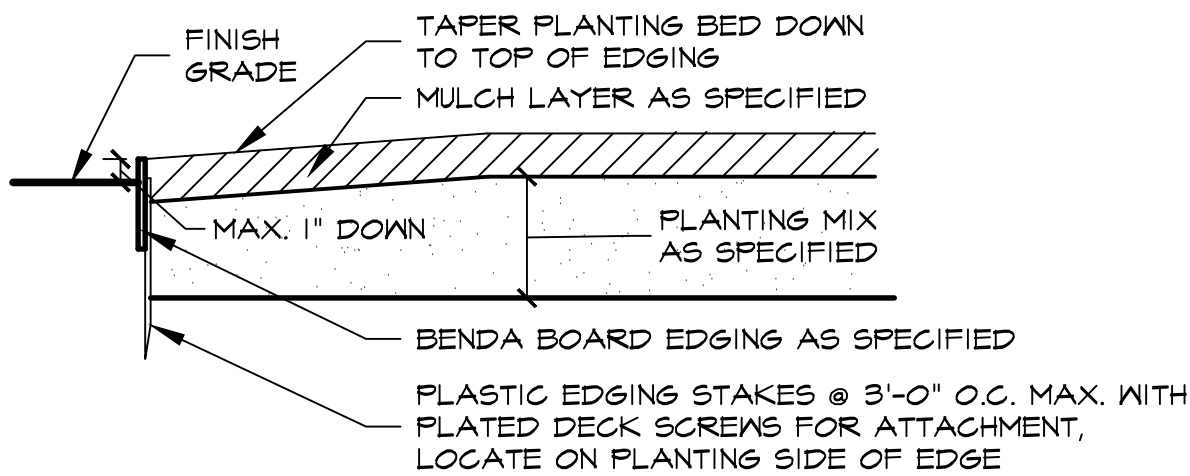
PLAN VIEW

GENERAL NOTES:

1. STABILIZE SOIL BELOW ROOT BALL PRIOR TO PLANTING TO PREVENT TREE FROM SETTLING.
 2. TOP OF ROOTBALL SHALL 1" TO 2" ABOVE FINISHED GRADE.
 3. ALL WIRE ROPE AND SYNTHETIC MATERIALS SHALL BE REMOVED COMPLETELY FROM ROOTBALL AND REMOVE TOP 1/3 OF BURLAP.
 4. PLANTING PITS SHALL BE SQUARE, SIDES OF PITS SHALL BE THOROUGHLY SCARIFIED/ROUGHENED TO ELIMINATE FLARED AS SHOWN IN TYPICAL DETAIL.
- CONSTRUCTION NOTES:**
- A. TREE
 - B. LOOSEN NATIVE BACKFILL (NO SOIL AMENDMENTS IN CONTRACT)
 - C. WATER RETENTION BASIN
 - D. 3" DEPTH MULCH AS SPECIFIED
 - E. FINISH GRADE
 - F. 2 1/2 DRYNALL SCREW (UNFINISHED)
 - G. 2" X 2" X 4" CROSS MEMBER (UNTREATED LUMBER).
 - H. 2" X 2" X 4" STAKE WITH 18" MIN. TAPER (UNTREATED LUMBER)
 - I. REMOVE TOP 1/3 OF BURLAP SURROUNDING ROOTBALL AFTER INSTALLATION (TO PREVENT "WICKING" OF MOISTURE) X. DIMENSION EQUAL TO 1/4" Y. DIMENSION EQUAL TO 1/4"
 - J. ROOTBALL SHALL BE PLACED ON UNDISTURBED NATIVE SOIL.

SECTION

3 TREE PLANTING
NOT TO SCALE



4 TYPICAL BED EDGING DETAIL
NOT TO SCALE

LANDSCAPE NOTES:

1. A TREE PERMIT IS REQUIRED FOR ALL REMOVAL OF ALL TREES, PROTECTED AND UNPROTECTED.
2. PLANT MATERIAL SHALL BE MEASURED AND SIZED ACCORDING TO THE LATEST EDITION OF THE TEXAS NURSERY & LANDSCAPE ASSOCIATION (TNLA) SPECIFICATIONS, GRADES AND STANDARDS.
3. ALL PLANT SUBSTITUTIONS ARE SUBJECT TO TOWN OF FLOWER MOUND APPROVAL AND MUST BE SPECIFIED ON THE APPROVED LANDSCAPE PLAN.
4. GROUND COVERS USED IN LIEU OF TURF GRASS MUST PROVIDE COMPLETE COVERAGE WITHIN ONE (1) YEAR OF PLANTING AND MAINTAIN ADEQUATE COVERAGE AS APPROVED BY THE TOWN OF FLOWER MOUND.
5. TREES MUST BE PLANTED FOUR FEET (4') OR GREATER FROM CURBS, SIDEWALKS, UTILITY LINES, SCREENING WALLS AND/OR OTHER STRUCTURES. THE TOWN OF FLOWER MOUND HAS FINAL APPROVAL FOR ALL TREE PLACEMENTS.
6. TREE PITS SHALL HAVE ROUGHENED SIDES AND BE TWO TO THREE TIMES WIDER THAN THE ROOT BALL OF THE TREE IN ORDER TO FACILITATE HEALTHY ROOT GROWTH.
7. TREES SHALL NOT BE PLANTED DEEPER THAN THE BASE OF THE "TRUNK FLARE".
8. THE TREE PIT SHALL BE BACKFILLED WITH NATIVE TOPSOIL FREE OF ROCK AND OTHER DEBRIS.
9. BURLAP, TWINE AND WIRE BASKETS SHALL BE LOOSEENED AND PULLED BACK FROM THE TRUNK OF TREE AS MUCH AS POSSIBLE.
10. TREES SHALL NOT BE WATERED TO EXCESS THAT RESULTS IN SOIL SATURATION. IF SOIL BECOMES SATURATED, THE WATERING SCHEDULE SHALL BE ADJUSTED TO ALLOW FOR DRAINAGE AND ABSORPTION OF THE EXCESS WATER.
11. A 3" LAYER OF MULCH SHALL BE PROVIDED AROUND THE BASE OF THE PLANTED TREE. THE MULCH SHALL BE PULLED BACK 4" FROM THE TRUNK OF THE TREE.
12. NO PERSON(S) OR ENTITY MAY USE IMPROPER OR MALICIOUS MAINTENANCE OR PRUNING TECHNIQUES WHICH WOULD LIKELY LEAD TO THE DEATH OF THE TREE. IMPROPER OR MALICIOUS TECHNIQUES INCLUDE, BUT ARE NOT LIMITED TO, TOPPING OR OTHER UNSYMMETRICAL TRIMMING OF TREES, TRIMMING TREES WITH A BACKHOE, OR USE OF FIRE OR POISON TO CAUSE THE DEATH OF A TREE.
13. ALL BEDS TO HAVE 3" OF COMPOSTED SOIL, LIVING EARTH TECHNOLOGY, OR APPROVED EQUAL TO A DEPTH OF 8" MINIMUM.
14. ALL PLANT BEDS SHALL BE TOP-DRESSED WITH A MINIMUM OF 3 INCHES OF HARDWOOD OR OTHER MULCH.
15. TREES OVERHANGING WALKS AND PARKING SHALL HAVE A MINIMUM CLEAR TRUNK HEIGHT OF 7 FEET. TREES OVERHANGING PUBLIC STREET PAVEMENT DRIVE AISLES AND FIRE LANES SHALL HAVE A MINIMUM CLEAR TRUNK HEIGHT OF 14 FEET.
16. A VISIBILITY TRIANGLE MUST BE PROVIDED AT ALL INTERSECTIONS. SHRUBS ARE NOT TO EXCEED 30 INCHES IN HEIGHT. TREES SHALL HAVE A MINIMUM CLEAR TRUNK HEIGHT OF 7 FEET AT TIME OF PLANTING.
17. TREES PLANTED ON A SLOPE SHALL HAVE THE SOIL STAIN AT THE AVERAGE GRADE OF SLOPE.
18. NO SHRUBS SHALL BE PERMITTED WITHIN AREAS LESS THAN 3 FEET IN WIDTH. ALL BEDS LESS THAN 3 FEET IN WIDTH SHALL BE GRASS, GROUNDCOVER OR SOME TYPE OF FIXED PAVING.
19. THE OWNER, TENANT, AND/OR THEIR AGENTS, IF ANY, SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE, ESTABLISHMENT, AND PERMANENCE OF PLANT MATERIAL. ALL LANDSCAPING SHALL BE MAINTAINED IN A NEAT AND ORDERLY MANNER AT ALL TIMES. THIS SHALL INCLUDE, BUT NOT LIMITED TO, MOWING, EDGING, PRUNING, FERTILIZING, WATERING, AND OTHER ACTIVITIES NECESSARY FOR THE MAINTENANCE OF LANDSCAPED AREAS.
20. ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR. PLANT MATERIAL THAT IS DAMAGED, DESTROYED, OR REMOVED SHALL BE REPLACED WITH PLANT MATERIAL OF SIMILAR SIZE AND VARIETY WITHIN 30 DAYS UNLESS OTHERWISE APPROVED IN WRITING BY THE TOWN OF FLOWER MOUND.
21. LANDSCAPE AND OPEN AREAS SHALL BE KEPT FREE OFF TRASH, LITTER AND WEEDS.
22. AN AUTOMATIC IRRIGATION SYSTEM SHALL BE PROVIDED TO IRRIGATE ALL LANDSCAPE AREAS. OVERSPRAY ON STREETS AND WALKS IS PROHIBITED. A PERMIT FROM THE BUILDING INSPECTION DEPARTMENT IS REQUIRED FOR EACH IRRIGATION SYSTEM.
23. NO PLANT MATERIAL SHALL BE ALLOWED TO ENCRACH ON RIGHT-OF-WAY, SIDEWALKS OR EASEMENTS TO THE EXTENT THAT THE VISION OR ROUTE OF TRAVEL FOR VEHICULAR, PEDESTRIAN, OR BICYCLE TRAFFIC IS IMPEDED.
24. NO PLANTING AREAS SHALL EXCEED 3:1 SLOPE. 3' HORIZONTAL TO 1' VERTICAL.
25. EARTHEN BERMS SHALL NOT INCLUDE CONSTRUCTION DEBRIS. CONTRACTOR MUST CORRECT SLIPPAGE OR DAMAGE TO THE SMOOTH FINISH GRADE OF THE BERM PRIOR TO ACCEPTANCE.
26. ALL WALKWAYS SHALL MEET A.D.A. AND T.A.S. REQUIREMENTS.
27. CONTACT TOWN OF FLOWER MOUND'S PLANNING DEPARTMENT AT FOR LANDSCAPE INSPECTION. NOTE LANDSCAPE INSTALLATION MUST COMPLY WITH APPROVED LANDSCAPE PLANS PRIOR FINAL ACCEPTANCE BY THE TOWN OF FLOWER MOUND AND/OR OBTAINING A CERTIFICATE OF OCCUPANCY.
28. FINAL INSPECTION AND APPROVAL OF SCREENING WALLS, IRRIGATION AND LANDSCAPE IS SUBJECT TO ALL PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO MANHOLES, VALVES, WATER METERS, CLEANOUTS AND OTHER APPURTENANCES, TO BE ACCESSIBLE, ADJUSTED TO GRADE AND TO THE TOWN OF FLOWER MOUND'S PUBLIC WORKS DEPARTMENT STANDARDS.
29. PRIOR TO CALLING FOR A LANDSCAPE INSPECTION, CONTRACTOR IS RESPONSIBLE FOR MARKING ALL MANHOLES, VALVES, WATER METERS, CLEANOUTS AND OTHER UTILITY APPURTENANCES WITH FLAGGING FOR FIELD VERIFICATION BY THE PUBLIC WORKS DEPARTMENT.

PLANT LIST

SYMBOL	COMMON/BOTANICAL NAME	SIZE	SPACING	QUANTITY	REMARKS
TA	TEXAS ASH / FRAXINUS TEXENSIS	3" CALIPER	AS SHOWN	35	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
CE	CEDAR ELM / ULMUS CRASSIFOLIA	3" CALIPER	AS SHOWN	44	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
LO	LIVE OAK / QUERCUS VIRGINIANA	3" CALIPER	AS SHOWN	72	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
TRO	TEXAS RED OAK / QUERCUS BUCKLEYI	3" CALIPER	AS SHOWN	32	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
LE	LACEBARK ELM / ULMUS PARVIFOLIA	3" CALIPER	AS SHOWN	15	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
BO	BUR OAK / QUERCUS MACROCARPA	3" CALIPER	AS SHOWN	31	5' MINIMUM SPREAD; MINIMUM 10' HEIGHT; FULL ROUNDED HEAD 6' MINIMUM BRANCHING HEIGHT; NURSERY GROWN,
	NATIVE SUN TURFGRASS / NATIVE AMERICAN SEED #2850	SEED	SQUARE FEET	XX	DRILL SEED INSTALLATION, SEED RATE AT 1 LB PER 340 SF PER NATIVE AMERICAN SEED SPECIFICATIONS.
	COMMON BERMUDA GRASS SOLID SOD	SOLID SOD	SQUARE FEET	XX	

LANDSCAPE PROVIDED

A.	LANDSCAPE BUFFER AREA CROSS TIMBERS ROAD - 50' LANDSCAPE BUFFER (1 TREE PER 25 LF.) • 1,264 LF / 25 = 51 TREES FLOWER MOUND ROAD - 35' LANDSCAPE BUFFER (1 TREE PER 30 LF.) • 1,364 LF / 30 = 46 TREES WALSINGHAM ROAD - 15' LANDSCAPE BUFFER (1 TREE PER 30 LF.) • 1,266 LF / 30 = 43 TREES REQUIRED STREET BUFFER TREES 140 TOTAL = PROVIDED 140 TREES PRESERVED TREES WITHIN STREET BUFFER = 3 TREES TOTAL STREET BUFFER TREES TO PLANT = 137 TREES
B.	STREET YARD AREA - 50 TREES FOR THE FIRST 110,000 SF PLUS 1 TREE PER EACH ADDITIONAL 5,000 SF TOTAL STREET YARD - 1,464,529 SF • 50 TREES + (1,354,529 / 5,000) 271 = 321 TREES REQUIRED STREET YARD TREES = 321 TREES PRESERVED TREES WITHIN STREET YARD = 42 TREES TOTAL STREET YARD TREES TO PLANT = 279 TREES ** PROVIDED STREET BUFFER TREES & PARKING LOT TREES MAY BE COUNTED TOWARD THE REQUIRED STREET YARD TREES: STREET YARD TREES TO PLANT (229) - STREET BUFFER TREES (137) - PARKING LOT TREES (15) = TOTAL STREET YARD TREES TO PLANT (74)
C.	PARKING AREA TREES FOR CHURCHES - ALL PARKING SPACES SHALL BE LOCATED WITHIN 100' OF A TREE THAT IS LOCATED WITHIN THE SAME PARKING AREA, MEASURED FROM THE TRUNK OF THE TREE. REQUIRED 1 TREE PER 20 SPACES. 334 SPACES / 20 = 17 TREES REQUIRED PROVIDED A TREE WITHIN 100' OF EACH PARKING STALL. THE DISTANCE IS INDICATED WITH A CIRCLE SHOWN WITH A RADIUS OR 100' FROM THE CENTER OF THE TRUNK; 17 TREES PROVIDED.
D.	MITIGATION MITIGATION REQUIRED: MITIGATION FOR SPECIMEN TREE REMOVAL = 314" MITIGATION FOR TREES REMOVED IN BUILDABLE AREA = 21" TOTAL MITIGATION = 335" MITIGATION PROVIDE: SPECIMEN TREE PRESERVATION = 342" PROTECTED TREE PRESERVATION = 0" (ALL PRESERVED PROTECTED TREES 60 TOWARDS STREET YARD PLANTING)

#	DATE	BY	PLAN REVIEW REVISIONS
1	3/26/19	ABC	REQUESTED VARIANCE ON COMPATIBILITY BUFFER
2	8/9/19	LNR	CITY COMMENTS
3	9-19-2019	LNR	REC=VISED PER PLANNING DEPT. COMMENTS

Tract Three Shady Oaks Family Ranch, LTD
Instrument No. 2012-136827 ORDC

N00°46'10"W

1000' HEALTH & SAFETY
SETBACK

HEALTH & SAFETY
SETBACK

- TREE SURVEY LEGEND**
- 165 SPECIMEN TREE TO REMAIN
 - 166 SPECIMEN TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING
 - ⊗ 124 SPECIMEN TREE TO REMOVE
 - 167 SPECIMEN TREE PROTECTIVE FENCE
 - * INDICATES TREE TO REMAIN & COUNT TOWARD STREET YARD PLANTING
 - 241 PROTECTED TREE TO REMAIN
 - 242 PROTECTED TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING
 - ⊗ 143 PROTECTED TREE TO REMOVE
 - 144 PROTECTED TREE PROTECTIVE FENCE
- SPECIMEN TREE CANOPY OUTLINE
- PROTECTED TREE CANOPY OUTLINE

20' REAR-YARD SETBACK

15' Landscape Buffer

S89°29'32"W

N89°16'13"W

245.89'

1087.14'

152.959 Acres (Tract One)

Toll Dallas TX, LLC Instrument No. 2013-134887 OPRDCT

WALSINGHAM DRIVE

FLOW MOUND ROAD
(VARIABLE WIDTH ROW)

R = 1095.00'
D = 10°21'17"
L = 197.89'
CH = S06°57'07"E
CL = 197.62'

S01°51'19"E

74.02'

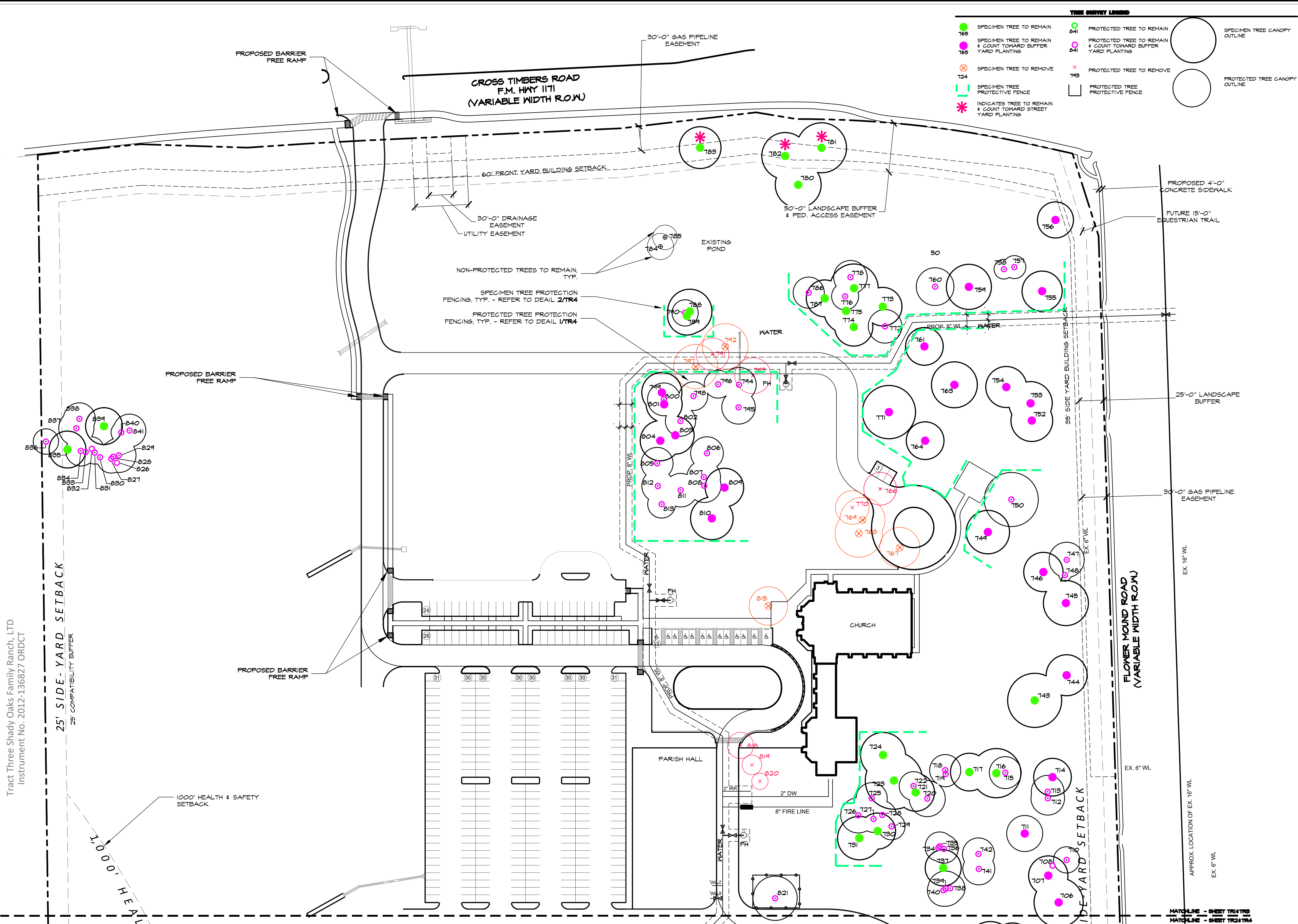
Tree #	Size	Species	Scientific Name	Condition	No. Trunks	Protected	Specimen Tree	Location	Remove / Remain	Specimen Mitigation (cal. in.)	Mitigation in BLDG Area (cal. in.)	Positive Credits for Specimen Preservation (cal. in.)	Positive Credits for Protected Preservation (cal. in.)	Street Yard Credit (1:1 ratio)
702	25	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Street Yard	Remain					1
703	25	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Street Yard	Remain					1
704	33	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Street Yard	Remain					1
705	30	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Street Yard	Remain					1
706	30	Post Oak	Quercus stellata	Slight UL	1	Yes	Yes	Street Yard	Remain					1
707	24	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Street Yard	Remain					1
708	15	Post Oak	Quercus stellata	US/UL	1	Yes	No	Street Yard	Remain					1
710	16	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	No	Street Yard	Remain					1
711	22	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Street Yard	Remain					1
712	21	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
713	20	Post Oak	Quercus stellata	Slight CD/UL Trunk Rot	1	Yes	No	Street Yard	Remain					1
714	23	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Street Yard	Remain					1
715	20	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Street Yard	Remain					1
716	30	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Buildable Area	Remain			18		1
717	23	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Buildable Area	Remain			18		1
718	19	Post Oak	Quercus stellata	UL/Mistle Toe	1	Yes	No	Street Yard	Remain					1
719	16	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	No	Street Yard	Remain					1
720	22	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
721	23	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
722	18	Post Oak	Quercus stellata	Leaning / UL	1	Yes	No	Street Yard	Remain					1
723	35	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
724	28	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1
725	19	Post Oak	Quercus stellata	CD/UL	1	Yes	No	Street Yard	Remain					1
726	22	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
727	17	Post Oak	Quercus stellata	US/UL	1	Yes	No	Street Yard	Remain					1
728	17	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
729	17	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
730	20	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
731	27	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Buildable Area	Remain			18		1
734	16	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Street Yard	Remain					1
735	21	Post Oak	Quercus stellata	CD/UL	1	Yes	No	Street Yard	Remain					1
736	18	Post Oak	Quercus stellata	Leaning/UL	1	Yes	No	Street Yard	Remain					1
737	22	Post Oak	Quercus stellata	Fair	1	Yes	Yes	Buildable Area	Remain			18		1
738	18	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Street Yard	Remain					1
739	22	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
740	20	Post Oak	Quercus stellata	Leaning CD/UL	1	Yes	No	Street Yard	Remain					1
741	20	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	No	Street Yard	Remain					1
742	20	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	No	Street Yard	Remain					1
743	33	Post Oak	Quercus stellata	OK	1	Yes	Yes	Buildable Area	Remain			18		1
744	25	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
745	28	Post Oak	Quercus stellata	Fair	1	Yes	Yes	Street Yard	Remain					1
746	24	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
747	22	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
748	25	Cedar Elm	Ulmus crassifolia	UL/US	1	Yes	No	Street Yard	Remain					1
749	27	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
750	33	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	Yes	Street Yard	Remain					1
752	26	Post Oak	Quercus stellata	UL	1	Yes	Yes	Street Yard	Remain					1
753	27	Post Oak	Quercus stellata	OK/Slight Lean	1	Yes	Yes	Street Yard	Remain					1
754	25	Post Oak	Quercus stellata	Cavity in Trunk	1	Yes	Yes	Street Yard	Remain					1
755	25	Post Oak	Quercus stellata	Slight Lean/Split Trunk	1	Yes	Yes	Street Yard	Remain					1
756	22	Post Oak	Quercus stellata	CD/UL	1	Yes	Yes	Street Yard	Remain					1
757	14	Cedar Elm	Ulmus crassifolia	UL	1	Yes	No	Street Yard	Remain					1
758	12	Cedar Elm	Ulmus crassifolia	UL	1	Yes	No	Street Yard	Remain					1
759	27	Post Oak	Quercus stellata	OK/Slight CD	1	Yes	Yes	Street Yard	Remain					1
760	23	Cedar Elm	Ulmus crassifolia	Mistle Toe/OK	1	Yes	No	Street Yard	Remain					1
761	23	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
763	28	Post Oak	Quercus stellata	UL	1	Yes	Yes	Street Yard	Remain					1
764	23	Post Oak	Quercus stellata	UL	1	Yes	Yes	Street Yard	Remain					1
766	20	Post Oak	Quercus stellata	Slight CD	1	Yes	No	Buildable Area	Remove		3			1
767	24	Post Oak	Quercus stellata	Mistle Toe/UL/CD	1	Yes	Yes	Buildable Area	Remove	48				1
768	29	Post Oak	Quercus stellata	Slight CD/UL	1	Yes	Yes	Buildable Area	Remove	54				1
769	27	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remove					1
770	20	Post Oak	Quercus stellata	UL	1	Yes	No	Buildable Area	Remove		3			1
771	32	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
772	20	Post Oak	Quercus stellata	Slight UL	1	Yes	No	Street Yard	Remain					1
773	23	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1
774	23	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
775	27	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1
776	16	Post Oak	Quercus stellata	Light trunk split-UL	1	Yes	No	Street Yard	Remain					1
777	29	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1
778	20	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
780	28	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1

Tree #	Size	Species	Scientific Name	Condition	No. Trunks	Protected	Specimen Tree	Location	Remove / Remain	Specimen Mitigation (cal. in.)	Mitigation in BLDG Area (cal. in.)	Positive Credits for Specimen Preservation (cal. in.)	Positive Credits for Protected Preservation (cal. in.)	Street Yard Credit (1:1 ratio)
780	28	Post Oak	Quercus stellata	Slight CD	1	Yes	Yes	Buildable Area	Remain			18		1
781	30	Post Oak	Quercus stellata	Trunk Damage	1	Yes	Yes	Landscape Buffer	Remain					1
782	28	Post Oak	Quercus stellata	OK	1	Yes	Yes	Landscape Buffer	Remain					1
783	25	Post Oak	Quercus stellata	OK	1	Yes	Yes	Landscape Buffer	Remain					1
784	16	Sugarberry	Celtis laevigata	OK	1	No	No	Buildable Area	Remain					1
785	16	Boisduroc	Madura pomifera	OK	1	No	No	Buildable Area	Remain					1
786	19	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
787	22	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
788	27	Post Oak	Quercus stellata	Leaning/UL	1	Yes	Yes	Buildable Area	Remain			18		1
789	23	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
790	16	Post Oak	Quercus stellata	US/UL	1	Yes	No	Street Yard	Remain					1
791	19	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Buildable Area	Remove		3			1
792	27	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	Yes	Buildable Area	Remove	54				1
793	20	Post Oak	Quercus stellata	UL	1	Yes	No	Buildable Area	Remove		3			1
794	21	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
795	20	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
796	17	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
797	27	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	Yes	Buildable Area	Remove	54				1
798	17	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
799	24	Post Oak	Quercus stellata	Trunk Rot/UL	1	Yes	Yes	Street Yard	Remain					1
800	20	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Street Yard	Remain					1
801	22	Post Oak	Quercus stellata	UL	1	Yes	Yes	Street Yard	Remain					1
802	18	Post Oak	Quercus stellata	UL/Minor Trunk Rot	1	Yes	No	Street Yard	Remain					1
803	23	Post Oak	Quercus stellata	UL	1	Yes	Yes	Street Yard	Remain					1
804	24	Post Oak	Quercus stellata	Slight UL	1	Yes	Yes	Street Yard	Remain					1
805	19	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
806	20	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
807	20	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	No	Street Yard	Remain					1
808	20	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
809	23	Post Oak	Quercus stellata	UL/Slight CD	1	Yes	Yes	Street Yard	Remain					1
810	26	Post Oak	Quercus stellata	OK	1	Yes	Yes	Street Yard	Remain					1
811	20	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1
812	19	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
813	17	Post Oak	Quercus stellata	UL/Slight Lean	1	Yes	No	Street Yard	Remain					1
815	23	Black Jack Oak	Quercus marilandica	Mistle Toe/Slight CD	1	Yes	Yes	Buildable Area	Remove	46				1
818	12	Black Jack Oak	Quercus marilandica	OK/Fence inside tree	1	Yes	No	Buildable Area	Remove		3			1
819	10	Post Oak	Quercus stellata	OK	1	Yes	No	Buildable Area	Remove		3			1
820	4	Post Oak	Quercus stellata	OK	1	Yes	No	Buildable Area	Remove		3			1
821	19	Pican	Carya ilicifolia	Slight CD	1	Yes	No	Street Yard	Remain					0
822	8	Sugarberry	Celtis laevigata	UL/Leaning	1	No	No	Street Yard	Remain					1
823	6	Gum bumelia	Sideroxylon lanuginosum	UL	1	Yes	No	Street Yard	Remain					1
824	10	Sugarberry	Celtis laevigata	OK	1	No	No	Street Yard	Remain					0
825	12	Sugarberry	Celtis laevigata	OK	1	No	No	Street Yard	Remain					0
826	13	Post Oak	Quercus stellata	UL/Slight Lean	1	Yes	No	Street Yard	Remain					1
827	17	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
828	18	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
829	21	Post Oak	Quercus stellata	UL/Slight Lean	1	Yes	No	Street Yard	Remain					1
830	9	Post Oak	Quercus stellata	UL/Leaning/US	1	Yes	No	Street Yard	Remain					1
831	14	Post Oak	Quercus stellata	UL/US	1	Yes	No	Street Yard	Remain					1
832	14	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
834	18	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
835	22	Post Oak	Quercus stellata	UL	1	Yes	Yes	Buildable Area	Remain			18		1
836	15	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
837	21	Post Oak	Quercus stellata	OK/UL	1	Yes	No	Street Yard	Remain					1
838	19	Post Oak	Quercus stellata	UL	1	Yes	No	Street Yard	Remain					1
839	22	Post Oak	Quercus stellata	Slight UL	1	Yes	Yes	Buildable Area	Remain			18		1
840	12	Post Oak	Quercus stellata	UL/US	1	Yes	No	Street Yard	Remain					1
841	20	Post Oak	Quercus stellata	OK	1	Yes	No	Street Yard	Remain					1

Plotted by: ##### Plot Date: 9/10/2019 10:33 AM

Drawing: \\Studio3man\Users Shared Folders\shared\Projects\CPT026 - St. Philips Church\DWG\CPT026-TR.dwg Saved By: Leonard
Save Time: 9/10/2019 10:19 AM

Tract Three Shady Oaks Family Ranch, LTD
Instrument No. 2012-136827 ORDC



- TREE SURVEY LEGEND**
- SPECIMEN TREE TO REMAIN
 - SPECIMEN TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING
 - X SPECIMEN TREE TO REMOVE
 - SPECIMEN TREE PROTECTIVE FENCE
 - * INDICATES TREE TO REMAIN & COUNT TOWARD STREET YARD PLANTING
 - PROTECTED TREE TO REMAIN
 - PROTECTED TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING
 - X PROTECTED TREE TO REMOVE
 - PROTECTED TREE PROTECTIVE FENCE
 - SPECIMEN TREE CANOPY OUTLINE
 - PROTECTED TREE CANOPY OUTLINE

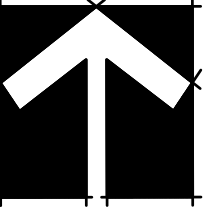
STUDIO 13 DESIGN GROUP

Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900

TBAE Firm #BR643



September 10, 2019



NORTH

50 25 0 50

1" = 50' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

TREE PRESERVATION PLAN

Tree Protection Layout

St. Philip the Apostle

Town of Flower Mound, Denton County, Texas

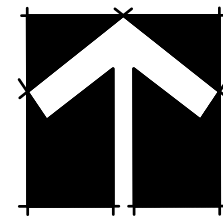
PLAN REVIEW REVISIONS		BY	DATE
#	0		
2	TOWN COMMENTS	LNR	8/9/19
3	TOWN COMMENTS	LNR	9/10/19
PROJECT			
CPT026			
SHEET			
TR3 of 4			

MATCHLINE - SHEET TR3/STR3
MATCHLINE - SHEET TR3/TR4



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50 25 0 50
1" = 50' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

TREE PRESERVATION PLAN

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Town of Flower Mound, Denton County, Texas

#	BY	DATE	PLAN REVIEW REVISIONS	TOWN COMMENTS	TOWN COMMENTS
0					
2	LNR	8/9/19			
2	LNR	9/10/19			

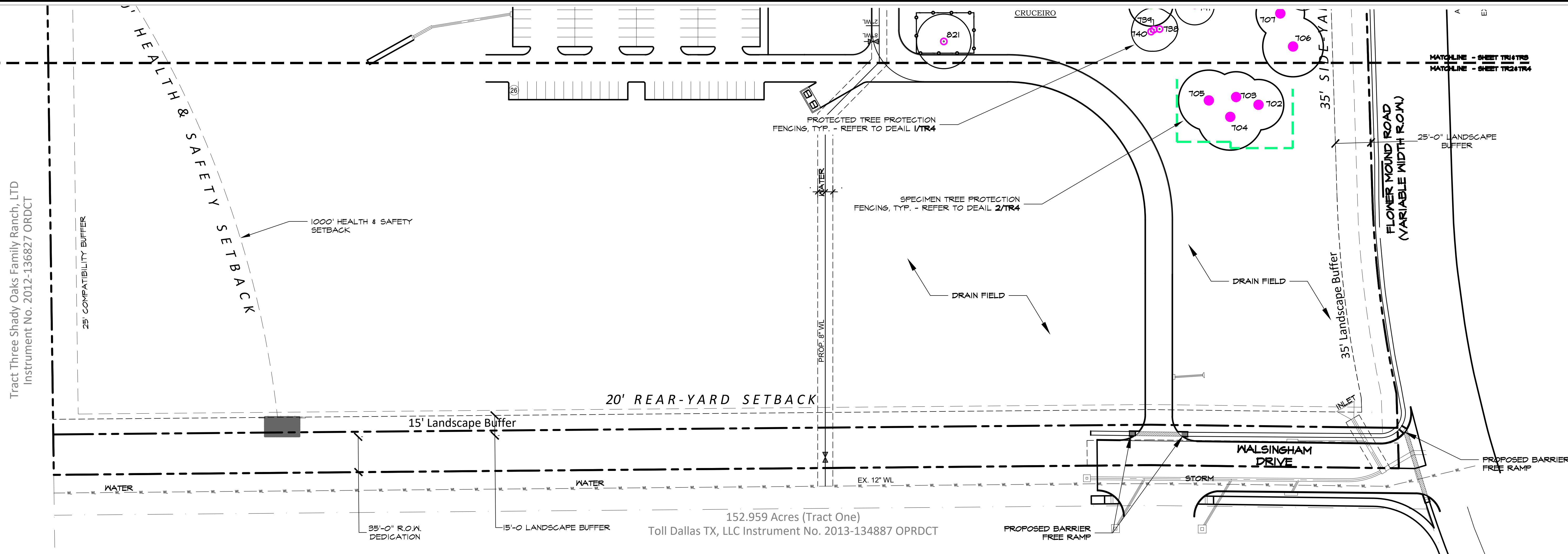
PROJECT

CPT026

SHEET

TR4 of 4

Tract Three Shady Oaks Family Ranch, LTD
Instrument No. 2012-136827 ORDCT

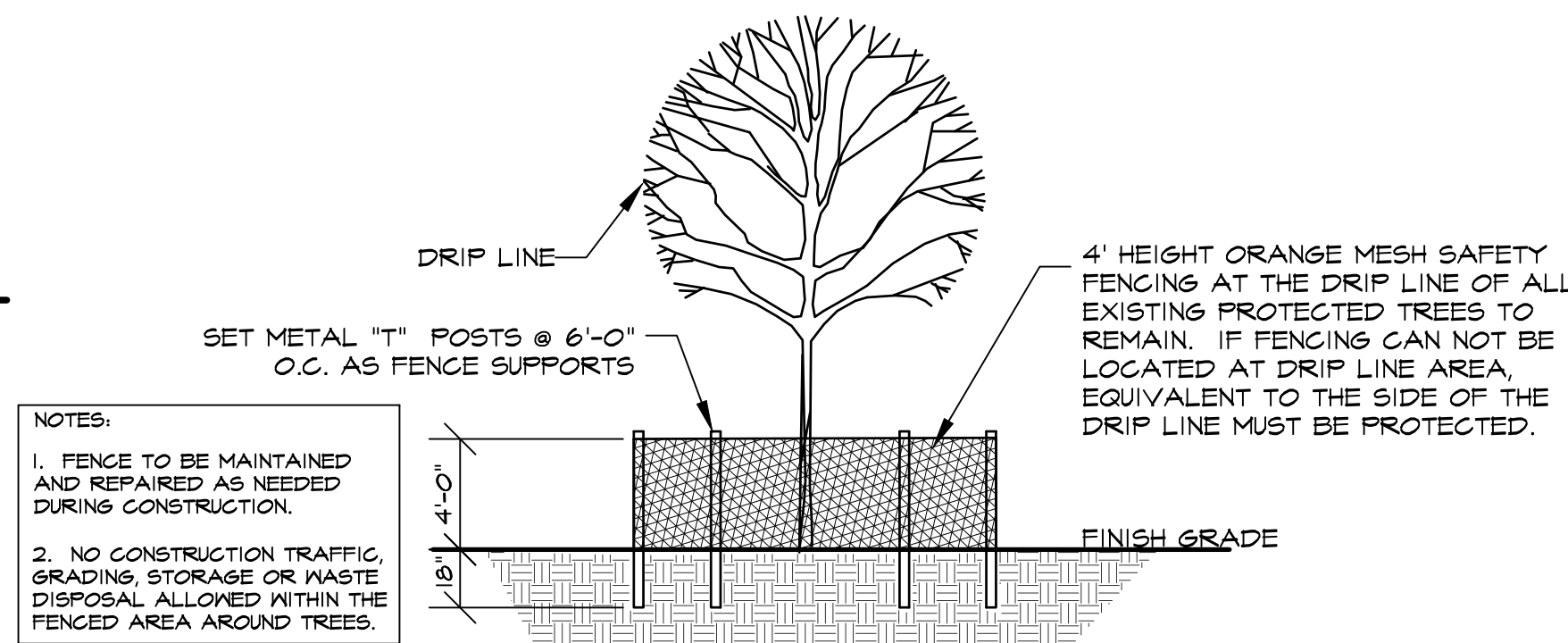


TREE SURVEY LEGEND

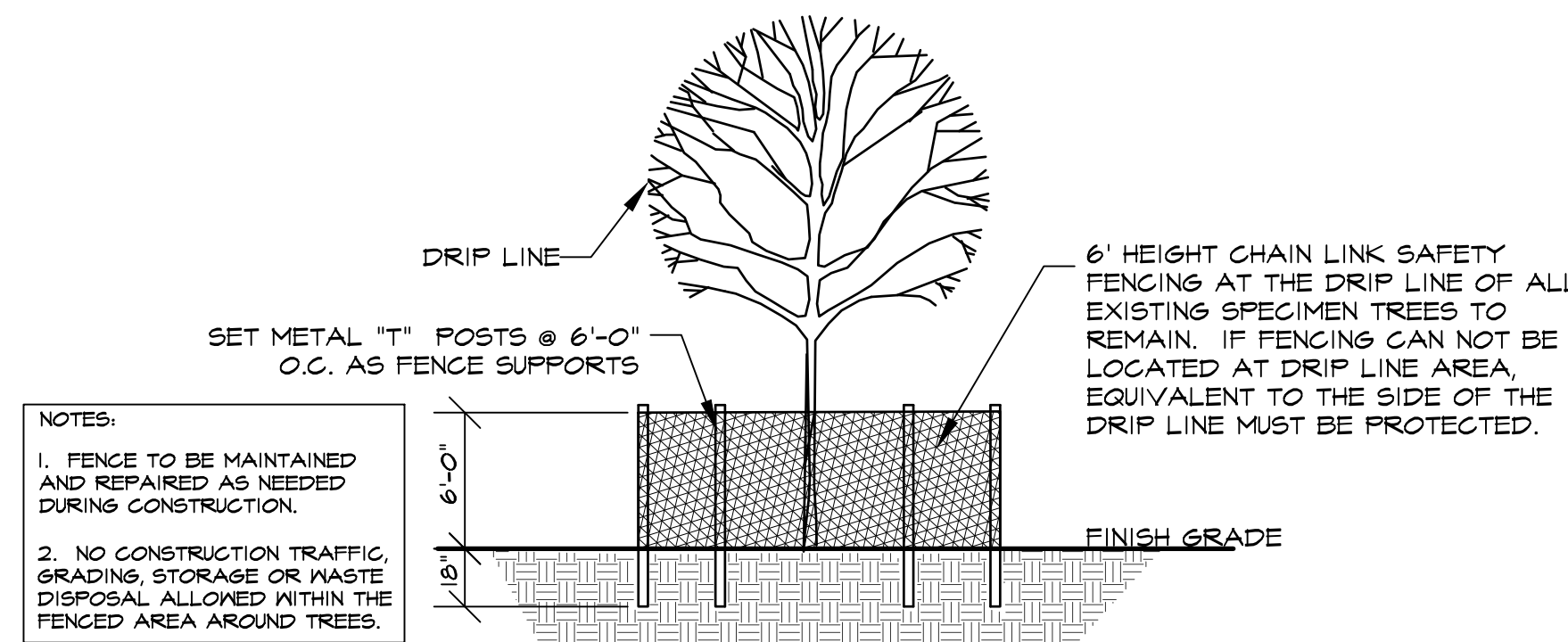
	SPECIMEN TREE TO REMAIN		PROTECTED TREE TO REMAIN		SPECIMEN TREE CANOPY OUTLINE
	SPECIMEN TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING		PROTECTED TREE TO REMAIN & COUNT TOWARD BUFFER YARD PLANTING		PROTECTED TREE CANOPY OUTLINE
	SPECIMEN TREE TO REMOVE		PROTECTED TREE TO REMOVE		PROTECTED TREE CANOPY OUTLINE
	SPECIMEN TREE PROTECTIVE FENCE		PROTECTED TREE PROTECTIVE FENCE		
	INDICATES TREE TO REMAIN & COUNT TOWARD STREET YARD PLANTING				

TREE PROTECTION NOTES

- EXISTING SPECIMEN AND PROTECTED TREES SHOWN TO REMAIN ARE TO BE PROTECTED DURING CONSTRUCTION. ORANGE MESH SAFETY FENCING (MIN. 4'-0" HEIGHT) SHALL BE INSTALLED AT THE DRIP LINE OF ALL PROTECTED TREES OR TREE GROUPS TO REMAIN. CHAIN LINK SAFETY FENCING (MIN. 6'-0" HEIGHT) SHALL BE INSTALLED AT THE DRIP LINE OF ALL SPECIMEN TREES ON SITE. PARKING OF VEHICLES OR PERFORMING WORK WITHIN THESE AREAS OTHER THAN SHOWN ON THE PLAN WILL NOT BE ALLOWED. THE TREE PROTECTION SHALL REMAIN DURING CONSTRUCTION. OTHER TREE PROTECTION MEASURES SHALL BE IN ACCORDANCE WITH THE TOWN'S STANDARDS AND ORDINANCES.
- DISPOSAL OF ANY WASTE MATERIAL SUCH AS, BUT NOT LIMITED TO, PAINT, ASPHALT, OIL, SOLVENTS, CONCRETE, MORTAR, ETC. WITHIN THE CANOPY AREA OF THE EXISTING TREES SHALL NOT BE ALLOWED.
- NO ATTACHMENTS OR WIRES OF ANY KIND, OTHER THAN THOSE OF A PROTECTIVE NATURE, SHALL BE ATTACHED TO ANY TREE.
- NO FILL OR EXCAVATION OF ANY NATURE SHALL OCCUR WITHIN THE DRIP LINE OF A TREE TO BE PRESERVED, UNLESS THERE IS A SPECIFIED WELL OR RETAINING WALL SHOWN ON THE GRADING PLAN.
- NO MATERIALS SHALL BE STORED WITHIN THE DRIP LINE AREA OF A TREE TO BE PRESERVED.



1
TR4
PROTECTED TREES - TREE PROTECTION DETAIL
NOT TO SCALE



2
TR4
SPECIMEN TREE - TREE PROTECTION DETAIL
NOT TO SCALE



TOWN COUNCIL AGENDA ITEM NO. 28

REGULAR ITEM

DATE: October 7, 2019

FROM: Lexin Murphy, Director of Planning Services

ITEM: **Public Hearing to consider an ordinance amending the Land Development Regulations (LDR19-0005 – Extended Stay Hotels) by amending Chapter 98 entitled “Zoning,” of the Town's Code of Ordinances, to create or modify the definitions and define the standards for hotels and motels, extended stay hotels, and specific use permit automatic renewals. (The Planning and Zoning Commission recommended approval with modifications by a vote of 6 to 1 at its August 12, 2019, meeting.)**

BACKGROUND INFORMATION: *This item was tabled at the August 19, 2019, Town Council meeting. During that meeting, council members requested clarification in the ordinance for some of the Extended Stay Hotel development standards. Staff has updated both the definition of an Extended Stay Hotel and the development requirements to address these concerns.*

Attached is the Planning and Zoning Commission (P&Z) staff report and backup for this item. During Commissioner deliberation, concerns were raised about limiting the allowed density of extended stay hotels and preventing sprawling hotel developments that utilized multiple villa structures for accommodations. As such P&Z recommended the following amendments:

- Limit the maximum density of Extended Stay Hotels to 23 units per acre.
- Restrict the location of accommodations for all Hotels to one primary structure.

The attached ordinance reflects the changes recommended by P&Z and Council.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report
2. Revised Draft Ordinance

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

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



PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 2

REGULAR ITEM

DATE: August 12, 2019

FROM: Lexin Murphy, Director of Planning Services

ITEM: **Public Hearing to consider an ordinance amending the Land Development Regulations (LDR19-0005 – Extended Stay Hotels) by amending Chapter 98 entitled “Zoning,” of the Town's Code of Ordinances, to create or modify the definitions and define the standards for hotels and motels, extended stay hotels, and specific use permit automatic renewals.**

I. ITEM SUMMARY

This Town initiated item proposes to amend the Town's Land Development Regulations to provide updated definitions and standards for hotels and motels, extended stay hotels, and specific use permit automatic renewals.

This item will require final action by the Town Council, which is scheduled for August 19.

II. APPLICATION ANALYSIS

At the October 8, 2018, Planning and Zoning Commission meeting, the Commission approved a site plan for an extended stay hotel, Home2 Suites by Hilton, in the Riverwalk. This raised the question of whether the Town should have a zoning definition specific to extended stay hotels.

The Town currently only has one definition addressing hotel or motel lodging options, which is: *Hotel or motel* means a building or group of buildings designed and occupied as a temporary abiding place of individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of 12 individual guestrooms or units and shall furnish customary hotel services.

After gathering information from survey cities, staff found that some of them did have definitions and standards specific to extended stay hotels. In addition, some cities had development standards for more typical hotels as well.

On January 7, 2019, during the Town Manager's Report of the Town Council meeting, Council directed staff to bring forward for consideration a suggested definition and standards for extended stay hotels.

On June 24, 2019, staff presented suggested language to the Planning and Zoning Commission updating the definition of Hotel or motel and incorporating development standards for that use, as well as creating a new definition and development standards for Extended stay hotels, during a work session ([video link](#)). As part of this presentation,

staff also presented the option to incorporate language creating an automatic renewal process for Specific Use Permits, which could be utilized for the newly proposed Extended stay hotel use.

The Planning and Zoning Commission requested that staff conduct additional research into which extended stay hotels currently existed in the Metroplex, along with key features of those existing facilities. The Commission also had the following comments:

- Address changes of ownership by extended stay hotels to ensure the new owners are aware of the automatic renewal process and the SUP requirements.
- Consider whether the Planning and Zoning Commission is the appropriate entity to evaluate compliance with codes unrelated to zoning.
- Consider whether we should define residential usage for the purposes of this ordinance, as the definition of Extended stay hotel states that residential usage is not permitted.

The proposed ordinance maintains the elements of the initial proposal, and includes a requirement for notification to the Town in the case of a change in property ownership, as well as a zoning requirement for compliance with all Town and state ordinances and laws. The idea behind the second requirement is that by making overall regulatory compliance a requirement of zoning, it brings the review into the Planning and Zoning Commission's purview. Staff's recommendation on the issue of further defining "residential usage" is that it could unnecessarily complicate the definition, when the only real purpose is to clarify that this is not intended to be a residential use for zoning classification.

III. CORRESPONDENCE

The Town Code requires public notice in a newspaper of general circulation (Denton Record Chronicle). At the time this report was written, the Town had not received any correspondence regarding this item.

IV. ATTACHMENTS

A. Background Information

1. Benchmark City Comparison
2. Extended Stay Hotel Comparison

B. Application Details

1. Draft Redline Ordinance

Benchmark City Comparison - Extended Stay Hotels

	Separate Land Use Designation for "Extended Stay" Hotel	Occupancy Length Restrictions	24 Hour Staff Requirement	Additional Requirements
Flower Mound	No	No	No	No
Allen	No	No	No	No
Carrollton	Yes	Yes, No more than: Tier 1- 365 consecutive days, Tier 2 - 60 days in any 180 day period	Yes	Yes (Chapter 97 Hotel Code)
Colleyville	No	No	No	No
Coppell	No	No	Yes	Yes
Denton	No	No	No	No
Frisco	Yes	No	Yes	Yes (Pg.92,93,110,303)
Grapevine	No	No	No	No
Highland Village	No	No	No	No
Keller	No	No	No	No
Lewisville	No (* see note)	No	Yes	Yes
McKinney	No	No	No	No
North Richland Hills	No	No	No	Yes
Richardson	No	No	No	No
Southlake	No	No	No	No

*Hotels with stoves or ovens are considered dwelling units

EXTENDED STAY HOTEL COMPARISON

Hotel Brands	Marriott International				Hilton Worldwide			InterContinental Hotels Group		Hyatt Hotels	Choice Hotels	Wyndham Hotels	
Extend Stay Hotel Names	Residence Inn (Lewisville)	TownePlace Suites (Lewisville)	Springhill Suites (Grapevine)	Element	Homewood Suites	Home2Suites	Embassy Suites	Staybridge Suites	Candlewood Suites	Hyatt House	Suburan Extended Stay	Hawthorne Suites	Extended Stay America
Address	755 C E Vista Ridge Mall Dr, Lewisville, TX 75067	731 E Vista Ridge Mall Dr, Lewisville, TX 75067	2240 W Grapevine Mills Cir, Grapevine, TX 76051	3550, I-635, Irving, TX 75063	3240 Parkwood Blvd, Frisco, TX 75034	2000 Parkwood Blvd, Frisco, TX 75034	2401 Bass Pro Dr, Grapevine, TX 76051	8355 Parkwood Blvd, Plano, TX 75024	9484 Frisco St, Frisco, TX 75033	2875 Parkwood Blvd, Frisco, TX 75034	1920 Lakepointe Dr, Lewisville, TX 75057	5000 Plaza Dr, Irving, TX 75063•(972) 445-9507	1900 Lakepointe Dr, Lewisville, TX 75057
Attractions and Things Nearby	Vista Ridge Mall, 3.1 mi. from Golf Club and 9.4 mi. from Museum	Vista Ridge Mall, and 5 mi. from Lake Lewisville, 7 mi. from Legoland Discovery	7-min. walk from Sea Life Grapevine Aquarium, 3 mi. to DFW	2.6 mi. from Glof Course, 4.9 mi. from DFW	0.5 mi. Stonebriar Center Mall, 4.3 mi. from Toyota Stadium	Near Stonebriar Center Mall, < 1 mi. from Dr. Pepper Ballpark, 4 mi. from Hawaiian Falls	1 mi. from Legoland Discovery Center, 6 mi. from DFW	1 mi. from Stonebriar Centre, 6 mi. from soccer matches and Toyota Stadium	5 min. walk from Toyota Stadium, 1 mi. from Museum	11 min. walk from the Dr. Pepper Arena and 13 min. walk from Stonebriar Centre Mall	7 mi. from Legoalnd Discovery Center, 6 mi from Sea Life Grapevine Aquarium	2 mi. from DFW, 6 mi. from Legoland Discovery and Sea Life Grapevine Aquarium	5 mi. from Golf Club, 7 mi. from Legoland Discovery and Sea Life Aquarium
Primary Amenities													
Business Center	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Convenience Store	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No
Daily Housekeeping	Yes	Yes	Yes	Yes	Unknown	Unknown	Unknown	Unknown	Yes	Unknown	Unknown	Unknown	No
Dog Run	No	Yes	No	No	No	No	No	No	No	No	No	No	No
Fitness Center	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Free Breakfast	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Hot Tub	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	No	No	No
Kitchenettes (microwave, fridge)	No	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Kitchens - Fully Equipped (Full size oven, stove or cooktop, microwave, fridge, dishwasher)	Yes	No	No	Yes	Yes	Yes	No	No	Yes	Yes	Yes	No	Yes
Kitchens in all rooms (Every room has a fully equipped kitchen or kitchenette)	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Living Areas	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lounge	No	No	Yes	Yes	No	No	Yes	Yes	No	Yes	No	No	No
Laundry Service	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Meeting Space	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Parking - Free	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Restaurant	No	No	No	Yes	No	No	Yes	No	No	Yes	No	No	No
Room Service	No	Yes	No	No	No	No	Yes	No	No	No	No	No	No
Sports Court	No	Yes	No	No	No	No	No	No	No	No	No	No	No
Swimming Pool- Indoor	Yes	No	Yes	No	No	No	Yes	No	No	Yes	No	No	No
Swimming Pool - Outdoor	No	Yes	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No
Other Features/Highlights													
Baggage Storage	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	Unknown	No
Beach Access	Yes	No	Yes	No	No	No	No	No	No	No	No	No	No
Bicycle Rental	No	No	Yes	No	No	No	No	No	No	No	No	No	No
Child Care	No	No	No	Yes	No	No	No	No	No	No	No	No	No
Complimentary Light Dinner	No	No	No	No	Yes	No	Yes	No	No	No	No	No	No
Concierge	No	No	No	No	No	No	Yes	No	No	Yes	No	No	No
Fireplace	Yes	No	Yes	No	No	No	No	No	No	No	No	No	No
Free Airport Shuttle	No	No	Yes	Yes	No	No	Yes	No	No	No	No	Yes	Yes
Free Area Shuttle	No	No	No	No	Yes	No	No	Yes	No	No	No	Yes	No
Free Grocery Shopping Service	No	No	No	No	Yes	No	No	No	No	No	No	No	No
Free WiFi	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Golf Course	Yes	No	Yes	No	No	No	No	No	No	No	No	No	No
Interior Cooridors only	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pets Welcome	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	No	No	Yes
Rooms: 1-bedroom suites	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rooms: 2-bedroom suites	Yes	Yes	No	No	Yes	No	Yes	No	No	No	No	No	No
Rooms: Studio - Guest rooms	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Smoke-free Property	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No

Town of Flower Mound

Amend Chapter 98 – Zoning, Sec. 98-2 – Definitions

Hotel or motel means a building or group of buildings designed and occupied as a temporary abiding place of individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of 12 individual guestrooms or units and shall furnish customary hotel services, **such as linen and housekeeping.**

Add to Chapter 98 – Zoning, Sec. 98-1003 – Hotel or Motel

Hotel or Motel developments shall be subject to the following conditions:

- 1. Shall provide at least three amenities from the list below:**
 - a. Pool**
 - b. Spa/sauna**
 - c. Weight room/fitness center**
 - d. Playground**
 - e. Sports court**
 - f. Plaza/atrium**
 - g. Game room**
 - h. Conference room (1,000 square foot minimum)**
 - i. Full service restaurant (minimum seating capacity of 35)**
- 2. Shall maintain ten (10) percent of the lot area as open space, exclusive of required setbacks, buffers, and parking areas, but including amenities from the above list, except for Conference room and Full service restaurant.**
- 3. Shall provide staff on-site 24 hours a day, seven days a week.**
- 4. The entrance to each room shall be gained from an interior corridor, which shall be climate controlled. First floor units may have secondary access from an interior courtyard or swimming pool area in addition to hallway access.**
- 5. A porte-cochere or covered area must be provided immediately adjacent to the entrance with a registration desk. The porte-cochere or covered area must be sufficient to accommodate the temporary parking of at least two (2) vehicles parked side by side for guests checking in and out.**

Amend Chapter 98 – Zoning, Sec. 98-2 – Definitions

Extended Stay Hotel means a type of hotel establishment designed to accommodate extended stays, with financial consideration being calculated on a nightly or weekly basis. These types of facilities are mainly suitable for the business traveler or extended vacation traveler and a minimum of fifty (50) percent of the room units shall contain living areas and kitchenette facilities, which include a stove top or oven or the ability to check out a cooking appliance. Residential usage is not permitted in Extended Stay Hotels and no occupant shall be deemed to be a resident of the hotel.

Add to Chapter 98 – Zoning, Sec. 98-1004 – Extended Stay Hotel

In addition to the Hotel or Motel development standards, Extended Stay Hotels shall also be subject to the following conditions:

1. Shall maintain laundry facilities on-site for guest use.
2. Shall maintain booking records for a minimum of 60 days.
3. Each guest room shall have a minimum area of three hundred twenty-five (325) square feet, including sleeping area, kitchen, bathroom, and closet space.
4. The hotel shall install and maintain, in proper operating order, surveillance cameras in each interior hallway and lobby area, in the parking lots, and at each exterior door. The cameras shall be placed to provide visibility to the front and rear exteriors of the building. Monitors shall be provided for security and other hotel personnel so that on-site activities may be viewed at all times. Surveillance cameras shall be in operation 24 hours a day and records of images recorded shall be kept a minimum of 30 days.
5. Extended-stay hotels are required to operate in compliance with all zoning, building code, fire safety code, health code, and other ordinances and laws of the Town and the state.

This use requires a Specific Use Permit, which will expire five years from the passage of the approved ordinance, but is eligible for automatic renewal for additional five-year periods. For automatic renewal to occur, the property owner must file a complete application for automatic renewal with the Director of Planning Services, as outlined in Sec. 98-954, before the expiration of the current period.

In the event of a change in ownership/rebranding of the hotel on the property, the new property owner must notify the Director of Planning Services within 90 days from the date of closing. This will allow the Town to send the new property owner a copy of the Town's regulations and standards for extended stay hotels. A form acknowledging the receipt of the Extended Stay Hotel Regulations and agreeing to comply with said regulations must be returned to the Director of Planning Services within 30 days of the mail or email date that the materials were sent by the Town.

Add to Chapter 98 – Zoning, Sec. 98-954

Automatic Renewals:

1. Failure to timely file a complete renewal application will render this specific use permit ineligible for automatic renewal. The Town Council may, however, reinstate an SUP's eligibility for future automatic renewals as part of a new SUP ordinance or ordinance amendment.
2. Automatic renewal does not result in an amendment to the SUP ordinance. An applicant seeking to change the SUP conditions or to otherwise amend the SUP ordinance must submit a new SUP application, as outlined in Sec. 98-953. As part of the application for automatic renewal, the property owner shall state that all existing SUP conditions have been complied with, and that no changes to the conditions or other SUP ordinance provisions are being requested.
3. Upon the filing of a complete application for automatic renewal, the director shall send written notice to all owners of real property lying within 200 feet of the area governed by the SUP. The notice must state that the SUP is eligible for automatic renewal and may be automatically renewed without further notice.
4. If the owners of 20 percent or more of the land within 200 feet of the area governed by the SUP file a written protest against the automatic renewal in accordance with Sec. 78-154. - Action by town council, or if the director determines that the conditions of the SUP have not been met as referenced in the automatic renewal application, the director shall forward the application to the Planning and Zoning Commission for consideration, as outlined in Sec. 78-154. - Action by town council.

5. If forwarded for consideration, the Planning and Zoning Commission shall make a recommendation to Town Council regarding the proposed renewal based on staff reports, field inspections, and the evidence presented at its public hearing.
6. If forwarded for consideration, Town Council may: repeal the SUP's eligibility for automatic renewal; supplement, remove, or amend any of the conditions or provisions of the subject SUP ordinance; or take no action and allow the SUP to automatically renew. No renewal or expiration of an SUP may occur while the application is pending consideration.
7. This subsection does not impair the ability of the Town Council to call a public hearing on its own motion for the purpose of passing an amending ordinance to repeal an SUP's eligibility for automatic renewal, or to supplement, remove, or amend any of the conditions or other provisions in an SUP ordinance.

Add to Chapter 98 – Zoning, Article III. – District Regulations

Extended Stay Hotel should be added under Specific Uses for the following Districts: O Office District, C-2 Commercial District-2, I-1 Industrial District-1, I-2 Industrial District-2, WR Water Recreation District, REC Recreational District, CC Campus Commercial District, and CI Campus Industrial District.

The Schedule of Use Regulations chart located in Chapter 98 – Zoning, Sec. 98-952, should also be updated to reflect the requirement of an SUP in the districts listed above for an Extended Stay Hotel.

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

AN ORDINANCE OF TOWN COUNCIL THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 98, "ZONING" OF THE TOWN'S CODE OF ORDINANCES, THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, SECTION 98-2, "DEFINITIONS" TO EXPAND THE DEFINITION FOR HOTEL OR MOTEL AND ADD A DEFINITION FOR EXTENDED STAY HOTEL; ADDING A NEW SECTION 98-1003, "HOTEL OR MOTEL" PROVIDING REGULATIONS RELATED TO HOTEL OR MOTEL DEVELOPMENTS; ADDING A NEW SECTION 98-1004, "EXTENDED STAY HOTEL" PROVIDING ADDITIONAL REQUIREMENTS FOR EXTENDED STAY HOTEL DEVELOPMENTS; ADDING A NEW SECTION 98-954, "AUTOMATIC RENEWALS" PROVIDING FOR THE AUTOMATIC RENEWAL OF SPECIFIC USE PERMITS; AMENDING ARTICLE III, "DISTRICT REGULATIONS" TO ADD "EXTENDED STAY HOTEL" AS A USE ALLOWED WITH THE APPROVAL OF A SPECIFIC USE PERMIT IN THE FOLLOWING DISTRICTS: O, C-2, I-1, I-2, WR, REC, CC, AND CI; AMENDING SECTION 98-952 "USE CLASSIFICATION" ADDING "EXTENDED STAY HOTEL" TO THE SCHEDULE OF USE REGULATIONS CHART AS A USE ALLOWED WITH THE APPROVAL OF A SPECIFIC USE PERMIT IN CERTAIN DISTRICTS AND ALLOWED BY RIGHT IN A PD PLANNED DEVELOPMENT DISTRICT; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town of Flower Mound previously adopted Chapter 98, Zoning, of Subpart B, Land Development Regulations, of the Town of Flower Mound Code of Ordinances, as amended, establishing regulations for zoning and uses of land and development of real property within the Town; and,

WHEREAS, the Town Council finds and determines that the regulations related to hotel and motel uses should be amended as set out herein to provide clarification and development standards applicable to such uses; and,

WHEREAS, the Town Council finds and determines that regulations related to extended stay hotel uses should be added to define and establish development standards applicable to such uses; and,

WHEREAS, the Town Council finds and determines that the regulations related to specific use permits should be modified to create an automatic renewal process that could be applied to specific uses in certain circumstances to allow Town Council the ability to review specific use permits at designated time periods if the site is not in compliance with or has record of being out of compliance with zoning standards; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Texas Local Government Code, Chapter 78 of the Town's Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Land Development Regulations Amendment;

ORDINANCE NO. _____

Page 2

WHEREAS, the Town Council finds that the amendment to Chapter 98 as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public.

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

SECTION 1

That Section 98-2, "Definitions," of Article I, "In General," of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add a definition of "*Extended Stay Hotel*" and to modify the definition of "*Hotel or Motel*" to be added and inserted alphabetically to read as follows:

"Sec. 98-2. – Definitions

Extended Stay Hotel means a type of Hotel or Motel establishment designed to accommodate extended stays by the business traveler or extended vacation traveler, with financial consideration being calculated on a nightly or weekly basis.

Hotel or motel means a building or group of buildings designed and occupied as a temporary abiding place of individuals, with the location of accommodations limited to one primary structure. To be classified as a hotel or motel, an establishment shall contain a minimum of 12 individual guestrooms or units and shall furnish customary hotel services, such as linen and housekeeping.

SECTION 2

That Section 98-1003, "Hotel or Motel," and Section 98-1004, "Extended Stay Hotel," of Subdivision III, "Special Use Conditions," of Division 2, "Uses," of Article IV, "Supplementary District Regulations," of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby added to read as follows:

"Sec. 98-1003 – Hotel or Motel

Hotel or Motel developments shall be subject to the following conditions:

(1) Shall provide at least three amenities from the list below:

- (a) Pool
- (b) Spa/sauna
- (c) Weight room/fitness center
- (d) Playground
- (e) Sports court
- (f) Plaza/atrium
- (g) Game room
- (h) Conference room (one thousand (1,000) square foot minimum in size)
- (i) Full-service restaurant (with a minimum seating capacity of thirty-five (35) patrons)

- (2) Shall maintain ten (10) percent of the lot area as open space, exclusive of required setbacks, buffers, and parking areas, but including amenities from the above list, except for Conference room and Full-service restaurant.
- (3) Shall provide staff on-site twenty-four (24) hours a day, seven days a week.
- (4) The entrance to each room shall be gained from an interior corridor, which shall be climate controlled. First floor units may have secondary access from an interior courtyard or swimming pool area in addition to hallway access.
- (5) A porte-cochere or covered area must be provided immediately adjacent to the entrance with a registration desk. The porte-cochere or covered area must be sufficient to accommodate the temporary parking of at least two (2) vehicles parked side by side for guests checking in and out.

Sec. 98-1004 – Extended Stay Hotel

Extended Stay Hotels must comply with the Hotel or Motel development standards set forth in Section 98-1003 hereof and shall also be subject to the following conditions:

- (1) Shall be restricted to a maximum density of twenty-three (23) units per acre.
- (2) Shall maintain laundry facilities on-site for guest use.
- (3) Shall maintain booking records for a minimum of sixty (60) days.
- (4) Each guest room shall have a minimum area of four hundred twenty-five (425) square feet, including sleeping area, kitchen, bathroom, and closet space.
- (5) The kitchen in each guest room shall include a sink with running water and at least three major kitchen appliances (i.e. refrigerator, dishwasher, stove top or oven).
- (6) The Extended Stay Hotel shall install and maintain, in proper operating order, surveillance cameras in each interior hallway and lobby area, in the parking lots, and at each exterior door. The cameras shall be placed to provide visibility to the front and rear exteriors of the building. Monitors shall be provided for security and other hotel personnel so that on-site activities may be viewed at all times. Surveillance cameras shall be in operation 24 hours a day and records of images recorded shall be kept a minimum of 30 days.
- (7) Extended stay hotels are required to operate in compliance with all zoning, building code, fire safety code, health code, and other ordinances and laws of the Town and the state.

The advertising of a specific property or proposed hotel brand as an extended stay hotel, whether it be online or in print, shall be considered prima facie evidence that the subject property constitutes an extended stay hotel, and shall comply with all of the Town's associated standards and regulations.

A Specific Use Permit for an Extended Stay Hotel shall expire five years from the passage of the approved ordinance, but is eligible for automatic renewal for additional five-year periods. For automatic renewal to occur, the property owner must file a complete application for automatic renewal with the Director of Planning Services, as outlined in Sec. 98-954, before the expiration of the current period.

In the event of a change in ownership/rebranding of the hotel on the property, the new property owner shall be required to notify the Director of Planning Services within ninety (90) days from the date of closing. This will allow the Town to send the new property owner a copy of the Town's regulations and standards for extended stay hotels. A form acknowledging the receipt of the Extended Stay Hotel Regulations and agreeing to comply with said regulations must be returned to the Director of Planning Services within 30 days of the mail or email date that the materials were sent by the Town.

Permanent residency is prohibited and no occupant of an Extended Stay Hotel shall be deemed to be a resident of the Extended Stay Hotel.”

SECTION 3

That Section 98-954, "Automatic Renewals," of Subdivision II, "Regulations," of Division 2, "Uses," of Article IV, "Supplementary District Regulations" of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby added to read as follows:

“Sec. 98-954 – Expiration or Automatic Renewal of SUPs

- (1) Except for uses where a mandatory expiration and automatic renewal option is otherwise required, a specific use permit granted in accordance with section 98-953 may include an expiration date or a provision providing eligibility for automatic renewal upon submission of a complete application package with automatic renewal requirements.
- (2) Failure to timely file a complete renewal application will render a specific use permit ineligible for automatic renewal. The Town Council may, however, reinstate a SUP's eligibility for future automatic renewals as part of a new SUP ordinance or ordinance amendment.
- (3) Automatic renewal does not result in an amendment to the SUP ordinance. An applicant seeking to change the SUP conditions or to otherwise amend the SUP ordinance must submit a new SUP application, as outlined in section 98-953. As part of the application for automatic renewal, the property owner shall state that all existing SUP conditions have been complied with, and that no changes to the conditions or other SUP ordinance provisions are being requested.
- (4) Upon the filing of a complete application for automatic renewal, the Director of Development Services, shall send written notice to all owners of real property lying within 200 feet of the area governed by the SUP. The notice must state that the SUP is eligible for automatic renewal and may be automatically renewed without further notice.
- (5) If the owners of 20 percent or more of the land within 200 feet of the area governed by the SUP file a written protest against the automatic renewal in accordance with section 78-154, the application shall be forwarded to the Planning and Zoning Commission for consideration, as outlined in section 78-154. In addition, if the Director of Development Services determines that the conditions of the SUP have not been met, the Director of Development Services may forward the application to the Planning and Zoning Commission for consideration, as outlined in section 78-154.
- (6) If forwarded for consideration, the Planning and Zoning Commission shall make a recommendation to Town Council regarding the proposed renewal based on staff reports, field inspections, and the evidence presented at its public hearing.
- (7) If forwarded for consideration, Town Council may: repeal the SUP's eligibility for automatic renewal; supplement, remove, or amend any of the conditions or provisions of the subject SUP ordinance; or take no action and allow the SUP to automatically renew. No renewal or expiration of a SUP may occur while the application is pending consideration.
- (8) This subsection does not impair the ability of the Town Council to call a public hearing on its own motion for the purpose of passing an amending ordinance to repeal a SUP's eligibility for automatic renewal, or to supplement, remove, or amend any of the conditions or other provisions in a SUP ordinance.”

ORDINANCE NO. _____

Page 5**SECTION 4**

That Sections 98-543, "Specific Uses," 98-663, "Specific Uses," 98-693, "Specific Uses," 98-723, "Specific Uses," 98-753, "Specific Uses," 98-783, "Specific Uses," 98-843, "Specific Uses," 98-873, "Specific Uses," of Article III, "District Regulations" of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, are hereby amended to add "Extended Stay Hotel" to be inserted alphabetically to read as follows:

"Sec. 98-543 – Specific uses

Extended Stay Hotel

Sec. 98-663 – Specific uses

Extended Stay Hotel

Sec. 98-693 – Specific uses

Extended Stay Hotel

Sec. 98-723 – Specific uses

Extended Stay Hotel

Sec. 98-753 – Specific uses

Extended Stay Hotel

Sec. 98-783 – Specific uses

Extended Stay Hotel

Sec. 98-843 – Specific uses

Extended Stay Hotel

Sec. 98-873 – Specific uses

ORDINANCE NO. _____**Page 6**

Extended Stay Hotel

SECTION 5

That Subsection (c), "Schedule of Use Regulations," of Section 98-952, "Use Classification," of Subdivision II, "Regulations," of Division 2, "Uses," of Article IV, "Supplementary District Regulations," of Chapter 98 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add "Extended Stay Hotel" in the Schedule of Use Regulations chart to read as follows:

"Sec. 98-952 – Schedule of Use Regulations Chart"

Personal Service Uses	A	S F E	SF -5	SF 30	SF 15	SF 10	S F A	2 F	M F	M H	O	R 1	R 2	C 1	C 2	C C	C I	I 1	I 2	W R	R E C	P D	C B D
Extended Stay Hotel											S				S	S	S	S	S	S	S	P	*

SECTION 6

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 7

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 8

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

ORDINANCE NO. _____

Page 7**SECTION 9**

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

SECTION 10

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 11

This Ordinance shall be in full force and effect from and after the date of its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF __ TO __, ON THIS THE 7TH DAY OF OCTOBER, 2019.

APPROVED:

Steve Dixon, **MAYOR**

ATTEST:

Theresa Scott, **TOWN SECRETARY**



TOWN COUNCIL AGENDA ITEM NO. 29

REGULAR ITEM

DATE: October 7, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Town Council to consider approval of a resolution to nominate individuals to be voted on by taxing jurisdictions for the Board of Directors for the Denton Central (DCAD) and Tarrant Appraisal Districts (TAD).

BACKGROUND INFORMATION: The process for electing the Board of Directors for [DCAD](#) and [TAD](#) starts with the nomination of individuals by the taxing jurisdictions, and as defined in Section 6.03 of the Property Tax Code. Each jurisdiction may nominate up to five people to be considered for the Board of Directors and by the deadline date of October 15, 2019.

In mid-December of 2019 taxing jurisdictions will vote on the nominees from the slate of candidates as put forward by the contributing jurisdictions. The amount of votes that can be cast by the taxing jurisdictions is based on the 2018 tax levy. For Flower Mound this equates to 119 votes (DCAD) and 1 vote (TAD).

Flower Mound resident Mike Hassett is currently serving on this board; however, has indicated he does not intend to seek a third term. The Town Secretary's Office has not received any communication regarding interest from Flower Mound residents located in Tarrant County.

ALTERNATIVES OR OPTIONS:

1. Nominate up to five citizens to be voted on by the Denton County taxing jurisdictions
2. Nominate up to five citizens to be voted on by the Tarrant County taxing jurisdictions
3. Choose not to make any nominations for this two-year period and vote on the candidates selected by other taxing jurisdictions in December.

On [9/18/19](#) LISD nominated Flower Mound residents Bryan Webb and David Johnson, in addition to Tom Washington, and current Board members Roy Atwood and David Terre.

ELIGIBILITY/TERM: The nominee must have resided in the designated county for at least two years prior to January 1, 2020.

FREQUENCY OF MEETINGS: The Board usually meets once per month and meetings are held at 3:00 p.m. in Denton.

ATTACHMENTS:

1. Denton Central Appraisal District memo
2. Tarrant Central Appraisal District letter
3. Draft Resolution

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



DENTON CENTRAL APPRAISAL DISTRICT
 3911 MORSE STREET, P O BOX 2816
 DENTON, TEXAS 76202-2816

M E M O

RECEIVED

AUG - 7 2019

TO: Denton County, School Districts and Cities That Levy A Tax

FROM: Rudy Durham, Chief Appraiser

SUBJECT: Request for Nominations for DCAD Board of Directors

DATE: August 6, 2019

TOWN OF FLOWER MOUND
 TOWN SECRETARY'S OFFICE

It is time again for the taxing jurisdictions to select five individuals to serve as the DCAD Board of Directors. Each jurisdiction may nominate by written resolution up to five people to be considered for the Board of Directors. According to Section 6.03 of the Property Tax Code, it is the chief appraiser's responsibility to initiate this process, which is the purpose of this memo.

Please note that a chief appraiser does not have the authority, or the duty, to investigate, or judge, the qualifications of the nominees. Further, a chief appraiser cannot extend the deadline for receiving nominations.

Please return your nomination(s) by written resolution before October 15, 2019.

Please provide name and address of nominee(s), additional information will be requested from each nominee to assist the entities in the voting process.

CALENDAR FOR APPOINTMENTS:

1. Before October 1st - Each jurisdiction will be advised of the number of votes they are entitled to cast for Board members. (See Attached)
2. Before October 15th - The governing body of each jurisdiction may nominate by written resolution up to five candidate(s) to the DCAD Board of Directors. The number of votes that each jurisdiction has is not relevant in the initial nomination phase.
3. Before October 30th - A comprehensive list of the nominees will be compiled and this information will be sent to the taxing jurisdictions in the form of a ballot.
4. Before December 15th - The taxing jurisdictions choose by written resolution the candidate, or candidates, of their choice. The jurisdictions then submit the names of their candidates and the votes they cast for each candidate before the December 15th deadline.
5. Before December 31st - A tabulation of the votes will be forwarded to the jurisdictions. The five candidates that have received the most votes become the Board of Directors as of January 1st.

Memo, Appointing Board of Directors, August 06, 2019

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SELECTING A NOMINEE

AUTHORITATIVE GUIDELINES - The selection process is set forth in Section 6.03 of the Property Tax Code. This process is not an "election" governed by the Texas Election Code. It is an independent procedure unique to the property tax system.

ELIGIBILITY - An appraisal district director must reside in the appraisal district for at least two years immediately preceding the date he or she takes office. Most residents are eligible to serve as a director. An individual that is serving on the governing body of a city, county, or school district is eligible to serve as an appraisal district's director.

An employee of a taxing unit served by the appraisal district is not eligible to serve as a director. However, if the employee is an elected official, he or she is eligible to serve.

A statute relevant to the Board selection process prohibits nepotism and conflict of interest for appraisal district directors and chief appraisers. In summary, the law states that:

....."a person may not serve as director if closely related to anyone in the appraisal district or if related to anyone who represents owners in the district, or if the person has an interest in a business that contract with the district or a taxing unit. A chief appraiser may not employ someone closely related to a member of the board of directors".

TERM OF OFFICE – Those elected to the Board of Directors will serve a two year term beginning January 1, 2020.

FREQUENCY OF MEETINGS - The applicable statutes require the board of directors to meet not less often than once each calendar quarter.

DENTON CENTRAL APPRAISAL DISTRICT 2019 DISTRIBUTION OF VOTES				
JURISDICTIONS		2018 LEVY	%OF TOTAL LEVIES	NUMBER OF VOTES
SCHOOL DISTRICTS:				
S01	ARGYLE ISD	33,186,851.69	1.6261%	81
S02	AUBREY ISD	16,454,142.56	0.8062%	40
S03	CARROLLTON-FB ISD	58,371,523.21	2.8601%	143
S04	CELINA ISD	427,771.79	0.0210%	1
S05	DENTON ISD	274,005,237.83	13.4258%	671
S15	ERA ISD	2,758.30	0.0001%	1
S06	FRISCO ISD	162,397,340.74	7.9572%	397
S07	KRUM ISD	12,853,716.09	0.6298%	31
S08	LAKE DALLAS ISD	31,974,528.89	1.5667%	78
S09	LEWISVILLE ISD	544,364,670.37	26.6730%	1328
S10	LITTLE ELM ISD	73,613,044.88	3.6069%	180
S11	NORTHWEST ISD	124,570,724.15	6.1038%	305
S12	PILOT POINT ISD	8,539,103.29	0.4184%	21
S13	PONDER ISD	10,708,445.18	0.5247%	26
S17	PROSPER ISD	15,533,196.24	0.7611%	38
S14	SANGER ISD	15,181,709.78	0.7439%	37
S16	SLIDELL ISD	561,351.63	0.0275%	1
SCHOOL DISTRICTS TOTALS		\$1,382,746,116.62	67.752%	3382
G01	DENTON COUNTY	\$223,871,430.98	10.97%	548
CITIES:				
C26	TOWN OF ARGYLE.....	2,687,077.63	0.1317%	7
C01	CITY OF AUBREY.....	1,412,289.57	0.0692%	3
C31	TOWN OF BARTONVILLE..	756,676.91	0.0371%	2
C02	CITY OF CARROLLTON	47,204,556.69	2.3129%	116
C49	CITY OF CELINA.....	303,038.29	0.0148%	1
C03	CITY OF THE COLONY...	30,055,137.17	1.4727%	74
C21	TOWN OF COPPELL	957,483.56	0.0469%	2
C27	TOWN OF COPPER CANYON	753,307.60	0.0369%	2
C04	CITY OF CORINTH.....	11,500,863.98	0.5635%	28
C20	CITY OF DALLAS.....	12,488,352.67	0.6119%	31
C05	CITY OF DENTON.....	71,132,828.80	3.4854%	174
C42	CITY OF DISH.....	147,732.08	0.0072%	1
C30	TOWN OF DOUBLE OAK...	1,103,865.85	0.0541%	3
C47	TOWN OF DRAPER	8,444.96	0.0004%	1
C07	TOWN OF FLOWER MOUND.	48,435,715.09	2.3733%	119
C36	CITY OF FORT WORTH.....	17,141,977.62	0.8399%	42
C32	CITY OF FRISCO.....	49,660,004.69	2.4333%	122
C39	CITY OF GRAPEVINE.....	188.15	0.0000%	1
C22	TOWN OF HACKBERRY....	150,122.31	0.0074%	1
C38	CITY OF HASLET.....	5,062.50	0.0002%	1
C19	TOWN OF HICKORY CREEK....	1,977,570.79	0.0969%	5
C08	CITY OF HIGHLAND VILLAGE.....	12,742,563.45	0.6244%	31
C09	CITY OF JUSTIN.....	2,205,402.21	0.1081%	5
C18	CITY OF KRUGERVILLE..	658,781.59	0.0323%	2
C10	CITY OF KRUM.....	2,285,738.11	0.1120%	6
C11	CITY OF LAKE DALLAS..	3,136,074.59	0.1537%	8
C25	CITY OF LAKEWOOD VILLAGE.....	303,401.51	0.0149%	1
C12	CITY OF LEWISVILLE...	47,733,684.70	2.3389%	117
C13	TOWN OF LITTLE ELM...	24,921,132.48	1.2211%	61
C33	TOWN OF NORTHLAKE....	1,929,896.31	0.0946%	5
C24	CITY OF OAK POINT....	2,374,646.59	0.1164%	6
C14	CITY OF PILOT POINT..	1,690,503.84	0.0828%	4
C29	CITY OF PLANO.....	6,012,331.76	0.2946%	15
C15	TOWN OF PONDER.....	1,101,558.57	0.0540%	3
C48	CITY OF PROSPER	3,076,708.73	0.1508%	8
C51	TOWN OF PROVIDENCE VILL.	4,232,566.93	0.2074%	10
C17	CITY OF ROANOKE.....	7,511,005.83	0.3680%	18
C16	CITY OF SANGER.....	4,367,008.60	0.2140%	11
C34	TOWN OF SHADY SHORES	970,405.61	0.0475%	2
C37	CITY OF SOUTHLAKE.....	646,633.20	0.0317%	2
C28	CITY OF TROPHY CLUB..	8,477,582.93	0.4154%	21
C44	CITY OF WESTLAKE	6,686.84	0.0003%	1
CITY TOTAL		\$434,266,611.29	21.28%	1069
TOTAL ALL JURISDICTIONS		\$2,040,884,158.89	100.00%	5000



Jeff Law
Executive Director
Chief Appraiser

September 10, 2019

Mr. Steve Dixon
Mayor
City of Flower Mound
2121 Cross Timbers Rd.
Flower Mound, Texas 75028

RECEIVED

SEP 12 2019

Town of Flower Mound
TOWN SECRETARY'S OFFICE

Dear Mr. Dixon:

The terms of service for our five members of the Board of Directors (Directors) will expire on December 31, 2019 and it is time to begin the process of conducting an election for the 2020-2021 term.

Based on the amount of the 2018 adjusted tax levy imposed by each eligible taxing unit, we have calculated the number of votes for your entity in accordance with the Texas Property Tax Code. The enclosed list will provide you with that information.

The first step in the procedure is the nomination of candidates for director. Each voting unit may nominate one candidate for each of the five positions to be filled. You are not required to make any nomination or you may nominate any number up to five. The County Tax Assessor/Collector is automatically a non-voting member of the Board of Directors by law.

In order to be eligible to serve as a director, the 2019 nominees must have resided in Tarrant County for at least two years prior to January 1, 2020. They may serve on the governing body, as an elected official, of a taxing unit in the County and still be eligible to serve as a Director. However, the Tax Code identifies the following list which makes an individual ineligible to serve as director;

- An individual is ineligible to serve if they are an employee of a taxing unit, unless that employee is also an elected official of the governing body.
- An individual is ineligible to serve as a director if the individual has engaged in the business of appraising property for compensation, or is related to a person that engages in appraising property for compensation, and may be used in proceedings within the appraisal district.
- An individual is ineligible to serve if they represent property owners for compensation in proceedings in the appraisal district at any time during the preceding five years.
- An individual is ineligible to serve if they are employed by the appraisal district.

Letter to Taxing Units
Election of Board of Directors
September 10, 2019
Page 2

- An individual is ineligible to serve if they own property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the individual should have known of the delinquency.
 - Unless the taxes are being paid under an installment agreement,
 - Or a suit to collect the delinquent taxes is deferred or abated.
- An individual is ineligible to serve if the individual, or a business in which the individual has a substantial interest, enters into a contract with the appraisal district, or enters into a contract with a taxing unit in the district, if that contract relates to the performance of an activity governed by Title 1 of the Texas Property Tax Code (for example, appraising property for tax purposes or determining eligibility for exemptions). A substantial interest exists where the individual and spouse have a combined ownership of at least 10% of the voting stock or shares of a business, or either of them is a partner, limited partner or an officer.

If you have questions concerning the qualifications of nominees for a Board position, please call.

The nominations for Directors, which must be made in an open meeting of your taxing unit, should be submitted by the presiding officer to the Chief Appraiser in the form of a resolution or other official process adopted by the governing body by October 15, 2019, giving the names and addresses of the nominees. A current resume or vita should be included so we may determine eligibility or ineligibility before the final ballot is created.

The elections calendar is as follows:

By October 15, 2019	Nominations by resolution or official action
By October 30, 2019	Ballots listing nominees delivered to Presiding Officer
By December 15, 2019	Entity submits votes by resolution to Chief Appraiser
By December 31, 2019	Five (5) nominees receiving largest cumulative vote totals are elected
January 1, 2020	Board takes office for two year term

The duties of the Board are outlined in Chapter 6, Texas Property Tax Code. If you have questions, please do not hesitate to call.

Sincerely,



Jeff Law
Executive Director
Chief Appraiser

JL:ct
Encl.
Mr. Jimmy Stathatos

TARRANT APPRAISAL DISTRICT
2019 Calculation of Taxing Entity Votes for Board of Directors
Per Section 6.03(d) of Texas Property Tax Code

	2018 TAXES IMPOSED	% OF TOTAL	2019 VOTES
School Districts:			
Aledo	\$ 4,422,386	0.10270%	5
Arlington	\$ 387,742,841	9.00408%	450
Azle	\$ 21,552,124	0.50048%	25
Birdville	\$ 145,780,948	3.38529%	169
Burleson	\$ 26,484,960	0.61503%	31
Carroll	\$ 121,637,201	2.82463%	141
Castleberry	\$ 10,263,752	0.23834%	12
Crowley	\$ 107,398,244	2.49398%	125
Eagle Mountain/Saginaw	\$ 145,123,350	3.37002%	168
Everman	\$ 20,636,822	0.47922%	24
Fort Worth	\$ 497,308,653	11.54840%	577
Godley	\$ 1,195,386	0.02776%	1
Grapevine/Colleyville	\$ 209,100,626	4.85569%	243
Hurst/Euless/Bedford	\$ 173,039,168	4.01828%	201
Keller	\$ 273,591,344	6.35328%	318
Kennedale	\$ 20,590,320	0.47814%	24
Lake Worth	\$ 16,835,674	0.39095%	20
Lewisville	\$ 3,016,101	0.07004%	4
Mansfield	\$ 202,021,083	4.69129%	235
Northwest	\$ 123,007,336	2.85645%	143
White Settlement	\$ 30,827,960	0.71588%	36
Total Schools	\$ 2,541,576,278	59.01994%	2951
Cities:			
Arlington	\$ 163,132,652	3.78823%	189
Azle	\$ 4,938,908	0.11469%	6
Bedford	\$ 22,708,215	0.52733%	26
Benbrook	\$ 13,094,468	0.30408%	15
Blue Mound	\$ 829,947	0.01927%	1
Burleson	\$ 5,670,408	0.13168%	7
Colleyville	\$ 17,106,631	0.39725%	20
Crowley	\$ 6,843,564	0.15892%	8
Dalworthington Gardens	\$ 1,936,069	0.04496%	2
Edgecliff Village	\$ 624,228	0.01450%	1
Euless	\$ 20,400,613	0.47374%	24
Everman	\$ 2,087,446	0.04847%	2
Flower Mound	\$ 936,916	0.02176%	1

Forest Hill	\$	5,232,817	0.12152%	6
Fort Worth	\$	514,293,901	11.94282%	597
Grand Prairie	\$	50,973,677	1.18370%	59
Grapevine	\$	25,861,193	0.60054%	30
Haltom City	\$	14,806,074	0.34382%	17
Haslet	\$	2,612,161	0.06066%	3
Hurst	\$	17,581,020	0.40826%	20
Keller	\$	24,207,504	0.56214%	28
Kennedale	\$	5,254,379	0.12202%	6
Lakeside	\$	541,834	0.01258%	1
Lake Worth	\$	2,156,720	0.05008%	3
Mansfield	\$	46,256,559	1.07416%	54
N. Richland Hills	\$	32,146,266	0.74649%	37
Pantego	\$	1,383,058	0.03212%	2
Pelican Bay	\$	337,581	0.00784%	0
Reno	\$	36,659	0.00085%	0
Richland Hills	\$	4,262,582	0.09898%	5
River Oaks	\$	2,296,423	0.05333%	3
Roanoke	\$	550,388	0.01278%	1
Saginaw	\$	8,905,965	0.20681%	10
Sansom Park	\$	1,211,714	0.02814%	1
Southlake	\$	34,641,771	0.80444%	40
Trophy Club	\$	581,025	0.01349%	1
Watauga	\$	8,140,475	0.18904%	9
Westlake	\$	1,987,753	0.04616%	2
Westover Hills	\$	2,200,112	0.05109%	3
Westworth Village	\$	1,315,628	0.03055%	2
White Settlement	\$	6,463,879	0.15010%	8
Total Cities	\$	1,076,549,182	24.99939%	1250
Other:				
Tarrant County	\$	434,780,216	10.09637%	505
Tarrant County College	\$	253,395,306	5.88429%	294
Total Other	\$	688,175,522	15.98066%	799
Total All	\$	4,306,300,982	100%	5000

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. -19**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING THE TOWN OF FLOWER MOUND'S NOMINATION(S) FOR THE ELECTION OF THE BOARD OF DIRECTORS FOR THE DENTON CENTRAL APPRAISAL DISTRICT; AND THE TARRANT APPRAISAL DISTRICT, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 6.03 of the Tax Code provides for the selection of members for the Denton Central Appraisal District's Board of Directors based on the standard process of nominations and selection by the voting units in a taxing jurisdiction;

WHEREAS, each taxing jurisdiction is allotted five nominations and the taxing jurisdictions will vote on the slate of candidates in December of 2019.

WHEREAS, it is the desire of the Town Council of the Town of Flower Mound, Texas, to nominate the following individuals:

1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
as a candidate to be considered by the taxing jurisdictions for the Board of Directors of the <u>Denton</u> Central Appraisal District (DCAD)	as a candidate to be considered by the taxing jurisdictions for the Board of Directors of the <u>Tarrant</u> Appraisal District (TAD).

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

SECTION 1

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

SECTION 2

This Resolution shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS BY A VOTE OF _____ TO _____ ON THE 7th DAY OF OCTOBER, 7, 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Town Council Future Agenda Items



SCHEDULED	10/17/2019	Work Session	Joint work session with Town Council and the Parks Board.
	11/4/2019	Presentation	Proclamation to designate November as Arts Month in Flower Mound
		Consent	Hillside Water Line Connection - Design Award
		Consent	Consider approval of the purchase of new traffic signal detection equipment for the Traffic Detection Rehabilitation project, from Twincrest Technologies through the HGAC Buy program, in the amount of \$120,500.00.
		Consent	Blue Ridge Trail Reconstruction Design Award
		Consent	Consider approval of a Construction Agreement with XXXXXXXX, for the FM 2499 at Silveron Traffic Signal project, in the amount of \$XXX,XXX.XX; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Garden Ridge Water Line Phase 2 - Design Award
		Consent	Lift Station Improvements and Decommissioning Phase 2 - Design Award
		Consent	Consider approval of a resolution accepting grant funds from the Department of Justice's Office of Justice Programs for the purchase of bulletproof vests for the Police Department as part of the FY 2019 Bulletproof Vest Partnership.
		Consent	Consider approval of a resolution accepting grant funds from the Texas Historical Commission (THC), execution of an agreement with the THC, and authorization for the Mayor to execute said agreement on behalf of the Town.
		Consent	Consider approval of an Annual Maintenance Contract with Mass Notification Services, Inc for the Town's Outdoor Warning Siren System in the amount of \$18,055.00, and authorization for the Mayor to execute same on behalf of the Town.
		Regular	Public Hearing to consider recommendation of a conceptual master plan for Peters Colony Memorial Park, a 3.3 acre park located next to the Flower Mound Public Library.
		Regular	Public Hearing to consider a request for rezoning (ZPD19-0001-Whyburn Medical Offices) from Agricultural District (A) uses to Planned Development District-172 (PD-172) with Office District (O) uses, and with certain exceptions and modifications to the Code of Ordinances, and consider adopting an ordinance for said amendment. The property is generally located north of Waketon Road and west of Long Prairie Road. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its October 14, 2019, meeting.)

SCHEDULED	11/4/2019	Regular	Public Hearing to consider an ordinance amending the Land Development Regulations (LDR19-0006 – Short-Term Rentals) by amending Chapter 98 entitled “Zoning,” of the Town's Code of Ordinances to create a definition and define the standards and review process for Short-Term Rentals, and considering adopting an ordinance providing for said amendment. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its October 14, 2019, meeting.)
		Regular	Public Hearing for a request for rezoning (ZPD19-0006 – Parkway Office Lakeside) from Planned Development No. 83 (PD-83) with Campus Industrial District (CI) uses to Planned Development No. 174 (PD-174) with Campus Industrial District (CI) uses in compliance with the Campus Industrial land use designation within the Lakeside Business District Area Plan, including a Comprehensive Sign Package, with certain exceptions and modifications to the Code of Ordinances, with a request for a deviation to computing parking and loading requirements pursuant to Section 82-73 of the Code of Ordinances, and with an exception to the Architectural Standards of the Town's Urban Design Plan for meritorious design, and consider adopting an ordinance for said amendment. The property is generally located south of Lakeside Parkway and east of Gerault Road. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its October 14, 2019, meeting.)
		Regular	Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Parkway Office Building. The property is generally located south of Gerault Road and east of Lakeside Parkway. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its September 12, 2019, meeting).
	11/18/2019	Consent	FM 2499 at Chaparral Signal Design Award
		Consent	Placeholder: Nov. 5, 2019 Election canvass (DSTE)
		Consent	Timber Creek Water Line Replacement Phase 1 - Design
	12/2/2019	Consent	Morriss Rd 20-Inch Water Line (Forest Vista to Lake Bluff) - Construction Award
		Consent	Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff) - Testing Award
	12/16/2019	Presentation	Announcement and Presentation of 2019 Outstanding Citizenship Award(s)