

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

11/18/2019

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. Small Business Saturday (November 30, 2019) Proclamation

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

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).

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I. COORDINATION OF CALENDARS

1. A regular meeting is scheduled for Monday, December 2.

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. Minutes 11/4- Consider approval of the minutes from a regular meeting of the Town Council held on November 4, 2019.
2. Election Canvass- Consider approval of an ordinance canvassing returns and declaring results of a Special election held November 5, 2019, for the purpose of considering a ballot proposition for the reauthorization of the municipal sales and use tax for street maintenance and repair in the Town of Flower Mound at the rate of one-quarter of one percent to continue providing revenue for maintenance and repair of municipal streets; and providing an effective date.
3. Public Comment Rules- Consider approval of a resolution adopting rules regarding the public's right to address the governing body, including Town Council and all boards and commissions.
4. Purchase of Tahoe PPV Units- Consider approval of the purchase of (2) new 2020 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicles with Equipment Installed per Town of Flower Mound Specifications and Vendor Quote from Holiday Chevrolet and Upfit Equipment/Installation Quotes with Specifications from Defender Supply for Police Services in the amount of \$114,265.00.
5. Purchase of Dodge PPV Units- Consider approval of the purchase of (8) new Dodge Charger Police Pursuit Vehicles with Equipment Installed per Town of Flower Mound Specifications and Vendor Quote from Grapevine Dodge Chrysler Jeep and Upfit Equipment/Installation Quotes with Specifications from Defender Supply for Police Services in the amount of \$245,264.00.
6. FM2499 at Chaparral Signal Design- Consider approval of a Professional Services Agreement with Kimley Horn and Associates, Inc., to provide traffic signal designs for the FM 2499 at Chaparral Lane; FM 2499 at Churchill Drive; and Flower Mound Road at McKamy Creek Road projects in the amount of \$57,000; and authorization for the Mayor to execute same on behalf of the Town.
7. Blue Ridge Trail Recon. Design Award- Consider approval of a Professional Services Agreement with Criado & Associates, Inc., for the design phase services associated with the Blue Ridge Trail Reconstruction project, in the amount of \$48,880.00; and authorization for the Mayor to execute same on behalf of the Town.
8. Lift Station Improve & Decom 2 - Design- Consider approval of a Professional Services Agreement for the design phase services for the Lift Station Improvements and Decommissioning Phase II project, with Plummer Associates, Inc., for \$276,500; and authorization for the Mayor to execute same on behalf of the Town.

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K. REGULAR ITEMS

9. OTD Ch 380 Termination & Sale Docs- Public Hearing to consider approval of an Agreed Termination of a Chapter 380 Agreement, Release of Lien, and Escrow Agreement, between the Town of Flower Mound and Old Town Development LLC, and authorization for the Mayor to execute same on behalf of the Town.
10. DCAD Board of Directors Vote- Consider approval of a resolution casting the vote of the Town of Flower Mound, Texas, for the election of the Board of Directors of the Denton Central Appraisal District (DCAD).

L. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 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. Firefighter claim and settlement matters related thereto
 2. Chapter 380 Agrmnt. between the Town and Lakeside Crossing Land Partners, LP

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

M. RECONVENE TO REGULAR MEETING

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

N. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: November 15, 2019, at 1:35p.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: November 18, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council held on November 4, 2019.

BACKGROUND INFORMATION: The Town Council held a regular meeting on November 4, 2019.

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

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

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THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 4TH DAY OF NOVEMBER 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
Tommy Dalton	Assistant Town Manager
Lexin Murphy	Director of Planning Services
Tiffany Bruce	Executive Director of Public Works
Andy Kancel	Police Chief
Justin Buck	Community Service Officer
Wendell Mitchel	Assistant Police Chief
Krissi Oden	Programs Coordinator
Chuck Jennings	Director of Parks and Recreation
James Hoefert	Environmental Review Analyst
Andrea Roy	Economic Development Director
Matt Hotelling	Traffic Engineer

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 Packs 1225 and 392 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.	Randy Canivel, MSU; Brent Wallace, NCTC, 100 Parker Square	MSU & NCTC

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2.	Dennis Haines, 2705 Brookwood Dr	Short term rental
3.	Lori Penner, 604 Crestbrook	Short term rental
4.	Cathy Holt, GM Bridlewood HOA	Air B & B's
5.	Brad Nicks, 2621 Brookwood Dr	Short term rental
6.	Mary Lou Yarter, 1108 Bur Oak Dr	Short term rental
7.	John Pittman, 2720 Bur Oak Dr	Item 33
8.	James Kavan, 1120 Bur Oak Dr	Short term rental property
9.	Sean Gaven, 1119 Bur Oak Dr	Short term rental regulations
10.	Stephanie Haines, 2705 Brookwood Dr	Short term rental
11.	Lee Hennigan, 2708 Brookwood	Short term rental

E. PRESENTATIONS

1. 'National Night Out' neighborhood winner(s) award presentation

Chief Kancel provided background information about the National Night Out program and Officer Buck presented the 2019 block party award winners:

Large HOA - Lakeside
 Small HOA - Lakemont
 Private Party - Westchester Hillshire

and the National Night Out poster contest winners:

K – 1st – Lara Teng
 2nd – 3rd – Derek Teng
 4th – 5th – Stormy Smith

2. Proclamation to designate November as Arts Month in Flower Mound

Mayor Dixon recited the Proclamation for Arts Month and presented it to Krissy Oden, Cultural Arts Coordinator. She provided background information about Flower Mound arts programs and events.

F. ANNOUNCEMENTS

Councilmember Bumgarner announced that November 5th is Election Day and he provided information about ballot items and where to vote.

Councilmember Engel announced that enrollment is now open for the Flower Mound Citizens Academy and he provided information about how to enroll.

Councilmember Pierson announced his experience with the recent Veterans Ceremony and expressed appreciation for all Veterans.

Mayor Dixon announced his experience at the Chamber's annual Fiesta event and extended his thanks to the Chamber staff for doing a great job in organizing it. He also announced that last Sunday was the groundbreaking for the new St. Phillips Church.

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 4, 2019**PAGE 3****G. TOWN MANAGER'S REPORT**

Mr. Stathatos provided an update on the following projects:

1. Capital improvement projects
 - 1171 @ Riverwalk improvements
 - Traffic signal at FM 2499 at Silveron
 - Lakeside Parkway northbound right turn lane
2. Economic Development projects
 - Businesses that recently opened or coming soon

3. DCTA Update

Mark Miller, Town appointed DCTA representative, gave a presentation identifying or noting:

- DCTA overview, including legislative changes
- System map
- Mobility-As-A-Service contracts
- Frisco Lyft program
- From Alliance Link to Lyft Zipzone
- Coppell Workforce Zone

and he responded to the following questions from Council, seeking clarification regarding:

- the board member structure
- Lyft services program that is run by area charitable organizations
- the partnership program with Lyft and what is the value

4. Transportation Model Update

Mr. Hotelling gave a presentation identifying or noting:

- Introduction
- Existing traffic counts
- Existing level of service (LOS) map
- Future traffic counts
- Future LOS
- Conclusions/Results

and he responded to the following questions from Council:

- A request for a copy of the presentation.

H. FUTURE AGENDA ITEMS

There were no request for future items.

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I. COORDINATION OF CALENDARS

A regular meeting is scheduled for Monday, November 18.

Discuss and consider cancelling the work sessions for November 21 & December 19.

There were no objections to canceling the above referenced work sessions.

J. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council on October 7, 2019; and a Town Council and Parks Board work session on October 17, 2019.
2. Consider approval of a resolution adopting the method for making written request for public information.

RESOLUTION NO. 25-19**A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING THE METHOD FOR MAKING WRITTEN REQUEST FOR PUBLIC INFORMATION.**

3. Consider approval of a Contract for Services with Concentra Medical Centers to provide health assessments, fitness for duty assessments, alcohol and drug testing, injury medical treatment and case management, and authorization for the Mayor to execute same on behalf of the Town.
4. Consider approval of an ordinance amending Chapter 18, "Businesses," Article III "Food and Food Establishments," by repealing Section 18-127, "Permit to allow dogs on food establishment outdoor patio," and amending Appendix A, "Fee Schedule," by removing the permit fee for Section 18-127, of the Code of Ordinances of the Town of Flower Mound, Texas.

ORDINANCE NO. 52-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY REPEALING SECTION 18-127 "PERMIT TO ALLOW DOGS ON FOOD ESTABLISHMENT OUTDOOR PATIO;" REPEALING THE FEE FOR A PERMIT TO ALLOW DOGS ON FOOD ESTABLISHMENT PATIOS; 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.

5. 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.

RESOLUTION NO. 24-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE DEPARTMENT OF JUSTICE'S OFFICE OF JUSTICE PROGRAMS FOR THE FISCAL YEAR 2019 BULLETPROOF VEST PARTNERSHIP PROGRAM; APPROVING THE PURCHASE OF BULLETPROOF VESTS FOR THE TOWN USING AWARDED GRANT FUNDS; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE BULLETPROOF VEST PARTNERSHIP PROGRAM.

6. Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of ambulance services for the benefit of the citizens of Flower Mound and Denton County, and authorization for the Mayor to execute same on behalf of the Town.
7. Consider approval of an Interlocal Cooperation Agreement with Denton County for the provision of fire protection services for the benefit of the citizens of Flower Mound and Denton County, and authorization for the Mayor to execute same on behalf of the Town.
8. 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.
9. Consider approval of the purchase of emergency medical supplies and pharmaceuticals from Bound Tree Medical LLC, through the City of Cedar Hill Contract in the amount of \$105,000.00.
10. Consider approval of the purchase of Firefighter uniforms from Gall's LLC through the City of Frisco Cooperative Bid No. 1905-082 (TOFM No. 2019-168-I).
11. Consider approval of the purchase of forty-four sets of bunker gear from NAFECO, Inc. through BuyBoard Purchasing Contract No. 524-17 in the total amount of \$125,701.84. and authorization for the Mayor to approve same on behalf of the Town.
12. Consider approval of an agreement with Thomson Reuters, Inc., for a three-year fee agreement for a law enforcement database known as CLEAR; and authorization for the Mayor to execute same on behalf of the Town.
13. Consider approval of the purchase of one (1) new patrol boat and equipment for Police Services from Siddons-Martin, with funds from the awarded JAG police grant.
14. Consider approval of an increase to the annual purchase contract for asphalt overlay services from Reynolds Asphalt & Construction Company, through a City of Grand Prairie Contract (#16112) from an estimated total of \$350,000.00 to an estimated total of \$500,000.00.
15. Consider approval of a Professional Services Agreement with Wade Trim, Inc., for the design phase services associated with the Garden Ridge Phase II Water Line project, in the amount of \$94,103.00; and authorization for the Mayor to execute same on behalf of the Town.
16. Consider approval of a Professional Services Agreement with Wade Trim, Inc., for the design phase services associated with the Hillside Water Line Connection project, in the amount of \$36,420.00; and authorization for the Mayor to execute same on behalf of the Town.

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17. Consider approval of a Construction Agreement with Roadway Solutions, Inc., for the FM 2499 at Silveron Traffic Signal project, in the amount of \$209,984.00; and authorization for the Mayor to execute same on behalf of the Town.
18. Consider approval of the purchase and installation of streetlights at the Forest Vista Elementary School from CoServ Electric, for work associated with the Roadway Amenities project, in the amount of \$55,909.26.
19. Consider approval of the purchase of new Traffic Signal Detection Equipment for the Traffic Detection Rehabilitation project, from Twincrest Technologies through the HGAC program, in the amount of \$120,500.00.
20. Consider adoption of the Town Council Strategic Plan for Fiscal Year 2019-2020.

Mayor Pro Tem Sharma moved to approve by consent Items 1 – 20, 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**

21. 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.

Staff Presentation

Ms. Wallace provided background information about the project.

Mayor Dixon pointed out that staff can place items on consent if they have two commas if the situation is that the Town is receiving money. He indicated it's just if the Town is spending money that the two-comma rule applies.

Councilmember Bumgarner moved to approve as presented. Deputy Mayor Pro Tem Forest seconded the motion.

RESOLUTION NO. 22-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS AUTHORIZING THE ACCEPTANCE OF 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.

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

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22. 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.

Staff Presentation

Mr. Jennings gave a presentation identifying or noting:

- Background information
- Park Master Plan

Fred Walters, Mesa Design Group

Mr. Walters gave a presentation identifying or noting:

- What is a memorial?
- Mission statement
- Site analysis
- Previous Master Plan options
- Refined plan
- Master Plan
- Peters Colony Memorial Park Conceptual renderings
- Pavilion, hardscape and landscape
- Remembrance wall and water feature
- Park signage
- Site furnishings and lighting

and he responded to the following questions or comments from Council:

- Several members of Council expressed appreciation for the design presented, and particularly use of water walls
- What are the next steps
- Given it's a memorial park, what type of activities or events would be planned for the large lawn area identified in the concept plan (solemn versus celebration environment) and suggested possibly using "celebration" versus "memorial" in the name

Mayor Dixon opened the Public Hearing at 7:29 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
Tom Marshall, 3200 Heatfield		
Mike Peterson, 3101 Heatfield Dr		

Mayor Dixon closed the Public Hearing at 7:31 p.m.

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

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

23. Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Trailwood Phase 2. The property is generally located south of Cross Timbers Road and west of U.S. 377. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its October 1, 2019, meeting).

Staff Presentation

Mr. Hoefert gave a presentation identifying or noting:

- Project information
- Tree survey
- Specimen tree requested for removal (photo)
- Draft motion

Mayor Dixon opened the Public Hearing at 7:37 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 7:37 p.m.

Councilmember Bumgarner moved to approve as presented. 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 24 and 25 at the same time.

24. Public Hearing to consider an application for a tree removal permit for one (1) specimen tree on property proposed for development as Parkway Office Lakeside. The property is generally located south of Lakeside Parkway and east of Gerault Road. (The Environmental Conservation Commission recommended approval by a vote of 6-0-0 at its September 12, 2019, meeting).

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

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

25. 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

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amendment. The property is generally located south of Lakeside Parkway and east of Gerault Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 14, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation for items 24 and 25 identifying or noting:

- General and detailed location
- Land use and zoning
- Waivers/exceptions
- Modifications
- Comprehensive sign package
- Photograph of the site
- Conceptual site plan
- Landscape plan
- Conceptual elevations
- Specimen tree to be removed
- Feedback from the P & Z meeting

and she responded to the following questions from Council:

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Applicant Presentation

Bill Pounds, Architect, Parkway Construction

Mr. Pounds gave a presentation identifying or noting:

- Background information regarding the project and growth potential
- Aerial map of location
- Site plan - Phase I and II
- Landscape plan
- Building materials
- Phase I and II– exterior perspectives; elevations
- Line of sight - sectional study
- Sign illumination

and he responded to the following questions from Council:

- Is stucco a building material for phase II
- Appreciation for use of building materials
- What was the logic at the P & Z meeting for the question about how the sign would be illuminated
- For the number of employees, how many years will it be to reach the max parking
- Is there a warehouse component for the facility

Deputy Mayor Pro Tem Forest moved to approve as presented. Councilmember Bumgarner seconded the motion.

ORDINANCE NO. 53-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 7.833 ACRES OF LAND SITUATED IN THE J. TURNER SURVEY, ABSTRACT NO. 1251, FROM PLANNED DEVELOPMENT DISTRICT NO. 83 (PD-83) WITH CAMPUS INDUSTRIAL DISTRICT (CI) USES TO PLANNED DEVELOPMENT DISTRICT NO. 174 (PD-174) WITH CAMPUS INDUSTRIAL DISTRICT (CI) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: PIERSON, ENGEL, SHARMA, FOREST, BUMGARNER

NAYS: NONE

26. 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 by a vote of 5 to 1 at its October 14, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Aerial map of property
- Land use and zoning
- Exception request (street buffer landscaping)

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

- Where is the entrance point
- What happens to the existing overhead utilities (if the roadway moves over for a decal lane) and what is the impact to the Town
- What will happen to the existing wall
- If the pond is considered wet or dry
- Clarification regarding the types of trees that are planned for the right of way (i.e. small or large canopy trees) and concerns regarding the distance from the utility lines
- The possibility of adding more ornamental trees as a condition for granting the exception
- The 15 feet is a non-issue if the right amount of landscaping is in place

There was Council discussion regarding:

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- The 15' is not an issue if there was a curved berm look or enough landscaping to make it aesthetically pleasing
- The overall visual canopy of trees and possible options to allow for a depth perception, such as a given amount of trees and to be placed in a staggered pattern

Applicant Presentation

James Bullington, B & B Construction

Mr. Bullington gave a presentation identifying or noting:

- Building rendering
- Building tenants planned

and he responded to the following questions from Council:

- Concerns regarding the change to the wall in the future
- Concerns regarding precedence being set for the reduced buffer (15 versus 25 feet)
- What would the impact be for the reduction of that row of parking that is proposed that warrants the request for the reduced buffer
- If the applicant were to provide the 25-foot buffer, where would the potential cuts be
- Clarification regarding what is planned for the area to the extreme right
- The possibility of sharing the parking lot with WinKids

Mayor Dixon opened the Public Hearing at 8:10 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
Wasim Haque, MD, 4101 Kirkpatrick Ln		

Mayor Dixon closed the Public Hearing at 8:12 p.m.

Deputy Mayor Pro Tem Forest moved to approve as presented. Councilmember Bumgarner seconded the motion.

ORDINANCE NO. 54-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON APPROXIMATELY 2.7389 ACRES OF LAND SITUATED IN THE EDWIN MARSH SURVEY, ABSTRACT NO. 834, FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT NO. 172 (PD-172) WITH OFFICE DISTRICT (O) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN

ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: BUMGARNER, FOREST, SHAMRA, ENGEL, PIERSON

NAYS: NONE

27. Public Hearing to consider an ordinance granting Specific Use Permit No. 459 (SUP19-0008 – Flourish Birth and Wellness Center) to permit a hospital. The property is generally located south of Cross Timbers Road and west of Kirkpatrick Lane (4061 Kirkpatrick Lane). (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 28, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- Background information
- General and detailed location
- Land use and zoning
- Approved site plan
- Photos of the site, including adjacency
- Approved plat and site plan, including parking allocations
- Approved landscape plan
- Approved elevations

and she responded to the following questions or comments from Council:

- What are the adjacent business uses
- Clarification regarding the services provided at the facility

Mayor Dixon opened the Public Hearing at 8:28 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 8:28 p.m.

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

ORDINANCE NO. 55-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 459 (SUP-459) FOR A HOSPITAL ON CERTAIN PROPERTY DESCRIBED AS 0.46 ACRES OF LAND AND BEING ALL OF LOT 6R, BLOCK A, OF THE AMERICAN NATIONAL BUSINESS PARK ADDITION AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 4 (PD-4) FOR RETAIL DISTRICT-2 (R-2) USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 4, 2019

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VOTE ON MOTION:*Motion passed***AYES: PIERSON, ENGEL, SHARMA, FOREST****NAYS: BUMGARNER**

28. Public Hearing to consider an ordinance granting a Specific Use Permit No. 458 (SUP19-0007 – Four40 Event Center at Parker Square) to permit an assembly hall. The property is generally located northwest of Cross Timbers Road and south of Timber Creek Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its October 28, 2019, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- Site plan
- Photos of the site
- Landscape plan
- Summary of discussion at P & Z
- Elevations

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

- Clarification regarding parking space needs, especially considering the recent application for a church in Parker Square, and should there be events that take place on the weekend

Applicant Presentation

Curtis Shore, Parker Square Assets 1, LLC, Michelle Yates, Property Manager

Mr. Shore responded to the following questions from Council:

- Clarification regarding the concept
- Would catering services be offered as well as AV equipment

Mayor Dixon opened the Public Hearing at 8:39 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 8:39 p.m.

Deputy Mayor Pro Tem Forest moved to approve as presented. Mayor Pro Tem Sharma seconded the motion.

ORDINANCE NO. 56-19

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 458 (SUP-458) FOR AN ASSEMBLY HALL ON CERTAIN PROPERTY DESCRIBED AS 0.3932 ACRES OF LAND AND BEING ALL OF LOT 6, BLOCK 1, OF THE PARKER SQUARE ADDITION AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 24 (PD-24) FOR RETAIL DISTRICT-2 (R-2) AND OFFICE DISTRICT (O) USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 4, 2019

PAGE 14

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.

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

Mayor Dixon indicated the applicant has requested to postpone items 29 and 30. Ms. Roy clarified that Council action would be to postpone indefinitely.

29. Public Hearing to consider an assignment of the Chapter 380 Agreement with Newstream Hotels & Resorts, LLC, (through Lakeside Crossing Land Partners, LP) and the Lakeside Parkway/Gerault Road Partnership Agreement (Daldav) for Lots 4 & 5, to BI 50 LLC, and authorization for the Mayor to execute same on behalf of the Town.
30. Public Hearing to consider an assignment of the Chapter 380 Agreement with Newstream Hotels & Resorts, LLC, (through Lakeside Crossing Land Partners, LP) and the Lakeside Parkway/Gerault Road Partnership Agreement (Daldav) for Lots 1, 2, 3, 6, 7, and 8x, to BI 43 LLC, and authorization for the Mayor to execute same on behalf of the Town.

Mayor Pro Tem Sharma moved to postpone items 29 and 30 indefinitely. Councilmember Engel seconded the motion.

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

31. Public Hearing to consider approval of an Agreed Termination of a Chapter 380 Agreement, Release of Lien, and Promissory Note, between the Town of Flower Mound and Old Town Development LLC, and authorization for the Mayor to execute same on behalf of the Town.

Staff Presentation

Ms. Roy gave a presentation identifying or noting:

- Project history
- Old Town Development
- Current request to make the transaction happen

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

- Clarification regarding pond maintenance
- What prompted the request
- Why wouldn't the obligations in the agreement go with the sale of the property
- What is the benefit for the Town with respect to maintaining the pond
- Deed of trust versus separate promissory note
- What would be the consequences if denied

and there was Council discussion regarding:

- Concerns regarding the promissory note risk

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 4, 2019**PAGE 15**

- How there is a certain value in removing the Town from the building and transferring the promissory note to two individuals
- Consideration of the termination agreement needs to be contingent upon the new owners assuming the maintenance of the pond (allowing the Town to get something in return, like when the agreement with Lakeside Crossing was redone)
- Unclear about the compelling reason to sell it
- Main concerns are regarding the subordination agreement and the responsibility and maintenance of the pond
- Possibility of putting funds in escrow and the timing would need to be before the sale

Mayor Dixon opened the Public Hearing at 9:16 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 9:16 p.m.

The direction provided to staff was to present the applicant with the options of putting the funds in escrow or take over the pond maintenance.

Deputy Mayor Pro Tem Forest moved to postpone item 31 to the November 18, 2019 Town Council meeting. Councilmember Engel seconded the motion.

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

32. Public Hearing to consider approval of a resolution adopting an Economic Development Incentive Policy for the Town of Flower Mound, and providing for an effective date.

Staff Presentation

Ms. Roy gave a presentation identifying or noting:

- Background information

Mayor Dixon opened the Public Hearing at 9:19 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 9:19 p.m.

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

RESOLUTION NO. 23-19

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING AN ECONOMIC DEVELOPMENT INCENTIVE POLICY FOR THE TOWN OF FLOWER MOUND; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

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

33. Discuss and provide direction on short-term rental regulations (LDR19-0006 – Short-Term Rentals). (The Planning and Zoning Commission tabled this item by a vote of 5 to 1 at its

FLOWER MOUND TOWN COUNCIL MEETING OF NOVEMBER 4, 2019**PAGE 16**

October 14, 2019, meeting.)

Mayor Dixon stated that no action on this item will be taken by Council this evening. He added that based on Council's consultation with the Town Attorney on this matter, staff has been provided direction that will be presented to the Planning and Zoning Commission. He also pointed out that the P & Z recommendation is legally required prior to Council action being taken since it is a zoning item.

L./M. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 9:19 p.m. on November 4, 2019, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, and reconvened into an open meeting at 9:59 p.m. on November 4, 2019, to take action on the items as follows:

a. Consultation with Attorney.

1. River Walk development agreement
2. Short-term rental regulations

No action taken.

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

No action taken.

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

No action taken.

N. ADJOURN REGULAR MEETING

Mayor Dixon adjourned the meeting at 9:59 p.m. on Monday, November 4, 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: November 18, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of an ordinance canvassing returns and declaring results of a Special election held November 5, 2019, for the purpose of considering a ballot proposition for the reauthorization of the municipal sales and use tax for street maintenance and repair in the Town of flower Mound at the rate of one-quarter of one percent to continue providing revenue for maintenance and repair of municipal streets; and providing an effective date.

BACKGROUND INFORMATION: A Special Election was held on November 5, 2019, with voters casting ballots on Election Day and during early voting. The Town Charter (Sec. 5.07) and Texas Election Code (Sec. 67.003) requires canvassing the results after the election (Sec. 67.003).

See attached Ordinance (Exhibit A) for the unofficial results from Denton/Tarrant County. The results are considered official after the election canvass.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

LEGAL REVIEW: Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has previously reviewed the ordinance as to form and legality. No alteration to the legal content was made in preparation of this ordinance.

ATTACHMENTS:

1. Draft ordinance

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

TOWN OF FLOWER MOUND, TEXAS**ORDINANCE NO. __19**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A SPECIAL ELECTION HELD NOVEMBER 5, 2019, FOR THE PURPOSE OF CONSIDERING A BALLOT PROPOSITION FOR THE REAUTHORIZATION OF THE MUNICIPAL SALES AND USE TAX FOR STREET MAINTENANCE AND REPAIR IN THE TOWN OF FLOWER MOUND AT THE RATE OF ONE-QUARTER OF ONE PERCENT TO CONTINUE PROVIDING REVENUE FOR MAINTENANCE AND REPAIR OF MUNICIPAL STREETS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of Flower Mound, Texas (the "Town"), caused to be published in accordance with the laws of the State of Texas, notice of the election held November 5, 2019, to consider one ballot proposition to reauthorize the street maintenance sales and use tax at the rate of one-quarter of one percent;

WHEREAS, notice of election was properly given by the Town as required by law; and

WHEREAS, said election was duly and legally held on November 5, 2019, in the Town and in conformity with the election laws of the State of Texas, and the results of said election have been certified and returned by the proper judge and clerks thereof; and

WHEREAS, the Town Council has considered the returns of said election held November 5, 2019, and pursuant to state law and Section 5.07 of the Home Rule Charter of the Town, the Council shall canvass and declare the official results; and

WHEREAS, the election returns, duly and legally made, showed that there were cast at said election a total of 5,086 valid and legal votes, of which 1,806 were cast early, and 3,280 were cast on Election Day; and that the measure in said election received the following votes:

PROPOSITION A

"The reauthorization of the local sales and use tax in the Town of Flower Mound at the rate of one-quarter (1/4) of one percent (1%) to continue providing revenue for maintenance and repair of municipal streets."

Denton County:

	Absentee	Early Voting	Election Day	Total Percentage
YES	25	1,457	2,609	80.74%
NO	7	307	662	19.26%

Tarrant County:

	Absentee	Early Voting	Election Day	Total Percentage
YES	3	2	6	78.57%
NO	0	0	3	21.43%

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

SECTION 1

Each and every one of the recitals, findings, and determinations contained in the preamble of this Ordinance are found to be true and correct and are hereby repeated and incorporated herein as if copied in their entirety.

SECTION 2

The Town Council of the Town of Flower Mound, Texas, officially finds and determines an election was duly ordered to be held in the Town of Flower Mound, Texas, on the 5th day of November, 2019, for the purpose of voting on a ballot proposition to reauthorize the municipal sales and use tax for street maintenance at a rate of one-quarter of one percent, in the Town of Flower Mound, Texas. Further, that proper notice of said election was duly given; that said election has been made and delivered; and that the Town Council has duly canvassed said returns, attached hereto as ***Exhibit A***, in accordance with the law.

SECTION 3

The Town Council of the Town of Flower Mound, Texas, officially finds and determines that the following votes were cast at said Special Election, and that the canvass of the votes cast in said election and returns thereof, attached hereto as ***Exhibit A***, were made in accordance with the law.

Denton and Tarrant County:

For	4,102	"The reauthorization of the local sales and use tax in the Town of Flower Mound at the rate of one-quarter of one percent to continue providing
Against	979	revenue for maintenance and repair of municipal streets."

SECTION 4

The Town Council officially finds, determines and declares the result of said election to be that the aforesaid PROPOSITION so submitted which is shown above was approved by 4,102 votes, and such PROPOSITION has therefore passed.

SECTION 5

The Mayor is hereby authorized and directed to execute and deliver this Ordinance canvassing the Special Election, in accordance with the Texas Election Code and all other necessary action in connection therewith. The Town Secretary shall send the Texas Comptroller of Public Accounts a certified copy of this Ordinance along with a map showing the Town's boundaries in accordance with the Texas Tax Code.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 18TH DAY OF NOVEMBER, 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT A**THE TOWN OF FLOWER MOUND
CANVASS OF SPECIAL ELECTION**

I, the undersigned Presiding Officer of the Town of Flower Mound, met on November 18, 2019, to canvass the returns of the Special Election held on November 5, 2019, at the Town of Flower Mound Town Hall, located at 2121 Cross Timbers Road, Flower Mound, Texas.

I DO HEREBY CERTIFY that the figures on the tally sheets correspond with the figures on the returns.

WITNESS my hand at my office of the Town of Flower Mound this the 18th day of November, 2019.

Steve Dixon
Presiding Officer of the
Town of Flower Mound

Constitutional Amendment & Special Elections

11/5/2019

Page 1

New custom report title

Run Time 2:10 PM
Run Date 11/12/2019

Registered Voters

5131 of 51144 = 10.03%

Precincts Reporting

16 of 16 = 100.00%

Town of Flower Mound Proposition A

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
16	16	100.00%	5,131	51,144	10.03%

Choice	Party	Absentee Voting		Early Voting		Election Day Voting		Total	
For		25	78.13%	1,457	82.60%	2,609	79.76%	4,091	80.74%
Against		7	21.88%	307	17.40%	662	20.24%	976	19.26%
Cast Votes:		32	100.00%	1,764	100.00%	3,271	100.00%	5,067	100.00%
Undervotes:		1		16		43		60	
Overvotes:		0		1		3		4	

*** End of report ***

Town of Flower Mound Cumulative Report

Run Time 5:36 PM
Run Date 11/12/2019

Constitutional Joint Elections

11/5/2019

Page 1

Unofficial Results

Registered Voters
14 of 1136919 = 0.00%

Precincts Reporting
704 of 704 = 100.00%

Town of Flower Mound Proposition A

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
1	1	100.00%	14	222	6.31%

Choice	Party	Absentee Voting		Early Voting		Election Day Voting		Total	
For		3	100.00%	2	100.00%	6	66.67%	11	78.57%
Against		0	0.00%	0	0.00%	3	33.33%	3	21.43%
Cast Votes:		3	100.00%	2	100.00%	9	100.00%	14	100.00%
Undervotes:		0		0		0		0	
Overvotes:		0		0		0		0	

*** End of report ***



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: November 18, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of a resolution adopting rules regarding the public's right to address the governing body, including Town Council and all boards and commissions.

BACKGROUND INFORMATION: HB 2840 requires a governing body to allow each member of the public who desires to address the body regarding an item on the agenda for any open meeting, including work sessions, to address the body about that item either before or during consideration of the item. This new law also allows the governing body to adopt rules regarding the public's right to address the body, including time limitations.

The draft resolution establishes rules for public comment during open meetings of the governing body, which includes Town Council and all boards and commissions.

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

ATTACHMENTS:

1. Draft Resolution

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

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. ____-19****A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, ADOPTING RULES REGARDING THE PUBLIC'S RIGHT TO ADDRESS THE GOVERNMENTAL BODY, INCLUDING TOWN COUNCIL AND ALL BOARDS AND COMMISSIONS.**

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

WHEREAS, HB 2840, which added Texas Government Code Section 551.007(b) to the Texas Open Meetings Act, became law effective September 1, 2019 and allows governmental bodies to adopt rules regarding the public's right to address the body; and,

WHEREAS, the Town of Flower Mound desires to establish rules as it relates to addressing the governmental body during an open public meeting; and,

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

SECTION 1

The Town Council approves the following rules regarding the public's right to address the governmental body, which includes the Town Council and all board and commissions:

1. Every open meeting (i.e. regular meetings and work sessions), will include a public comment section on the agenda that will be placed immediately after the invocation and pledge, as applicable, or prior to any other agenda items to be heard by the governmental body.
2. Each public comment form will include the following instructions:
 - a. Turn in this form to the Town Secretary or Board Liaison before the time the meeting is scheduled to begin.
 - b. State your name and address when you begin your remarks.
 - c. Speakers are limited to 3 minutes. Time limits may be adjusted by the Mayor or Chairperson.
 - d. If you wish to speak about an item that is a Public Hearing, you will be called after the Mayor or Chairperson opens the Public Hearing for that item.
 - e. Remarks that are prohibited by law will not be tolerated.
 - f. Any person wishing to make a presentation that includes any form of electronic media must provide that digital file to the Town Secretary's Office, or other appropriate department, by 12:00 p.m. on the day of the meeting for review by the staff. The file must be compatible with the Town's technology equipment. Presentations shall not contain information that is prohibited by law.

The Texas Open Meetings Act restricts members of the governing body, board, or commission from discussing items not posted on the agenda. Action or responses to your remarks by members of the governing body, board, or commission (if not a posted agenda item) is limited to either a statement of fact, recitation of existing policy, or a proposal to place the subject on the agenda for a future meeting.

This form is considered a public record and your name and address will be included in the official minutes.

SECTION 2

This Resolution shall become effective from and after its passage.

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

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: November 18, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of (2) new 2020 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicles with Equipment Installed per Town of Flower Mound Specifications and Vendor Quote from Holiday Chevrolet and Upfit Equipment/Installation Quotes with Specifications from Defender Supply for Police Services in the amount of \$114,265.00.

BACKGROUND INFORMATION: The Police Services Department is requesting the purchase of two (2) new 2020 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicles in the amount of \$67,018.00 through Tarrant County Contract 2019-014 plus upfit equipment with installation in the amount of \$47,247.00 through Tarrant County Contract 2019-181 from Defender Supply. These units are part of the approved Fiscal Year 2019-2020 Vehicle Equipment Replacement Fund (VERF) budget replacing Police Units 43500-16 and 43500-17.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$114,265.00

Proposed Expenditure:	Account Number(s):
\$114,265.00	565-450-84500-6130 – VERF

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Manager's Bid Award Recommendation for Vehicles
2. Quote & Specifications – Vehicles
3. Fleet Manager's Bid Award Recommendation for Equipment Upfit
4. Quotes & Specifications – Equipment Upfit

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



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

Date: 10-21-2019

Description: New Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle

Quantity: 2 units

Replaces: 43500-16
43500-17

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

Item bid: New Chevrolet Tahoe RWD 9C1 PPV

Per: TOFM specifications

Qty: 2 Units only Total: \$67,018.00

It is Fleet Services recommendation to award the bid to **Holiday Ford & Holiday Chevrolet** as the lowest responsible bidder in the amount of **\$67,018.00**.

H. Deats Stewart
Fleet Services Manager

10-21-2019
Date,

1009 Highway 82 W
Whitesboro, TX 76273

Date	9/20/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable @ flower
Estimate #	26378

Description	Location	Qty.	Ext. Price
Tarrant County Contract # 2019-014			
2020 Chevrolet Tahoe RWD 9C1 Police Pursuit Vehicle with EcoTec3 5.3-liter, Dual Batteries, Heavy Duty Locking Differential, OnStar with Bluetooth Connectivity, Vinyl Rear Seat & Front Recovery Tow Hooks. (No Spotlight)		2	64,982.00
BLACK Exterior			
6E2 Keyed Alike			
AMF 6 Sets of Keys/FOBs			
Rear Windows, Doors, Locks, Handles, INOP, 6N5, 6N6			
Ice chains for 265/60/R17 tires		2	382.00
Window Tint - For Two Front Windows - Madico Onyx 55%		2	158.00
Unity Driver Side Halogen Spotlight, Spotlight Shaft, Handle & Mounting Bracket for a 2015+ Tahoe (LED Replacement Bulb Sold Separately).		2	904.00
Whelen LED 8 Degree Spotlight Replacement		2	318.00
2 Year Texas State Inspection Certificate		2	14.00
Vehicle Dealer Prep		2	260.00

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

Vehicle and Emergency Equipme...	\$67,018.00
---	--------------------

SIGNATURE _____

Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: October 09, 2019

**ITEM: (2) Two New Vehicle 1/2 Ton Pursuit rated
Police pkg. SUV, 4-door, 2 wheel drive
(VERF – Replace Unit ~~20~~)**

16
17

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

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

Example:

Chevy Tahoe (police pursuit rated)

NOTE:

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

ATTENTION:

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

Bidder / Flower Mound

Y/N Y/N

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

DRIVE TRAIN

Bidder / Flower Mound

Y/N Y/N

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

☒ Y__ 2. Automatic Transmission

☒ Y__ 3. Fuel tank: min. 20 gal.

☒ Y__ 4. Dual Heavy duty battery

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

☒ Y__ 6. Rear wheel drive

TIRES AND WHEELS**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Tires: Radial highway, all season

☒ Y__ 2. Full size spare tire with jack

☒ Y__ 3. Matching full size spare tire/wheel

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

CAB & EQUIPMENT**Bidder / Flower Mound**

Y/N Y/N

☒ Y__ 1. Power Steering

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

☒ Y__ 3. Intermittent wipers

☒ Y__ 4. Exterior Paint: **Black**

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

☒ Y__ 6. Rear fold down seat, (preferred 60/40 split)

- ☒ Y__ 7. Air Conditioning
☒ Y__ 8. Radio: Standard AM / FM w/CD player
☒ Y__ 9. Rear Window Defroster
☒ Y__ 10. Interior cargo area.
 Preferred width: min. 74".
 State width of unit interior bid: 74"
 Preferred cargo volume: min. 27 cu.ft.
 State cargo volume of unit bid: 27"
- ☒ Y__ 11. Rear window washer and wiper
☒ Y__ 12. Power windows (with inoperative rear window switches) 6N5
☒ Y__ 13. Power door locks (with rear door locks and handles inoperative) 6N6
☒ Y__ 14. Power Driver/Passenger Mirrors
☒ Y__ 15. Front and Rear: Full black rubber floor covering (no floor mats).
☒ Y__ 16. Interior: Dark gray or equivalent dark interior
☒ Y__ 17. Keyless entry
☒ Y__ 18. Six sets of keys (Must be included at time of vehicle delivery) 5HP
☒ Y__ 19. All vehicles keyed alike (6E2 Key Common)
☒ Y__ 20. Rear lift hatch
-
- ☒ Y__ 21. 1 - Vehicle spotlight/post and door mount (LED), located on the driver side only.
☒ Y__ 22. Tow Hitch / Package
☒ Y__ 23. Bluetooth UE1
☒ Y__ 24. Rear Grounding Studs UT7

OTHER EQUIPMENT

Bidder / Flower Mound

Y/N Y/N

- ✓ Y 1. Running boards, full length.
- ✓ Y 2. Pursuit Package (Law Enforcement Emergency Vehicle Package)
to include but not limited to: engine and transmission cooling
package, increased electrical power and heavy duty suspension.)
- ✓ Y 3. Vehicle State Inspection when delivered (2 year certificate)

TOTAL BID PRICE

(To include all listed equipment and installation)

\$ 67,018⁰⁰**Warranty: Standard Manufacturers warranty. Please specify.**

5 yr / 100K miles Drive Train

3 yr / 36K Bumper to Bumper

COMMENTS

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

N/A



Bid Award Recommendation
Co-op Contract:
Tarrant County Contract #2019-181

Date: 10-21-2019

Description: Equipment Upfit for New Chevrolet Tahoe RWD 9C1 PPV

Quantity: 2 upfits

Replaces: 43500-16 upfit
43500-17 upfit

Bidder #1: Defender Supply

Mike Hewitt

Item bid: Upfit for New Chevrolet Tahoe RWD 9C1 PPV

Per: TOFM specifications

1 unit upfit total: \$23,428.00

1 unit upfit total: \$23,819.00

Both upfit totals: \$47,247.00

It is Fleet Services recommendation to award the bid to **Holiday Ford & Holiday Chevrolet** as the lowest responsible bidder in the amount of **\$47,247.00**.

H. Deats Stewart
Fleet Services Manager

10-21-2019
Date,



DEFENDER SUPPLY

Date	10/7/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	26501

Description	Location	Qty.	Cost	Vehicle and Em...
** Pricing Per Tarrant County Contract Number to 2019-181 **				
Traffic Enforcement Unit				
Troy CC-F-THOS-16 Console, 16"		1	291.00	291.00
Panel with cut-out for OEM port		1	69.00	69.00
Troy Internal Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Console, Side Mount Armrest		1	67.00	67.00
Troy Computer Mount, Side Clevis		1	315.00	315.00
Docking Station for Dell's Latitude 14 Rugged and Latitude 12 & 14 Rugged Extreme Notebooks (Basic Port Replication)		1	433.00	433.00
INNER EDGE FST WC 10-LT TAHOE, RW/BW	Front Visor	1	744.00	744.00
CANWCT3 Control with Canport OBDII Port		1	1,259.00	1,259.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Control/Carbide)		1	0.00	0.00
OBDII Module for Chevy Tahoe		1	0.00	0.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting – Blue	Sideview Mirror	1	139.00	139.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting – Red	Sideview Mirror	1	139.00	139.00
Whelen under the Side Mirror Mount Bracket for LINSV2® for 2015+ Chevrolet Tahoe 9C1 – (one pair)		1	19.00	19.00
ION Surface Mount, Smoke Lens TRIO		2	112.00	224.00
Whelen ION w/Smoke Lens		5	112.00	560.00
Whelen ION™ T-Series™ Linear Super-LED® Surface Mount in Red/Blue Split Head Lights		2	84.00	168.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		1	78.00	78.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Total Vehicle Order Cost

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DEFENDER SUPPLY

Date	10/7/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	26501

Description	Location	Qty.	Cost	Vehicle and Em...
Whelen Inner Edge, Duo, RA, BA	Rear Glass	1	831.00	831.00
TRACER TRIO 5-LAMP HOUSING, Tahoe, RBC	Running Boards	2	857.00	1,714.00
Whelen Low Frequency Howler Siren System programmed to run 60 seconds		1	463.00	463.00
Whelen Howler Bracket - 2017+ Tahoe ***PLEASE INCLUDE REQUIRED PART #s WH-SAK63D AND WH-SAK63P***		1	0.00	0.00
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Tahoe, Driver Side *****MUST INCLUDE SAK63P IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen Behind the Grill Siren Speaker Bracket - 2017 Tahoe, Driver Side *****MUST INCLUDE SAK63D IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White	Rear Hatch & Prisoner	4	59.00	236.00
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00
47-6-SCALE C-Tech Scale Box		1	2,349.00	2,349.00
Go Rhino Textured Push Bumper, 2 LED Cut-outs for IONs (Front Facing), 2015+ Tahoe		1	289.00	289.00
Brazos CHG-AUTO-HWIRE1-01 Zebra - car holder/charger		1	109.00	109.00
AFM 835 700-800 whip		1	14.00	14.00
Radio Cable FRadio Cable FME(Rd) MPL(Rd) 5m CS23 cable		1	18.00	18.00
Stinger power cable for mobile charging unit.		1	9.00	9.00
Stinger car charging unit		1	13.00	13.00
90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100,110 Series, DS-DELL-200,210,220 230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	132.00	132.00
SafeStop for 2015+ Tahoe		1	118.00	118.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Total Vehicle Order Cost

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DEFENDER SUPPLY

Date	10/7/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	26501

Description	Location	Qty.	Cost	Vehicle and Em...
Stalker DSR 2X - "Ka" Band - Front & Rear Antenna Moving Radar Unit. with EXTENDED WARRANTY		1	3,549.00	3,549.00
Stalker Antenna Bracket for the Front Antenna for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	54.00	54.00
Stalker Counting Unit Mount for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	49.00	49.00
Federal Signal LED Opticom ® Emitter, Infrared System - External Use BOX Style		1	1,218.00	1,218.00
Opticom Bracket for Front Push Bumper just like Fairview PD placing the Opticom up close to the top Horizontal Bar - Made by Defender Supply		1	79.00	79.00
Jotto Desk Magnetic Mic Clip		2	28.00	56.00
Replacement Cables for APX 6500		1	277.00	277.00
Whelen 100 Watt All Weather Heavy Duty Composite Siren Speaker		1	162.00	162.00
Design & Installation of Graphics for Customer's Department-Graphix Shoppe		1	688.00	688.00
Shipping of Above Emergency Parts for Upfit		1	103.00	103.00
Misc. Shop Supplies		1	77.00	77.00
Defender Supply wiring harness, Top Hat Timer and Blue Sea power distribution block		1	435.00	435.00
Removal and Reinstallation of Below Equipment: Cradlepoint COR IBR900 w/wiring Motorola APX6500		1	380.00	380.00
Installation of Equipment		1	5,320.00	5,320.00

Vehicle and Emergency Equipment Total
\$23,428.00

Quantity Ordered

Total Vehicle Order Cost

Page 3

SIGNATURE _____

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Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: October 08, 2019

**ITEM: Equipment for (1) Police pkg. SUV, 4-door,
2 wheel drive (TRAFFIC ENFORCEMENT)**

NOTE:

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

EQUIPMENT OPTIONS:

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

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

<u>*Interior</u>			<u>COST</u> <u>EACH</u>
Bidder / Flower Mound			
Y/N	Y/N		
☒	Y__	(1) Troy Standard Width Console 16" Part # CC-F-TTIOS-16	\$ <u>360⁰⁰</u>
☒	Y__	(1) Troy Products Bcy Holder #AC-INBHG	\$ <u>38⁰⁰</u>
☒	Y__	(1) Troy console bracket for USB and 12v	\$ <u>42⁰⁰</u>
☒	Y__	(1) Troy Computer Mount Side Clevis Part # CM-SDMT-SLS-HAV	\$ <u>315⁰⁰</u>
☒	Y__	(1) Havis Docking Station for Dell Rugged	\$ <u>433⁰⁰</u>

Part#DS-DEL1.-405

☒	☐	(1) Whelen - Inner Edge FST DUO R/W B/W Part# ISFW45Z	\$ <u>744⁰⁰</u>
☒	☐	(1) Whelen - CENCOM CONTROL 21 push button control head	\$ <u>1259⁰⁰</u>
☒	☐	(1) Whelen - Canopy for 2015+ Tahoe Console Mount	\$ <u>67⁰⁰</u>
☒	☐	(1) Whelen LINSV2 (Red) Part# LINV2R (under mirror)	\$ <u>139⁰⁰</u>
☒	☐	(1) Whelen LINSV2 (Blue) Part# LINV2B (under mirror)	\$ <u>139⁰⁰</u>
☒	☐	(1) Whelen LINSV2 Under Mirror Mount Part# LSVBKT45 - Comes as a pair	\$ <u>19⁰⁰</u>
☒	☐	(2) Whelen ION TRIO R/B/W Surface Mount Part# XI3SMJC smoked black mounting flange	\$ <u>224⁰⁰</u>
☒	☐	(5) Whelen ION TRIO R/B/W Universal Mount/Blk Part# XI3JC - smoked	\$ <u>560⁰⁰</u>
☒	☐	(2) Whelen ION-T R/B Part # TLIJ	\$ <u>168⁰⁰</u>
☒	☐	(1) Whelen RST 10 lamp Red/Blue w/ TA Part #	\$ <u>831⁰⁰</u>
☒	☐	(1) Whelen Tracer Trio R/B/W Part #	\$ <u>1714⁰⁰</u>
☒	☐	(1) Whelen Headlight/Tailight Flasher Modules Part# SSFPOS16 (2015+ Tahoe)	\$ <u>78⁰⁰</u>
☒	☐	(1) Whelen Howler Low Frequency Siren Part # HOWLER	\$ <u>463⁰⁰</u>
☒	☐	(1) Whelen Howler Mounting Bracket (2015+ Tahoe) Part # ITWLRB20	\$ <u>46⁰⁰</u>
☒	☐	(4) Whelen 3" Round Super LED Light head (Rear Hatch Red/White)	

		Part # 3SRCCDCR	\$ <u>236⁰⁰</u>
<u>Y</u>	Y__	(1) Soundoff Interior Dome light (Officer) Part #FCVDMLTAL00	\$ <u>55⁰⁰</u>
<u>Y</u>	Y__	(1) C-Tech Scales Box C45-401	\$ <u>2349⁰⁰</u>
<u>Y</u>	Y	(1) Go Rhino Push Bumper 5165T-21.61	\$ <u>289⁰⁰</u>
<u>Y</u>	Y__	(1) Brazos Ticket Writer Hard Wire Part# CHG-AUTO-IIWIRE1-01	\$ <u>109⁰⁰</u>
<u>Y</u>	Y__	(1) Panomara GPS-D 2148 kit ,C23F-SM, AFM-835	\$ <u>14⁰⁰ 32⁰⁰</u>
<u>Y</u>	Y	(1) Streamlight DS Charge Cable (22051)	\$ <u>18⁰⁰ 9⁰⁰ nt</u>
<u>Y</u>	Y__	(1) Streamlight DS Charging Base (75100)	\$ <u>13⁰⁰ nt</u>
<u>Y</u>	Y__	(1) Lind Power Suply for Dell Lat. 5404	\$ <u>132⁰⁰</u>
<u>Y</u>	Y__	(1) Top Hat Equipment Timer	\$ <u>Incl</u>
<u>Y</u>	Y__	(1) Pro-Gard Safe Stop	\$ <u>118⁰⁰</u>
<u>Y</u>	Y__	(1) Stalker 2X Radar System w/ extended Warranty	\$ <u>3549⁰⁰</u>
<u>Y</u>	Y__	(1) Stalker Tahoe Antenna Mount 200-1088-00	\$ <u>54⁰⁰</u>
<u>Y</u>	Y__	(1) Stalker Tahoe Display Mount 200-1089-00	\$ <u>49⁰⁰</u>
<u>Y</u>	Y__	(1) Federal Signal 794 Opticom w/ bracket/mount Box style mounted on the push bumper	\$ <u>1210⁰⁰ 1277⁰⁰</u>
<u>Y</u>	Y__	(2) Magnetic Mic (super strong ones)	\$ <u>56⁰⁰</u>
<u>Y</u>	Y__	(1) APX 6500 Wiring and related	\$ <u>277⁰⁰</u>
<u>Y</u>	Y__	(1) Whelen 100 watt siren w/ bracket	\$ <u>162⁰⁰</u>
<u>Y</u>	Y	(1) Opticom w/ wiring/bracket (Square one)	\$ <u>Incl</u>
<u>Y</u>	Y__	(1) FMPI) Graphics Kit w/ US/IX Flags	\$ <u>688⁰⁰</u>

Total cost of installation for above items:

\$ 5935⁰⁰

Total cost for above items:

\$ 23,048⁰⁰**ATTENTION: ****

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

****Transferred Items****REMOVE/RE-INSTALL
CHARGE**

Bidder / Flower Mound

Y/N Y/N

Y Y__

(1) Cradlepoint COR ITR900

\$ 190⁰⁰Y Y__

(1) APX 6500 and related

\$ 190⁰⁰Total Remove/Re-install charges for
above "Transferred Items":\$ 380⁰⁰**ATTENTION: *****

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

*****Decommissioned Items****Removal Charge**

Bidder / Flower Mound

Y/N Y/N

Y Y__

1. None

TOTAL Cost of Installation and Materials \$ 23,428⁰⁰

TOTAL BID PRICE

(To include all listed equipment and installation)

\$ 23,428⁰⁰

Warranty: Standard Manufacturers warranty. Please specify.

5 year Parts
Vehicle Service Life on Labor & Installation

COMMENTS

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



DEFENDER SUPPLY

Date	9/20/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	26379

Description	Location	Qty.	Cost	Vehicle and Em...
** Pricing Per Tarrant County Contract Number to 2019-181 **				
2020 Chevrolet Tahoe PPV				
Troy Products Dash Contour Console Includes 2" USB plate, Arm Rest, Dual Cup Holder & Mic Clip.		1	259.00	259.00
Faceplates: Watch Guard 4RE Cencom Motorola APX6500 Radio - 2 Piece Panel with cut-out for OEM port		1	69.00	69.00
Troy Internal Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Console, Side Mount Armrest		1	67.00	67.00
Troy Computer Mount, Side Clevis		1	315.00	315.00
Docking Station for Dell's Latitude 14 Rugged and Latitude 12 & 14 Rugged Extreme Notebooks (Basic Port Replication)		1	433.00	433.00
5700VS Series, Space Saver Plus Partition with VIPER Shield Integrated Level IIIA Ballistic Shield (Side Curtain Airbag Compatible) for 2015+ Tahoe		1	2,651.00	2,651.00
Pro-Gard Charcoal Grey ABS Standard Straight Back Transport Seat with Wire Mesh Screen and Outboard Seat Belts for 2015+ Chevrolet Tahoe		1	1,031.00	1,031.00
Setina window bars for a 2015+ Tahoe		1	153.00	153.00
Door Panel VS TPO Plastic Black Installs Over OEM Door Panels for a 2015+ Tahoe		1	159.00	159.00
Dual T-Rail Weapon Lock with Timer & Handcuff Adjustable Locks Setina T-Rail Universal Lock, EoTech Bracket		1	17.00	349.00 17.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Total Vehicle Order Cost

Page 1

SIGNATURE

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DEFENDER SUPPLY

Date	9/20/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	26379

Description	Location	Qty.	Cost	Vehicle and Em...
CANWCT3 Control with Canport OBDII Port		1	1,259.00	1,259.00
Whelen Control/Carbide Control Head, 21 Buttons and Switch Slide (No cost when ordered with Control/Carbide)		1	0.00	0.00
OBDII Module for Chevy Tahoe		1	0.00	0.00
Whelen 100 Watt All Weather Heavy Duty Composite Siren Speaker	Behind Grill	1	139.00	139.00
Whelen Trio Color Linear ION Red/Blue/White	Push Bumper Cutouts-Front	5	135.00	675.00
ION Trio	Push Bumper-Side Facing	4	135.00	540.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting – Blue	Sideview Mirror	1	139.00	139.00
Whelen V-Series™, Combination 180° Warning & Puddle Light with Scan-Lock™ Flash Patterns for Under Surface Mounting – Red		1	139.00	139.00
Whelen under the Side Mirror Mount Bracket for LINSV2* for 2015+ Chevrolet Tahoe 9C1 – (one pair)		1	19.00	19.00
ION REAR PILLAR WC DUO TAHOE, Red/Blue	Rear Pillar	1	912.00	912.00
Whelen Solid State Chevrolet Tahoe Headlight/Tailight Flasher		1	78.00	78.00
Whelen Low Frequency Howler Siren System programmed to run 60 seconds		1	463.00	463.00
Whelen Howler Bracket - 2017+ Tahoe ***PLEASE INCLUDE REQUIRED PART #s WH-SAK63D AND WH-SAK63P***		1	0.00	0.00
Whelen Behind the Grill Siren Speaker Bracket - 2017+ Tahoe, Driver Side *****MUST INCLUDE SAK63P IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen Behind the Grill Siren Speaker Bracket - 2017 Tahoe, Driver Side *****MUST INCLUDE SAK63D IF INSTALLED W/ HOWLER*****		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White	Rear Hatch & Prsoner	4	59.00	236.00
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00
Go Rhino Textured Push Bumper, 2 LED Cut-outs for IONs (Front Facing), 2015+ Tahoe		1	289.00	289.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Total Vehicle Order Cost

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DEFENDER SUPPLY

Date	9/20/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	26379

Description	Location	Qty.	Cost	Vehicle and Em...
Streamlight SL-20L LED Flashlight		1	102.00	102.00
Stinger power cable for mobile charging unit.		1	9.00	9.00
Stinger car charging unit		1	13.00	13.00
90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100, 110 Series, DS-DELL-200, 210, 220, 230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	132.00	132.00
SafeStop for 2015+ Tahoe		1	118.00	118.00
Stalker DSR 2X - "Ka" Band - Front & Rear Antenna Moving Radar Unit, with EXTENDED WARRANTY		1	3,549.00	3,549.00
Stalker Antenna Bracket for the Front Antenna for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	54.00	54.00
Stalker Counting Unit Mount for the Stalker Dual SL & DSR 2X for 2015+ Chevrolet Tahoe 9C1		1	49.00	49.00
Federal Signal LED Opticom ® Emitter, Infrared System - External Use		1	1,218.00	1,218.00
Opticom Bracket for Front Push Bumper just like Fairview PD placing the Opticom up close to the top Horizontal Bar - Made by Defender Supply		1	79.00	79.00
Panorama GPS-D-2148, GPSD+/C29/C32/C74/CABLES KIT		1	379.00	379.00
Radio Cable FRadio Cable FME(fld) MPL(fld) 5m CS23 cable		1	19.00	19.00
Jotto Desk Magnetic Mic Clip		2	28.00	56.00
Replacement Cables for APX 6500		1	277.00	277.00
Design & Installation of Graphics for Customer's Department-Graphic Shops		1	688.00	688.00
Shipping of Above Emergency Parts for Upfit		1	103.00	103.00
Misc. Shop Supplies		1	77.00	77.00

Vehicle and Emergency Equipment Total

Quantity Ordered

Total Vehicle Order Cost

Page 3

SIGNATURE

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Date	9/20/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



26379

[illegible]

Quantity Ordered

SIGNATURE

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Town of Flower Mound

PURCHASING SPECIFICATIONS

SPECIFICATION NO.:

Revised: October 09, 2019

ITEM: Equipment for Police pkg. SUV, 4-door, 2 wheel drive (Verf Unit 20)

NOTE:

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

EQUIPMENT OPTIONS:

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

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

*Interior

**COST
EACH**

Bidder / Flower Mound

Y/N Y/N

<u>Y</u>	Y__	(1) Troy Standard Width Console 18" Part # CC-F-TMC-711AC	\$ <u>328⁰⁰</u>
<u>Y</u>	Y__	(1) Troy Products Internal Bev Hholder #AC-INBHG	\$ <u>38⁰⁰</u>
<u>Y</u>	Y__	(1) Troy console bracket for USB and 12v	\$ <u>42⁰⁰</u>
<u>Y</u>	Y__	(1) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$ <u>67⁰⁰</u>
<u>Y</u>	Y__	(1) Troy Computer Mount Side Clevis	

<u>Y</u>	Y__	Part # CM-SDMT-SI.S-HAV	\$ <u>315</u> ⁰⁰
<u>Y</u>	Y__	(1) Havis Docking Station for Dell Rugged Part# DS-DELI-405	\$ <u>433</u> ⁰⁰
<u>Y</u>	Y__	(1) Pro-Gard Viper Shield, Center sliding Poly	
Window		Part # PVSSP5704T15A	\$ <u>2651</u> ⁰⁰
<u>Y</u>	Y__	(1) Pro-Gard Rear Transport Scats, Grey w/ Steel Screen & mount	
		Part # S5704T15A	\$ <u>1031</u> ⁰⁰
<u>Y</u>	Y__	(1) Setina Window Barrier	
		Part # WK0514TAH15	\$ <u>153</u> ⁰⁰
<u>Y</u>	Y__	(1) Setina Rear Door Panels Cover	
		Part# DK0100TAH15	\$ <u>159</u> ⁰⁰
<u>Y</u>	Y__	(1) Pro-Gard Recessed Panel (Space Saver)	\$ <u>Incl</u>
		Part# RP57T15	
<u>Y</u>	Y__	(1) Pro-Gard Extension Panels (Pair)	\$ <u>Incl</u>
		Part# SP57BS15	
<u>Y</u>	Y__	(1) Pro-Gard Outboard Seat Belts	\$ <u>Incl</u>
<u>Y</u>	Y__	(1) Setina Partition Double Gun Mounting System (w/ optics ready bracket #PG7529)	\$ <u>366</u> ⁰⁰
		Part# GK10301S1UHKSVCAXL	
<u>Y</u>	Y__	(1) Whelen - CENCOM CONTROL 21 push button control head	\$ <u>1259</u> ⁰⁰
<u>Y</u>	Y__	(1) Whelen Canport for 2015+ Tahoe SP57T15	\$ 131 ⁰⁰ Incl
<u>Y</u>	Y__	(4) Whelen ION Trio R/B/W	\$ <u>540</u> ⁰⁰
		Part# I3SMJC	
<u>Y</u>	Y__	(5) Whelen ION TRIO R/B/W	\$ <u>675</u> ⁰⁰
		Part# I3JC	
<u>Y</u>	Y__	(1) Whelen LINSV2 (Red)	\$ <u>139</u> ⁰⁰
		Part# LINV2R (under mirror)	

<u>Y</u>	Y_	(1) Whelen LINSV2 (Blue) Part# LINV2B (under mirror)	\$ <u>139⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen LINSV2 Under Mirror Mount Part# LSVBKT45 - Comes as a pair	\$ <u>19⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen Rear Pillar R/B DUO - can cruise Part # RPWD45	\$ <u>912⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen Headlight/Tailight Flasher Modules Part# SSFPOST6 (2015+ Tahoe)	\$ <u>78⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen Howler Low Frequency Siren Part # HOWLER	\$ <u>463⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen Howler Mounting Bracket (2015+ Tahoe) Part #IIWLRB20	\$ <u>46⁰⁰</u>
<u>Y</u>	Y_	(1) Whelen 100 watt Siren w/ bracket	\$ <u>139⁰⁰</u>
<u>Y</u>	Y_	(4) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ <u>236⁰⁰</u>
<u>Y</u>	Y_	(1) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ <u>55⁰⁰</u>
<u>Y</u>	Y_	(1) Go Rhino Push Bumper 2 light Part# 5165T-2L61	\$ <u>289⁰⁰</u>
<u>Y</u>	Y	(1) Streamlight SL-20L LED Flashlight 350 lumen alum. body w/dc charger / charge sleeve Part# STL-20602	\$ <u>102⁰⁰</u>
<u>Y</u>	Y_	(1) Streamlight DS Charge Cable (22051)	\$ <u>9⁰⁰</u>
<u>Y</u>	Y_	(1) Streamlight DS Charging Base (75100)	\$ <u>13⁰⁰</u>
<u>Y</u>	Y_	(1) Lind Power Suply for Dell Lat. 5414	\$ <u>132⁰⁰</u>
<u>Y</u>	Y_	(1) Top Hat Equipment Timer	\$ <u>Incl</u>
<u>Y</u>	Y_	(1) Pro-Gard Safe Stop	\$ <u>118⁰⁰</u>
<u>Y</u>	Y_	(1) Stalker 2X Radar System w/ extended Warranty	\$ <u>3549⁰⁰</u>

<u>Y</u>	Y__	(1) Stalker Tahoe Antenna Mount 200-1088-00	\$ <u>54⁰⁰</u>
<u>Y</u>	Y__	(1) Stalker Tahoe Display Mount 200-1089-00	\$ <u>49⁰⁰</u>
<u>Y</u>	Y__	(1) Federal Signal Opticom (thin) w/ bracket/mount	\$ <u>1297⁰⁰</u>
<u>Y</u>	Y__	(1) Panomara GPS-D 2148 kit , C23F-SM	\$ <u>398⁰⁰</u>
<u>Y</u>	Y__	(2) Super Strong Magnetic Mic Clips	\$ <u>56⁰⁰</u>
<u>Y</u>	Y__	(1) NEW replacement wiring for APX 6500	\$ <u>277⁰⁰</u>
<u>Y</u>	Y__	(1) FMPD Graphics Kit w/ US/TX Flags Graphix Shoppe	\$ <u>688⁰⁰</u>

Total cost for above Equipment items: \$ 17,314⁰⁰

Total cost for above Equipment installation: \$ 5935⁰⁰

ATTENTION: **

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

****Transferred Items**

**REMOVE/RE-INSTALL
CHARGE**

**Bidder / Flower Mound
Y/N Y/N**

<u>Y</u>	Y	(1) Cradlepoint COR 1BR900 w/ wiring	\$ <u>114⁰⁰</u>
<u>Y</u>	Y	(1) Motorola APX6500	\$ <u>114⁰⁰</u>
<u>Y</u>	Y	(1) Go Industries Cargo Box	\$ <u>114⁰⁰</u>
<u>Y</u>	Y__	(1) Install AXON Fleet 2 System (cust supplied)	\$ <u>114⁰⁰</u>
<u>Y</u>	Y__	(1) Whelen Legacy Lightbar	\$ <u>114⁰⁰</u>

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

\$ 570⁰⁰

ATTENTION: ***

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

*****Decommissioned Items**

Removal Charge

Bidder / Flower Mound

Y/N Y/N

✓ Y

I. None

\$ N/A

Total removal charges for above "Decommissioned Items":

\$ N/A

TOTAL Cost of Materials

\$ 17,314⁰⁰

TOTAL Cost of Installation

\$ 6505⁰⁰

TOTAL BID PRICE

\$ 23,819⁰⁰

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

5 year parts.

Vehicle Service Life on Labor / Installation

COMMENTS

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

N/A





TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: November 18, 2019

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the purchase of (8) new Dodge Charger Police Pursuit Vehicles with Equipment Installed per Town of Flower Mound Specifications and Vendor Quote from Grapevine Dodge Chrysler Jeep and Upfit Equipment/Installation Quotes with Specifications from Defender Supply for Police Services in the amount of \$245,264.00.

BACKGROUND INFORMATION: The Police Services Department is requesting the purchase of Eight (8) new Dodge Charger Police Pursuit Vehicles in the amount of \$185,640.00 through BuyBoard Cooperative Contract No 521-16 plus upfit equipment with installation in the amount of \$59,624.00 through Tarrant County Contract 2019-181 from Defender Supply. Six of these units are part of the approved Fiscal Year 2019-2020 Vehicle Equipment Replacement Fund (VERF) budget and the remaining two units are new additions to the Town's Fleet Inventory and were approved for purchase with Crime Districts Funds.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$245,264.00

Proposed Expenditure:	Account Number(s):
\$183,948.00	565-450-84500-6130 – VERF
\$61,316.00	318-560-43500-6130 – Crime District Fund

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

LEGAL REVIEW: N/A

ATTACHMENTS:

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

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



Bid Award Recommendation

Co-op Contract: BUYBOARD #521-16

Date: 10-21-2019

Description: New Dodge Charger Police

Qty required: eight (8)

Replaces:

Unit #43500-19: 2014 Chevrolet Tahoe (3 Chargers for 1 Tahoe)

Unit #43500-20: 2014 Chevrolet Tahoe (3 Chargers for 1 Tahoe)

New Units:

Qty: 2, New Dodge Charger Police

Attention: These are the Chargers that were approved to purchase three Charger units for one Chevy Tahoe replacement unit each.

Bidder: Grapevine Dodge Chrysler Jeep, Grapevine, Tx.

Dennis Thomas

Item #1: bid: New Dodge Charger Police

*Per TOFM specifications/Quote

*Equipment plus equipment install. Refer to the following quote:

Holiday Ford and Holiday Chevrolet (Defender) Tarrant County
co-op contract #2019-181 for equipment and install only.
(see separate bid recommendation.)

Total for 6 vehicles only:
Does not include equipment/install quote.) \$185,640.00

FOB Grapevine Dodge

It is Fleet Services recommendation to award the bid to Grapevine Dodge and Jeep as the lowest responsible bidder in the amount of \$ 185,640.00.

H. Deats Stewart
Fleet Services Manager

10-21-2019
Date,

Rep: Dennis Thomas

Phone: 817-410-7541

Email: dthomas@grapevinedcj.com

Date: 10/05/2019

A. Base Price:	21,770
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Code	Options	Bid Price	Code	Options	Bid Price
LDDE48	CHARGER POLICE	INCL	27A	V6/AUTO	INCL
X5X9	CLOTH FRONT VINYL REAR	116	GXA	KEYED ALIKE	136
CW6	DEACTIVATE REAR DOORS	73	AWC	FLEET SAFETY GROUP	340
				Total of B. Published Options:	565

\$= 0.0%

Options	Bid Price	Options	Bid Price
CHAINS	150		
DOES NOT INCLUDE SUBSCRIPTION SERVICE			
		Total of C. Unpublished Options:	150

\$

\$

\$

\$

\$670

FOB GRAPEVINE

\$23,155

\$185240

\$400.00

\$185.640

Town of Flower Mound

PURCHASING SPECIFICATIONS**SPECIFICATION NO.:**Revised: October 04, 2019

ITEM: (8) Eight New Pursuit Rated Sedans
Police pkg. Sedan, 4-door, 2 wheel drive
(TOFM vehicle replacement program)

- (6) Six will be VERF Replacements
 (2) Two will be from account 318-560-43500-6130

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

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

Example:

Dodge Charger (police pursuit rated)

NOTE:

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

ATTENTION:

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

Bidder / Flower Mound

Y/N Y/N

Y

Y

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

Y

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

Not avail 2020

DRIVE TRAIN**Bidder / Flower Mound**

Y/N Y/N

Y Y__

1. Engine: Gasoline, minimum 3.5L or equal

State engine size bid: 3.6LFlex-Fuel: ___ Yes X NoY Y__

2. Automatic Transmission

Y Y__

3. Fuel tank: min. 18 gal.

Y Y__

4. Heavy duty battery

Y Y__

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

Y Y__

6. Rear wheel drive

TIRES AND WHEELS**Bidder / Flower Mound**

Y/N Y/N

Y Y__

1. Tires: Radial highway, all season

Y Y__

2. Full size spare tire with jack

Y Y__

3. Matching full size spare tire/wheel

Y Y__

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

CAB & EQUIPMENT**Bidder / Flower Mound**

Y/N Y/N

Y Y__

1. Power Steering

Y Y__

2. Factory Tinted glass

Y Y__

3. Intermittent wipers

Y Y__4. Exterior Paint: **Black**Y Y__

5. Seats: Cloth Front lowback (bucket) seats, Rear Vinyl X5X9

Y Y__ 6. Air Conditioning

Y Y__ 7. Radio: Standard AM / FM w/ media reader

Y Y__ 8. Rear Window Defroster

Y__ Y__ 9. Interior cargo area.

Preferred width: min. 74"

State width of unit interior bid: _____

Front shoulder 55.5"
Rear shoulder 57.8"

Preferred cargo volume: min. 27 cu.ft.

State cargo volume of unit bid: trunk 16.1 ft³

Y Y__ 10. Power windows (with inoperative rear window switches) CW6

Y Y__ 11. Power door locks (with rear door locks and handles inoperative) CW6

Y Y__ 12. Power Driver/Passenger Mirrors

Y Y__ 13. Front and Rear: Full black rubber floor covering (no floormats).

Y Y__ 14. Interior: Dark gray or equivalent dark interior

Y Y__ 15. Keyless entry

Y Y__ 16. two (2) sets of keys per unit (Must be included at time of vehicle delivery)

8 Keys

Y Y__ 17. All vehicles keyed alike

Y Y__ 18. Flasher System (Headlamp and Tailamp)

Y Y__ 19. Bluetooth

Y Y__ 20. Fleet Safety Group (AWC)

OTHER EQUIPMENT

Bidder / Flower Mound

Y/N Y/N

Y Y__ 1. Pursuit Package (Law Enforcement Emergency Vehicle Package) to include but not limited to: engine and transmission cooling package, increased electrical power and heavy duty suspension.)

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

TOTAL BID PRICE

\$ 185,640

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

3yr / 36,000 miles
5yr / 100,000 miles limited powertrain

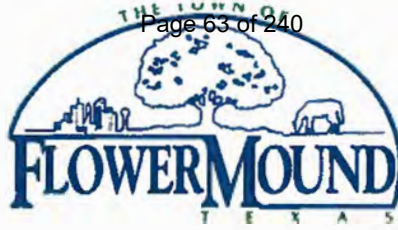
COMMENTS

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

Not Flex Fuel

Aftermarket tint removed from spec

Service real-time online annual subscription
+800 Good for all Dodge, Chrysler, Jeep, Ram
Not included in quote



Bid Award Recommendation

Co-op Contract:
Tarrant County Contract #2019-181

Date: 10-21-2019

Description: Equipment Upfit for New Dodge Charger Police

Qty: 8 upfits complete

Replacement unit:

Unit #43500-19: 2014 Chevrolet Tahoe (3 Chargers for 1 Tahoe)

Unit #43500-20: 2014 Chevrolet Tahoe (3 Chargers for 1 Tahoe)

New units: 2 units

Attention: This is for the upfit equipment and install only, performed at Defender Supply.

Bidder: Holiday Ford and Holiday Chevrolet: DBA: (Johnson Grayson Automotive Inc.)

Item #1: bid: Equipment/Install for New Dodge Charger Police sedan

*Per TOFM specifications/Quote for equipment/install only

*Equipment plus equipment install is for 6 new units replacing 43500-19 and unit 43500-20 and 2 new units goods to the following quote for new unit:

Grapevine Dodge Chrysler Jeep Buyboard Contract #521-16.
(see separate bid recommendation.)

**Total for Equipment/Install only:
Does not include New Unit quote.) \$59,624.00**

It is Fleet Services recommendation to award the bid to Holiday Ford and Holiday Chevrolet (Defender Supply) as the lowest responsible bidder in the amount of \$ 5,9,624.00.

H. Deats Stewart
Fleet Services Manager

10-21-2019
Date



DEFENDER SUPPLY

Date	10/10/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	26555

Description	Location	Qty.	Cost	Vehicle and Em...
** Pricing Per Tarrant County Contract Number to 2019-181 **				
2020 Dodge Charger				
Troy Console, 14" w/Floor Plate		1	389.00	389.00
Panel with cut-out for OEM port		1	69.00	69.00
Troy Products Internal Console Mounted Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Products Console Mount Side Soft Padded Armrest		1	67.00	67.00
Dodge Charger, Center Slider Space Saver Plus Prisoner Partition, Lower Protection & Recess Panel		1	588.00	588.00
Pair, 1/4" Polycarbonate Window Barrier (for use with O.E.M. door panels only)		1	159.00	159.00
Whelen Cencom Sapphire Siren System with 3-Position Slide Switch, 18 Push Button Control Head and included PA Microphone.		1	669.00	669.00
Whelen 48" Legacy® DUO+™ Color Series Super-LED® Light Bar with Take Downs, Alleys Lights with Red/White/Blue/White Front Configuration and Red/Amber/Blue/Amber Rear Configuration.		1	1,669.00	1,669.00
Whelen Universal Mount LED Duo ION, Red/Blue		2	91.00	182.00
Whelen Surface Mount LED Duo ION, Red/Blue		2	91.00	182.00
Whelen 100 Watt All Weather Heavy Duty Composite Siren Speaker		1	139.00	139.00
Whelen Universal "L" Shape Siren Speaker Bracket		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White		1	59.00	59.00
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00

Vehicle and Emergency Equipment Total

Quantity Ordered

2

Total Vehicle Order Cost
\$14,906.00

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

Date	10/10/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

972-874-6037 AP

accounts payable@fl...

26555

[illegible]

\$7,453.00

2

\$14,906.00

SIGNATURE

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

Town of Flower Mound

PURCHASING SPECIFICATIONS**SPECIFICATION NO.:****Revised: October 09, 2019****ITEM: Equipment for (2) Police pkg. 2020 Dodge Charger
(Account 318-560-43500-6130)****NOTE:**

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

EQUIPMENT OPTIONS:

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

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

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

<u> </u>	<u>Y</u> <u> </u>	(2) Troy Standard Width Console 14" w/ floorplate Part # Dodge Charger	\$ <u> </u>
<u> </u>	<u>Y</u> <u> </u>	(2) Troy Products Internal Bev Holder #AC-INBHG	\$ <u> </u>
<u> </u>	<u>Y</u> <u> </u>	(2) Troy console bracket for USB and 12v	\$ <u> </u>
<u> </u>	<u>Y</u> <u> </u>	(2) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$ <u> </u>

___	Y__	(2) Pro-Gard Space Saver w/ slide window and all panels	\$ _____
___	Y__	(2) Pro-Gard Window Barrier Part # poly	\$ _____
___	Y__	(2) Whelen – CENCOM Sapphire 21 push button control head	\$ _____
___	Y__	(2) Whelen Legacy DUO 48" w/ TA	\$ _____
___	Y__	(6) Whelen ION DUO R/B Part# I2SMJC	\$ _____
___	Y__	(6) Whelen ION DUO R/B Part# I2JC	\$ _____
___	Y__	(2) Whelen Headlight/Tailight Flasher Modules Part# Dodge Charger	\$ _____
___	Y__	(2) Whelen 100 Watt Siren speaker	\$ _____
___	Y__	(2) Whelen Siren Speaker Bracket	\$ _____
___	Y__	(2) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ _____
___	Y__	(2) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ _____
___	Y__	(2) Go Rhino Push Bumper 2 light Part# Dodge Charger	\$ _____
___	Y__	(2) FMPD Graphics Kit w/ US/TX Flags Graphix Shoppe	\$ _____
___	Y__	(2) 55% Madico Tint on all non tint windows	\$ _____

TOTAL Cost of Materials

\$ _____

TOTAL Cost of Installation \$ _____

Cost Per Unit (2) \$ _____

TOTAL BID PRICE \$ _____

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

COMMENTS

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



DEFENDER SUPPLY

Date	10/15/2019
Estimate By	Mike Hewitt mike@defendersupply.com (903) 564-5641



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@fl...
Estimate #	26587

Description	Location	Qty.	Cost	Vehicle and Em...
** Pricing Per Tarrant County Contract Number to 2019-181 **				
2020 Dodge Charger				
Troy Console, 14" w/Floor Plate		1	389.00	389.00
Panel with cut-out for OEM port		1	69.00	69.00
Troy Products Internal Console Mounted Beverage Holder w/Rubber Fingers		1	38.00	38.00
Troy faceplate w/ (1) USB port and (2) 12VDC plugs		1	42.00	42.00
Troy Products Console Mount Side Soft Padded Armrest		1	67.00	67.00
Dodge Charger, Center Slider Space Saver Plus Prisoner Partition, Lower Protection & Recess Panel		1	588.00	588.00
Pair, 1/2" Polycarbonate Window Barrier (for use with O.E.M. door panels only)		1	159.00	159.00
Whelen Cencom Sapphire Siren System with 3-Position Slide Switch, 18 Push Button Control Head and included PA Microphone.		1	669.00	669.00
Whelen 48" Legacy® DUO+™ Color Series Super-LED® Light Bar with Take Downs, Alleys Lights with Red/White/Blue/White Front Configuration and Red/Amber/Blue/Amber Rear Configuration.		1	1,669.00	1,669.00
Whelen Universal Mount LED Duo ION, Red/Blue		2	91.00	182.00
Whelen Surface Mount LED Duo ION, Red/Blue		2	91.00	182.00
Whelen 100 Watt All Weather Heavy Duty Composite Siren Speaker		1	139.00	139.00
Whelen Universal "L" Shape Siren Speaker Bracket		1	23.00	23.00
Whelen LED Flush Mount Compartment Light in Red & White		1	59.00	59.00
Clear Fresnel Lens w/ White LED & Red LED Night Light Dome Light	Front Cabin	1	55.00	55.00

Vehicle and Emergency Equipment Total

Quantity Ordered

6

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

Total Vehicle Order Cost
\$44,718.00



Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@fl...
Estimate #	26587

Description	Location	Qty.	Cost	Vehicle and Em...
Go Rhino Push Bumper, Dodge Charger with 2 light cutouts, front facing Use Customer Supplied Lights		1	189.00	189.00
Window Tint - All Windows - Sedan 55% Madico Tint		1	229.00	229.00
Design & Installation of Graphics for Customer's Department-Graphix Shoppe		1	612.00	612.00
Shipping of Above Emergency Parts for Upfit		1	89.00	89.00
Misc. Shop Supplies		1	39.00	39.00
Defender Supply Wiring Harness, Power Distribution Block and Battery Management System		1	445.00	445.00
Installation of Above Equipment		1	1,520.00	1,520.00
Activate Factory/OEM Headlight & Tail Light Flasher				

Quantity Ordered	6
------------------	---

Page 2

SIGNATURE _____

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

Revised: October 09, 2019

ITEM: Equipment for (6) Police pkg. 2020 Dodge Charger (VERF)

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

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

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

*Interior	COST EACH
------------------	----------------------

Bidder / Flower Mound

Y/N Y/N

Y (6) Troy Standard Width Console 14" w/ floorplate
Part # Dodge Charger \$

Y (6) Troy Products Internal Bev Holder #AC-INBHG\$

Y	(6) Troy console bracket for USB and 12v	\$
---	--	----

Y	(6) Troy Products 6" long Side Mounted Arm Rest #AC-SIDEARM-6	\$
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___	Y__	(6) Pro-Gard Space Saver w/ slide window and all panels	\$ _____
___	Y__	(6) Pro-Gard Window Barrier Part # poly	\$ _____
___	Y__	(6) Whelen – CENCOM Sapphire 21 push button control head	\$ _____
___	Y__	(6) Whelen Legacy DUO 48" w/ TA	\$ _____
___	Y__	(12) Whelen ION DUO R/B Part# I2SMJC	\$ _____
___	Y__	(12) Whelen ION DUO R/B Part# I2JC	\$ _____
___	Y__	(6) Whelen Headlight/Tailight Flasher Modules Part# Dodge Charger	\$ _____
___	Y__	(6) Whelen 100 Watt Siren speaker	\$ _____
___	Y__	(6) Whelen Siren Speaker Bracket	\$ _____
___	Y__	(6) Whelen 3" Round Super LED Light head (Rear Hatch Red/White) Part # 3SRCCDCR	\$ _____
___	Y__	(6) Soundoff Interior Dome light (Officer) Part #ECVDMLTAL00	\$ _____
___	Y__	(6) Go Rhino Push Bumper 2 light Part# Dodge Charger	\$ _____
___	Y__	(6) FMPD Graphics Kit w/ US/TX Flags Graphix Shoppe	\$ _____
___	Y__	(6) 55% Madico Tint on all non tint windows	\$ _____

TOTAL Cost of Materials
\$ _____

TOTAL Cost of Installation \$ _____

Cost Per Unit (6) \$ _____

TOTAL BID PRICE \$ _____

(To include all listed equipment and installation)

Warranty: Standard Manufacturers warranty. Please specify.

COMMENTS

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



TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: November 18, 2019

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

ITEM: Consider approval of a Professional Services Agreement with Kimley Horn and Associates, Inc., to provide traffic signal designs for the FM 2499 at Chaparral Lane; FM 2499 at Churchill Drive; and Flower Mound Road at McKamy Creek Road projects in the amount of \$57,000; and authorization for the Mayor to execute same on behalf of the Town

BACKGROUND INFORMATION: The intersection of FM 2499 at Chaparral has met traffic signal warrants in accordance with the Texas Manual on Uniform Traffic Control Devices. This location has been requested for several years from both the neighborhoods to the west as well as the commercial development on the east. This past year was the first year that this location met traffic signal warrants. This location met both volume warrant and crash experience warrant. The distance between this location and traffic signals to the north and south is adequate for an additional traffic signal. Authorization from the Texas Department of Transportation is being requested. It is anticipated to have authorization within the next four weeks.

The intersections of both FM 2499 at Churchill Drive; and Flower Mound Road at McKamy Creek Road were part of a decision package approved through this year's budget process to replace three traffic signal poles. The poles met the standard when they were initially installed, now each of these poles do not meet today's standard for mast arm length. The longer mast arms will provide better visibility for left turning vehicles at each of these intersections and bring the Town into compliance with standards.

BOARD REVIEW/CITIZEN FEEDBACK: The Transportation Commission reviews traffic signal projects each spring. The location of FM 2499 at Chaparral was one of the locations recommended for installation by the Transportation Commission.

ALTERNATIVES/OPTIONS: Deny the professional services agreement.

FISCAL IMPACT: \$57,000

Proposed Expenditure/(Revenue):	Account Number(s):
\$32,500 FM 2499 at Chaparral	505-220-77065
\$24,500 Signal Pole Replacements	100-690-95200

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

Total project cost for the FM 2499 at Chaparral signal project is \$350,000. Funding sources are:

- Decision Package (cash from General Fund) \$ 350,000

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

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 18th day of November, 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 11, Suite 1300, Fort Worth, Texas, 76102.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, designing and providing construction documents for a new traffic signal at FM 2499 at Chaparral and modifications of traffic signals at the intersections of FM 2499 at Churchill Drive and McKamy Creek Road at Flower Mound Road; 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 FM 2499 at Chaparral; FM 2499 at Churchill Drive and McKamy Creek Road at Flower Mound Road traffic signal design project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Fifty-Seven Thousand and No/100 Dollars (\$57,000.00). 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:

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

IX.

Right to Inspect Records

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

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to

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

X.

Successors and Assigns

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

XI.

CONSULTANT's Liability

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

XII.

Indemnification

THE PROVISIONS OF THIS SECTION ARE SUBJECT TO THE LIMITATIONS OF TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 AND SHALL BE CONSTRUED TO THAT EFFECT. THE CONSULTANT AS ALLOWED BY TEXAS LOCAL GOVERNMENT CODE SECTION 271.904 WILL STILL NAME TOWN AS ADDITIONAL INSURED IN ITS GENERAL LIABILITY POLICY AND PROVIDE ANY DEFENSE AS ALLOWED BY THE POLICY. CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF

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

XIII.

Independent Contractor

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

XIV.

Default

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

nonperformance under this Contract, the cost to TOWN to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse TOWN for such excess.

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

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

XV. Provisions Surviving Termination

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

XVI. Changes

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

XVII. Conflicts of Interest

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

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

XVIII.
Confidential Information

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

XIX.
Notice Information

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

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

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

Abhishek Acharya, P.E., PTOE
Kimley-Horn and Associates, Inc.
801 Cherry Street
Suite 1300
Fort Worth, Texas 76102
817-335-6511 Telephone

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

**XX.
Applicable Law**

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

**XXI.
Non-Discrimination**

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

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

**XXII.
Arbitration**

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

**XXIII.
No Waiver of Governmental Immunity**

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.

No Third Party Beneficiary

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

[The remainder of this page is left blank intentionally]

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

**THE TOWN OF FLOWER MOUND,
TEXAS**

By: _____
The Honorable Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Kimley-Horn and Associates, Inc.

By: Scott R. Arnold
Name: Scott R. Arnold, P.E., PTOE
Title: Vice President

Date Signed: November 5, 2019

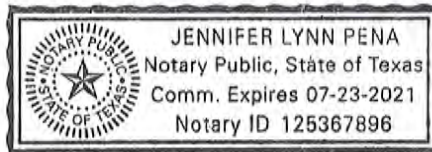
State of Texas §
 §
County of Tarrant §

This instrument was acknowledged before me on the 5th day of November, 2019, by Scott R. Arnold in his capacity as Vice President of Kimley-Horn & Associates, 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 Vice President.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 5th
DAY OF November, 2019.

Jennifer Lynn Pena
Notary Public, State of Texas

My Commission Expires:
7-23-21



Attachment A
Scope of Services
FM 2499 at Chaparral; FM 2499 at Churchill Drive and
McKamy Creek Road at Flower Mound Road Signal Designs
The Town of Flower Mound, Texas

Project Description

The following scope of services covers the necessary work to update the transportation model within the Town of Flower Mound (TOWN).

Task 1 – Traffic Signal Design for FM 2499 at Chaparral

Task 1.1 *Topographic Survey*

- A. The CONSULTANT will perform a field survey at the FM 2499 at Chaparral intersection to collect horizontal and vertical elevations and other information needed by the CONSULTANT in design and preparation of plans for the project. Information gathered during the survey shall include topographic data, elevations of all sanitary and adjacent storm sewers, rim/invert elevations, location of buried utilities, structures, trees (measure caliper, identify overall canopy), and other features relevant to the final plan sheets. Existing drainage at intersections will be verified by field surveys. Spot elevations will be shown on intersection layouts with cross slope to fit intersecting grade lines.
- B. The minimum survey information to be provided on the plans shall include the following:
 - A Project Control Sheet, showing all Control Points, used or set while gathering data. Generally, on a scale of not less than 1:400.
 - The following information about each Control Point:
 - Identified (Existing. Town Monument #XXX, PK Nail, 5/8" Iron Rod).
 - X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base. Z coordinate on Town Datum only.
 - Descriptive Location (Ex. Set in the centerline of the inlet in the South curb line of FM 1171 at the East end of radius at the Southeast corner of FM 1171 and Forums Drive).
 - Coordinates on all P.C.'s, P.T.'s, P.I.'s, manholes, valves, etc., in the same coordinate system, as the Control.
 - No less than two horizontal bench marks, per line or location.
 - Bearings given on all proposed centerlines, or baselines.
 - Station equations relating utilities to paving, when appropriate.

Task 1.2 *Base Map Assembly*

This task will include performing work associated with preparing the base map in CAD for the FM 2499 at Chaparral intersection.

- A. The CONSULTANT will assemble design standards and specifications (in electronic format) from the TOWN and/or TxDOT.

- B. The CONSULTANT will gather existing record drawings and file information of the project intersections from TOWN files, including the existing Town Engineering Division record or construction roadway and traffic signalization plans, right-of-way information, and utility maps.
- C. The CONSULTANT will meet with the TOWN's representative at the project intersection for the site investigation. The CONSULTANT will perform a field reconnaissance of the intersection to determine existing pavement widths, lane configurations, traffic control devices, and above ground utility locations. The CONSULTANT will also identify potential traffic signal pole locations, power source, and controller cabinet location. Prior to the field visit, the CONSULTANT will contact Texas 811 and the TOWN to locate existing underground utilities.
- D. The CONSULTANT will prepare a base map of existing geometrics, apparent or known utilities, and traffic control devices from record drawings and topographic survey collected during Task 1.1.

Task 1.3 *Preliminary Plans, Contract Documents, Specifications, and Quantities*

This task will include the preliminary design for the traffic signal, preliminary specification list, quantities, contract documents, and engineer's opinion of probable construction cost (OPCC).

- A. At the outset of the project, the CONSULTANT will prepare for and attend one (1) kick-off meeting to discuss the TOWN's project requirements and special design or coordination needs.
- B. Following the meeting, the CONSULTANT will furnish the TOWN a preliminary traffic signal layout sheet showing the signal pole locations and dimensions of said signal poles, proposed service location, proposed controller cabinet location, and conduit runs.
- C. The CONSULTANT will incorporate TOWN review comments and prepare the preliminary traffic signal design plan set for the project intersections. The basic design parameters will be based on discussions with the TOWN. The CONSULTANT anticipates this submittal will include a cover sheet, sheet index, general notes, traffic signal layout, signal phasing, summary charts, signs and markings layout (removals and installations), modified sidewalk and ADA ramp layouts (if needed), modified TxDOT standard detail sheets, and a list of applicable TOWN/TxDOT standard detail sheets for each traffic signal.
- D. The CONSULTANT will prepare the separate contract documents for each traffic signal which will include any required technical specifications. The TOWN will provide the latest approved front-end documents to the CONSULTANT.
- E. The CONSULTANT will prepare and submit a preliminary engineer's OPCC.

Task 1.4 *Final Plans*

Following the receipt of preliminary plan comments from the TOWN, the CONSULTANT will incorporate comments and produce the final plans, specifications, quantities, contract documents, and engineer's OPCC and submit these to the TOWN. The CONSULTANT will incorporate TOWN review comments (if any) to submit for TxDOT permit.

Task 2 – Traffic Signal Modifications for FM 2499 at Churchill Drive and McKamy Creek Drive at Flower Mound Road

Task 2.1 *Topographic Survey*

- A. The CONSULTANT will perform a field survey at the intersections of FM 2499 at Churchill Drive and McKamy Creek Drive at Flower Mound Road for the signal pole replacements. Topographic survey for this location will follow the same requirements outlined in Task 1.1 and following:
- Topographic survey is limited to northeast and southwest corner at the intersection of FM 2499 at Churchill Drive for the replacement of traffic signal poles along FM 2499 northbound and southbound direction.
 - Topographic survey is limited to northeast corner at the intersection of McKamy Creek Road at Flower Mound Road for the replacement of traffic signal pole for Flower Mound Road northbound approach.

Task 2.2 *Base Map Assembly*

This task will include performing work associated with preparing the base map in CAD for the FM 2499 at Churchill Drive and McKamy Creek Road at Flower Mound Road intersections.

- A. The Base Map preparation for these intersections will be done in accordance with the process outlined in task 1.2.

Task 2.3 *Preliminary Plans, Contract Documents, Specifications, and Quantities*

This task will include the preliminary design for the traffic signal, preliminary specification list, quantities, contract documents, and OPCC.

- A. The CONSULTANT will furnish the TOWN a preliminary traffic signal layout sheet showing the signal pole locations and dimensions of said signal poles and conduit runs.
- B. The CONSULTANT will incorporate TOWN review comments and prepare the preliminary traffic signal design plan set for the project intersections. The basic design parameters will be based on discussions with the TOWN. The CONSULTANT anticipates this submittal will be included with the preliminary plans for FM 2499 at Chaparral specified on Task 1.3.
- C. No Paving and curb ramp work is anticipated for these locations.
- D. The CONSULTANT will prepare contract documents for each traffic signal modifications which will be included together with the traffic signal design for FM 2499 at Chaparral.
- E. The CONSULTANT will prepare and submit a preliminary engineer's OPCC for each traffic signal modification.

Task 2.3 *Final Plans*

Following the receipt of preliminary plan comments from the TOWN, the CONSULTANT will incorporate comments and produce the final plans, specifications, quantities, contract documents, and engineer's OPCC for each traffic signal and submit these to the TOWN. The CONSULTANT will incorporate TOWN review comments (if any) to submit for TxDOT permit for the intersection of FM 2499 and Churchill Drive.

Deliverables:

Topographic Survey: Copies of field survey data and notes signed and sealed by a licensed surveyor, drawing of the project layout with dimensions and coordinate list.

Base Map Assembly: None

Preliminary Plans:

- *One (1) electronic copy of each preliminary plan set.*
- *Three (3) 11" x 17" copies of the preliminary plans*
- *List of Quantities. One (1) electronic copy for each traffic signal.*
- *Preliminary Engineer's OPCC. One (1) electronic copy for each traffic signal.*
- *Contract Documents. One (1) electronic copy for each traffic signal.*

Final Plans:

- *One (1) set of reproducible 11" x 17" originals and up to ten (10) hard copies for each traffic signal.*
- *List of Quantities: One (1) set of reproducible 8-1/2" x 11" originals and one (1) electronic copy for each traffic signal.*
- *Final Engineer's OPCC: One (1) electronic copy for each traffic signal.*
- *Final Contract Documents: One (1) electronic copy and up to ten (10) hard copies for each traffic signal.*

Additional Services

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

Additional services we can provide include, but are not limited to, the following:

- Assisting Town or contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by the CONSULTANT on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Sampling, testing, or analysis beyond that specifically included in the Scope of Services referenced herein above.
- Providing additional printing for bidding document distribution.
- Providing professional services associated with the construction phase of the project.
- Attending the Bid Opening
- Attending the Pre-construction Meeting
- Preparing a Bid Tabulation or Recommendation Letter
- Reviewing Contractor's References
- Any services not listed in the Scope of Services.

Attachment B**Payment Terms**

Payment is a lump sum fee in the amount listed in Article III of this Contract. This amount shall be payable by the TOWN pursuant to the schedule listed below and upon completion of the services and written acceptance by the TOWN.

Schedule of Payment for each phase:

Task	Description	Fee
1	Traffic Signal Design for FM 2499 at Chaparral	
	<i>Task 1.1 Topographic Survey</i>	<i>\$ 5,000</i>
	<i>Task 1.2 Base Map Assembly</i>	<i>\$ 1,500</i>
	<i>Task 1.3 Preliminary Plans</i>	<i>\$16,500</i>
	<i>Task 1.4 Final Plans</i>	<i>\$ 9,500</i>
Total (Task 1)		\$32,500
2	Traffic Signal Modifications for FM 2499 at Churchill Drive and McKamy Creek Drive at Flower Mound Road	
	<i>Task 2.1 Topographic Survey</i>	<i>\$ 5,000</i>
	<i>Task 2.2 Base Map Assembly</i>	<i>\$ 1,000</i>
	<i>Task 2.3 Preliminary Plans</i>	<i>\$11,500</i>
	<i>Task 2.4 Final Plans</i>	<i>\$ 6,500</i>
Total (Task 2)		\$24,500
Total Fee		\$57,000

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



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: November 18, 2019

FROM: Dale Crown, Senior Project Engineer

ITEM: Consider approval of a Professional Services Agreement with Criado & Associates, Inc., for the design phase services associated with the Blue Ridge Trail Reconstruction project, in the amount of \$48,880.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The design project is for the reconstruction of Blue Ridge Trail from Branchwood Trail to Country Meadows Drive (approximately 970 linear feet).

The scope of the Professional Services Agreement includes the preparation of design survey, design plans, contract specification and record drawings.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: The existing concrete street has significant cracking in multiple locations. A decision to not approve the proposed Professional Services Agreement would result in Blue Ridge Trail pavement failures worsening over time.

FISCAL IMPACT: \$48,880.00

Proposed Expenditure/(Revenue):

\$48,880.00

Account Number(s):

316-560-78038

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

Total project cost is \$790,000 Funding sources are:

- Dedicated Sales Tax \$ 790,000

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 Service Agreement with Criado & Associates, Inc.

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
CRIADO & ASSOCIATES, INC.**

This contract is entered into on this 18th day of November, 2019, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **Criado & Associates, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 4100 Spring Valley Rd #1001, Dallas, TX 75244.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Blue Ridge Trail Reconstruction project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Forty Eight Thousand Eight Hundred Eighty and No/100 Dollars (\$48,880.00). 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:

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

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

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

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

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

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of

recovery or subrogation against TOWN, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;

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

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

IX.

Right to Inspect Records

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

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or 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:

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

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

Kelly Moncrief, P.E.
Senior Project Manager
Criado & Associates, Inc.
4100 Spring Valley Rd #1001
Dallas, TX 75244
682-237-7718 Telephone

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

XX. Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and

is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XXI.

Non-Discrimination

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

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

XXII.

Arbitration

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

XXIII.

No Waiver of Governmental Immunity

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

XXIV.

Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[The remainder of this page is left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
The Honorable Steve Dixon
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

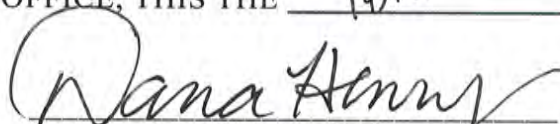
CONSULTANT:
Criado & Associates, Inc.

By: 
 Name: CRISTINA CRIADO
 Title: PRESIDENT / CEO
 Date Signed: 10-18-19

State of Texas §
 §
 County of Dallas §

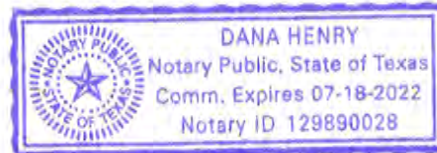
This instrument was acknowledged before me on the 18th day of October, 2019, by Cristina Criado in his capacity as President/CEO of Criado & Associates, a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of President/CEO.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 18th DAY OF Oct, 2019.


 Notary Public, State of Texas

My Commission Expires:

7/18/22



October 17, 2019

Mr. Dale Crown, P.E.,
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Re: Civil Engineering Fee Proposal for the reconstruction of Blue Ridge Trail from Branchwood Trail to County Meadow Drive (Approximately 970 LF).

Dear Mr. Crown:

Criado & Associates, Inc. (CRIADO) is pleased to be of service to the Town of Flower Mound, by providing the design and bid documents for paving improvements along Blue Ridge Trail. This is to be reconstructed as a 2-lane 30-foot wide local residential street section from Branchwood Trail to County Meadow Drive (Approximately 970 LF).

CRIADO shall perform services for the project in accordance with the Scope of Work contained in **Exhibit A**, attached. We propose the lump sum amounts in the Fee Schedule (**Exhibit B**):

Task 0 – Project Management & Coordination	\$ 3,080.00
Task 1 – Topographic Survey for Design	\$ 8,680.00
Task 2 – Preliminary Design:	\$ 20,990.00
Task 3 – Final Design:	\$ 10,890.00
Task 4 – Bid Phase Services:	\$ 530.00
Task 5 – Construction Administration	\$ 2,060.00
Task 6 – Special Services	\$ 1,650.00
Task 7 – Reimbursables	<u>\$ 1,000.00</u>
Total Fee	\$ 48,880.00

Final plans and specifications shall be submitted no later than 6 months after a “Notice to Proceed” has been provided exclusive of Town review periods.

We appreciate the opportunity to be of service to the Town of Flower Mound. We trust that our association on this project will be mutually beneficial and continue to serve as the foundation for a long-term relationship. If you have any questions, please do not hesitate to call me at 972-392-9092.

Sincerely,
Criado & Associates, Inc.



Kelly Moncrief, P.E.
Senior Project Manager

**EXHIBIT A
SCOPE OF SERVICES**

**BLUE RIDGE TRAIL
TOWN OF FLOWER MOUND, TEXAS**

0.0 GENERAL

0.1 Project Description

The services to be provided for this project include the preliminary and final design, development of construction plans, specifications, and estimates for the construction of Blue Ridge Trail from Branchwood Trail to Country Meadow Drive (Approximately 970 lf) in the Town of Flower Mound, Denton County, Texas.

All work will be performed within the existing right of way. Plans will be prepared using conventional ground topographic surveying tied to the Town of Flower Mound Geodetic Control Network to produce 1" = 20' scale construction documents.

0.2 Project Phasing

This project shall be divided into five phases:

- Topographic Survey for Design
- Preliminary Design Phase
- Final Design Phase
- Bid Phase Services
- Construction Phase Services

0.3 Design Standards

Design and preparation of construction drawings and technical specifications required for the project shall be in accordance with the following standards.

- a. Town of Flower Mound Design Standards
- b. NCTCOG Construction Specifications and Details
- c. AASHTO Design Criteria
- d. TDLR Architectural Barriers Act / Texas Accessibility Standards
- e. TxDOT Design and Construction Standards

1.0 TOPOGRAPHIC SURVEY FOR DESIGN

Establish benchmarks and horizontal control using Town's control network, establish scale factor for adjustment to surface coordinates.

Obtain topographic survey data within the limits of the right-of-way of Blue Ridge Trail; including visible features, utility appurtenances and utility manhole flowlines. The topographic survey will include capturing all trees and visible improvements along the alignment necessary for design. The survey will include the combined performance of research, field work, analysis, computation, and documentation necessary to provide detailed topographic (3-dimensional) mapping of a project site. A design survey may include, but need not be limited to, cross-sections or data to create cross-sections and Digital Terrain Models

(DTM), horizontal and vertical location of utilities and improvements, detailing of bridges and other structures, review of right-of-way maps, and establishing control points.

Field verify location and elevation of existing utilities, public and franchise, appurtenances, and other utility improvements affecting the design and construction. Texas 811 will be contacted to mark the approximate position of existing franchise utilities prior to the topo survey beginning.

Survey shall include existing corner monumentation as required to assist in defining the street easement / ROW lines. The street addresses of each property will be provided in the existing ROW map product.

No right of entry letters are included as part of this Contract.

2.0 PRELIMINARY DESIGN (65%)

2.1 Data Collection & Utility Coordination

Obtain and review available reports, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other features within the project area from the Town of Flower Mound. Contact private utilities along the project for information on existing and proposed facilities. Work with affected utilities such as water, gas, telephone, cable TV, and electric to obtain accurate information for horizontal and vertical data for their facilities. Distribute the plans to local utility companies to obtain information regarding impacts to their facilities.

2.2 Preliminary Design – General Tasks

Prepare the following sheets at the engineering scale indicated:

- a. General Sheets
 - Cover sheet.
 - General Notes sheets.
- b. Roadway Plans
 - Typical sections sheet.
 - Paving Details.
- c. Construction Specifications

Prepare construction specifications for Blue Ridge Trail.

2.3 Preliminary Design – Project Specific Tasks

If existing conditions are found to be noncompliant with AASHTO and/or Town of Flower Mound design standards and changes are required, both parties agree that CRIADO will cease work and review the change in scope and commensurate fee. Prepare the following sheets at the engineering scale indicated:

- a. Control Sheets
 - Project Layout / Horizontal Alignment & Project ROW Map sheet.
 - b. Roadway Plans
 - Paving plan & profile sheets for street improvements; including annotation of associated Removal notes and Pavement Markings & Signage notes.
- Scale 1" = 20' horizontal and 1" = 2' vertical.

- Cross sections for street improvements.
- c. SWPPP & Erosion control plan sheets. Scale 1'=40'.

2.4 Preliminary Quantities & Cost Estimate

Prepare a preliminary estimate of construction quantities and develop preliminary statement of probable construction cost.

2.5 Preliminary (65%) Submittal & Review Meeting

Submit three (3) half-size (11" x 17") sets of 65% preliminary plans, outline of specifications, and preliminary estimates to the Town for review.

Meet with the Town of Flower Mound to discuss preliminary plans, outline of specifications, estimates, and drainage requirements.

3.0 FINAL DESIGN (100% & IFB)

3.1 Franchise Utility Coordination

Incorporate comments from the utility companies.

3.2 100% Design - Address Town Comments – General Tasks

Revise preliminary plans incorporating comments from the Town of Flower Mound.

3.3 100% Design - Address Town Comments – Project Specific Tasks

Revise preliminary plans incorporating comments from the Town of Flower Mound.

3.4 Final Quantities & Construction Cost Estimate

Prepare a final estimate of construction quantities and develop final statement of probable construction cost.

3.2 100% Submittal & Review Meeting

Provide 100% plan submittal (3 sets each submittal) and meet with the Town of Flower Mound staff during final design to review progress, discuss design issues, obtain additional design information, review plans and specifications, and coordinate final details. Prepare a record of all review meetings and distribute it to attendees.

3.6 Contract Bid Documents

Assist the Town in preparing final bid documents using existing Town of Flower Mound standard documents as directed by the Town staff. Bid documents shall include bid proposal forms, construction plans, specifications, and other documents required by the Town of Flower Mound. Submit three (3) half-size (11" x 17") sets of prints, contract documents, and bid proposal forms prepared by the Engineer to the Town of Flower Mound.

4.0 BID PHASE SERVICES

4.1 Advertising and Pre-bid Meeting – Not in Contract

Assist Town staff in advertising for bids.

4.2 Plan Distribution

Furnish five (5) half-size sets of plans and specifications for bidding.

4.3 Addenda

Prepare addendum required to modify the requirements of the project during bidding, respond to requests for clarification, and issue instructions to bidders as directed by the Town of Flower Mound.

4.4 Receive Bids – Not in Contract

Assist the Town of Flower Mound in receiving and opening bids for construction of the project.

4.5 Bid Tabulation – Not in Contract

Prepare a tabulation of bids for the project and verify the bid amounts. Evaluate the lowest and second lowest bidder, including obtaining information on past work history and physical resources.

4.6 Recommendation for Award – Not in Contract

Prepare a recommendation for award of contract or other action and notify bidders of the action taken by the Town of Flower Mound.

4.7 Prepare Final Specifications – Not in Contract

5.0 CONTRACT ADMINISTRATION

5.1 Pre-construction Meeting – Not in Contract

5.2 Site Visits – Not in Contract

5.3 Shop Drawing Review – Not in Contract

5.4 Request for Information – Not in Contract

5.5 Final Inspection – Not in Contract

5.6 Prepare Record Drawings

Utilizing Contractor construction record information, prepare and provide a CD containing Record Drawing in digital format (PDF and CAD).

6.0 SPECIAL SERVICES

6.1 Pavement Design – Geotechnical – Not in Contract

6.2 Levels 'A' & 'B' SUE – Not in Contract

6.3 TDLR Submittals & Review

Submit final plans and specifications to TDLR for all pedestrian improvements in excess of \$50,000. To be billed as a direct reimbursable expense at actual cost x 1.1.

7.0 EXCLUSIONS

The intent of the scope is to include only the services specifically listed above and no others. Services specifically excluded from this Scope of Services include, but are not necessarily limited to the following:

- Computer modeling and routing of wastewater flows.
- Title searches.
- Fees for permits and advertising.
- Traffic engineering report or studies.
- Floodplain reclamation plans.
- Full time inspection.
- Designs for trench safety.
- Retaining walls, etc., not included in proposal.
- Revisions to plans as a result of revisions after completion of original final design (unless to correct error on plans).
- Consulting services by others not included in proposal.
- Quality control and testing services during construction.
- Prints furnished after acceptance of the required sets for construction in accordance with this Agreement.
- Environmental Services / Archeological Research.
- Prepare to serve or serve as an expert witness on behalf of the Town in connection with any public hearings or legal proceedings.
- Preparation of traffic control or construction sequencing plans.
- Water distribution system improvements.

- Sanitary sewer system improvements.
- Storm drainage analysis and preparation of a drainage area map.
- Storm drainage and hydraulic design.
- Review monthly requests for payment from the contractor and prepare a recommendation for action by the Town of Flower Mound.
- Review the contractor's monthly progress reports and provide review comments to the Town of Flower Mound.
- This project includes the design of on-site facilities only. Design of any off-site road, utility or drainage facility extensions which may be required to serve the project is not included in the engineer's scope
- Street lighting and electrical design and layout.
- Landscape and Irrigation Design.
- Subsurface Utility Engineering Quality Level (QL) A.
- Right-of –Way Determination or Acquisition Services.
- Environmental site assessments.
- Wastewater capacity analysis, flow study, or condition analysis.

EXHIBIT B

**TOWN OF FLOWER MOUND
BLUE RIDGE TRAIL
(APPROX. 970 LF)**

TASK / DESCRIPTION	TOTAL FEE FOR TASK
BASIC SERVICES (TASKS 0 - 3)	
TASK 0 - PROJECT MANAGEMENT & COORDINATION	\$3,080
TASK 1 - TOPOGRAPHIC SURVEY FOR DESIGN	\$8,680
TASK 2 - PRELIMINARY DESIGN (65%)	\$20,990
TASK 3 - FINAL DESIGN (95% & 100%)	\$10,890
SUB-TOTAL - BASIC SERVICES FEE	\$43,640
SPECIAL SERVICES (TASKS 4 - 7)	
TASK 4 - BID PHASE SERVICES	\$530
TASK 5 - CONSTRUCTION ADMINISTRATION	\$2,060
TASK 6 - SPECIAL SERVICES	\$1,650
TASK 7 - REIMBURSABLES	\$1,000
SUB-TOTAL - SPECIAL SERVICES FEE	\$5,240
TOTAL FEE	\$48,880

EXHIBIT B - MANHOUR BREAKDOWN

TOWN OF FLOWER MOUND
BLUE RIDGE TRAIL
(APPROX. 970 LF)

TASK / DESCRIPTION	PRINCIPAL	SENIOR PROJECT MANAGER	PROJECT ENGINEER	ENGINEER IN-TRAINING	CADD TECH	SURVEY TECHNICIAN	RPLS	2-MAN FIELD CREW	CLERICAL	MAN- HOURS	CHARGES	SUB CONSULT'S	FOR TASK (INCL MULT'S)
BASIC SERVICES													
TASK 0 - PROJECT MANAGEMENT & COORDINATION													
0.1 PROJECT COORDINATION		14.0								14.0	\$3,080		\$3,080
SUBTOTAL HOURS/COSTS		14.0								14.0	\$3,080		\$3,080
TASK 1 - TOPOGRAPHIC SURVEY FOR DESIGN													
1.1 SURVEY FOR DESIGN - TOPOGRAPHY (INCLUDES BENCHMARKS / LVL LOOP)		1.0				24.0	4.0	32.0		61.0	\$8,680		\$8,680
SUBTOTAL HOURS/COSTS		1.0				24.0	4.0	32.0		61.0	\$8,680		\$8,680
TASK 2 - PRELIMINARY DESIGN (65%)													
2.1 DATA COLLECTION & UTILITY COORDINATION		0.5		2.0						2.5	\$320		\$320
2.2 PRELIMINARY DESIGN - GENERAL TASKS													
2.2a GENERAL SHEETS (COVER & GENERAL NOTES)		0.5			2.0					2.5	\$320		\$320
2.2b ROADWAY PLANS (TYPICAL SECTIONS & DETAILS)		1.0	2.0		4.0					7.0	\$910		\$910
2.2c CONSTRUCTION SPECIFICATIONS		1.0	4.0	12.0						17.0	\$2,020		\$2,020
2.3 PRELIMINARY DESIGN - PROJECT SPECIFIC TASKS													
2.3a CONTROL SHEETS (PROJECT LAYOUT / HORIZ ALIGNMENT & ROW MAP)		1.0	2.0	8.0	16.0					27.0	\$3,010		\$3,010
2.3b ROADWAY PLANS (PLAN & PROFILE SHEETS & CROSS SECTIONS)		6.0	12.0	24.0	40.0					82.0	\$9,660		\$9,660
2.3c SWPPP & EROSION CONTROL PLANS		2.0	4.0	6.0	12.0					24.0	\$2,870		\$2,870
2.4 PRELIMINARY QUANTITIES & COST ESTIMATE		0.5	1.0	4.0	2.0					7.5	\$875		\$875
2.5 PRELIMINARY (65%) SUBMITTAL & REVIEW MEETING		3.0	1.0		2.0					6.0	\$1,005		\$1,005
SUBTOTAL HOURS/COSTS		15.5	26.0	56.0	78.0					175.5	\$20,990		\$20,990
TASK 3 - FINAL DESIGN (95% & 100%)													
3.1 FRANCHISE UTILITY COORDINATION		1.0		2.0						3.0	\$430		\$430
3.2 100% DESIGN - ADDRESS TOWN COMMENTS - GENERAL TASKS													
3.2a GENERAL SHEETS (COVER & GENERAL NOTES)		0.5			1.0					1.5	\$215		\$215
3.2b ROADWAY PLANS (TYPICAL SECTIONS & DETAILS)		0.5	1.0		2.0					3.5	\$455		\$455
3.2c CONSTRUCTION SPECIFICATIONS		1.0	2.0	6.0						9.0	\$1,120		\$1,120
3.3 100% DESIGN - ADDRESS TOWN COMMENTS - PROJECT SPECIFIC TASKS													
3.3a CONTROL SHEETS (PROJECT LAYOUT / HORIZ ALIGNMENT & ROW MAP)		0.5	1.0	3.0	6.0					10.5	\$1,190		\$1,190
3.3b ROADWAY PLANS (PLAN & PROFILE SHEETS & CROSS SECTIONS)		2.0	4.0	8.0	20.0					34.0	\$3,920		\$3,920
3.3c SWPPP & EROSION CONTROL PLANS		0.5	1.0	2.0	4.0					7.5	\$875		\$875
3.4 QUANTITIES		0.5	1.0	3.0	1.0					5.5	\$665		\$665
3.5 100% SUBMITTAL & REVIEW MEETING		3.0	1.0		3.0					7.0	\$1,110		\$1,110
3.6 BID DOCUMENTS		1.0	2.0		4.0					7.0	\$910		\$910
SUBTOTAL HOURS/COSTS		9.5	11.0	24.0	37.0					88.5	\$10,890		\$10,890
TASK 4 - BID PHASE SERVICES													
4.1 PRE-BID MEETING (NOT INCLUDED)													
4.2 PLAN DISTRIBUTION		0.5			4.0					4.5	\$530		\$530
4.3 ADDENDA (NOT INCLUDED)													
4.4 RECEIVE BIDS (NOT INCLUDED)													
4.5 BID TABULATION (NOT INCLUDED)													
4.6 RECOMMENDATION FOR AWARD (NOT INCLUDED)													
4.7 PREPARE CONFORMANCE PLANS & SPECIFICATIONS (NOT INCLUDED)													
SUBTOTAL HOURS/COSTS		0.5			4.0					4.5	\$530		\$530

EXHIBIT B - MANHOUR BREAKDOWN

TOWN OF FLOWER MOUND
BLUE RIDGE TRAIL
(APPROX. 970 LF)

TASK 5 - CONSTRUCTION ADMINISTRATION													
5.1	PRE-CONSTRUCTION MEETING (NOT INCLUDED)												
5.2	SITE VISITS (NOT INCLUDED)												
5.3	SHOP DRAWING REVIEW (NOT INCLUDED)												
5.4	REQUEST FOR INFORMATION (NOT INCLUDED)												
5.5	FINAL INSPECTION (NOT INCLUDED)												
5.6	RECORD DRAWINGS		0.5	2.0		16.0					18.5	\$2,060	\$2,060
SUBTOTAL HOURS/COSTS			0.5	2.0		16.0					18.5	\$2,060	\$2,060
TASK 6 - SPECIAL SERVICES													
6.1	PAVEMENT DESIGN (GEOTECHNICAL) (NOT INCLUDED)												
6.2	LEVEL A & B SUE - NIC												
6.3	TOLR SUBMITTALS & REVIEW (TO BE BILLED AS A DIRECT REIMBURSABLE EXPENSE AT ACTUAL COST X 1.1)											\$1,650	\$1,650
SUBTOTAL HOURS/COSTS												\$1,650	\$1,650
TASK 7 - REIMBURSABLES													
7.1	REIMBURSABLES (TO BE BILLED AT ACTUAL COST X 1.1)											\$1,000	\$1,000
SUBTOTAL HOURS/COSTS												\$1,000	\$1,000
FEE SUMMARY													
TASK 0 - PROJECT MANAGEMENT & COORDINATION			14.0							14	\$3,080		\$3,080.00
TASK 1 - TOPOGRAPHIC SURVEY FOR DESIGN			1.0				24.0	4.0	32.0	61	\$8,680		\$8,680.00
TASK 2 - PRELIMINARY DESIGN (65%)			15.5	26.0	56.0	78.0				176	\$20,990		\$20,990.00
TASK 3 - FINAL DESIGN (95% & 100%)			9.5	11.0	24.0	37.0				89	\$10,890		\$10,890.00
TASK 4 - BID PHASE SERVICES			0.5			4.0				5	\$530		\$530.00
TASK 5 - CONSTRUCTION ADMINISTRATION			0.5	2.0		16.0				19	\$2,060		\$2,060.00
TASK 6 - SPECIAL SERVICES												\$1,650	\$1,650.00
TASK 7 - REIMBURSABLES											\$1,000		\$1,000.00
TOTAL HOURS			41.0	39.0	80.0	135.0	24.0	4.0	32.0	362	\$47,230	\$1,650	
HOURLY RATES		\$328.00	\$220.00	\$135.00	\$105.00	\$105.00	\$110.00	\$175.00	\$160.00	\$80.00			
												TOTAL FEE	\$48,880



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: November 18, 2019

FROM: Brian Waltenburg P.E., Assistant Director of Engineering

ITEM: Consider approval of a Professional Services Agreement for the design phase services for the Lift Station Improvements and Decommissioning Phase II project, with Plummer Associates, Inc., for \$276,500; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: Phase II of the Lift Station Improvements and Decommissioning project includes the evaluation and design of improvements at the following lift stations: Garden Ridge, Kipling, Park Bend, Wichita 1, Wichita 2 and Wickersham.

The project will reduce maintenance and operational costs, keep the facilities within TCEQ compliance, address structural deficiencies, and replace necessary equipment. The preliminary engineer's opinion of probable cost is \$2,200,000. Construction is estimated to begin late Summer 2020 (FY 19/20).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Lift stations are a critical part of the Town's waste water collection system. During routine inspections, many components of the listed lift stations were identified to be in poor condition. Due to their age and condition, the lift stations will become more susceptible to leaks or failures. A decision to not approve the proposed agreement would result in the lift stations continuing to deteriorate and risk failure. The Town would be open to enforcement action by the Texas Commission on Environmental Quality (TCEQ) should sewage spill from a lift station.

FISCAL IMPACT: \$276,500

Proposed Expenditure/(Revenue):	Account Number(s):
\$276,500	630-970-98581

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

Total project cost is \$2,550,000. Funding sources are:

- Utility Debt \$ 2,550,000

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

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 18th day of November, 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 14755 Preston Road, Suite 420, Dallas, Texas 75254.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Lift Station Improvements and Decommissioning Phase II project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Two Hundred Seventy-Six Thousand Five Hundred and No/100 Dollars (\$276,500.00). 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 sub-contractor involving transactions to the subcontract, and further, that TOWN shall have access during normal working hours to all such engineer or sub-contractor

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

X.

Successors and Assigns

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

XI.

CONSULTANT's Liability

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

XII.

Indemnification

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

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

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

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.
Confidential Information

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

XIX.
Notice Information

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

Brian Waltenburg, P.E.,
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:

Adrian Dongell, P.E.
Project Manager
Plummer Associates, Inc.
14755 Preston Road, Suite 420
Dallas, Texas 75254
972-996-5685 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 Associate, Inc.

By: Cletus R Martin
 Name: Principal
 Title:
 Date Signed: 10/22/2019

State of Texas §
 County of Tarrant §

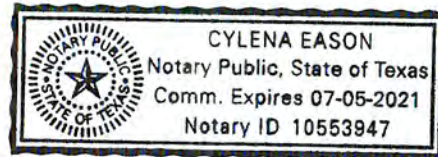
This instrument was acknowledged before me on the 23 day of October, 2019, by Cletus R. Martin in his capacity as Principal of Plummer Associates, Inc., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Authorized Representative.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 23
 DAY OF Oct, 2019.

Cylena Eason
 Notary Public, State of Texas

My Commission Expires:

7/5/2021



ATTACHMENT A
Town of Flower Mound
Lift Station Improvements Phase II
Scope of Services

Prepare initial evaluation, detail design documents, advertisement/award, and construction phase services for the improvement of five lift stations and one gravity interceptor.

The ENGINEER agrees to furnish the TOWN the following specific services:

BASIC ENGINEERING SERVICES

ENGINEER agrees to perform BASIC ENGINEERING SERVICES for modifications to five existing lift stations to allow for improvements to Garden Ridge, Kipling, Park Bend, Wichita 2, and Wickersham lift stations and the reroute of the gravity interceptor that flows to Kipling which is currently in the bottom of a creek, in accordance with the stipulations within this AGREEMENT. The ENGINEER shall perform BASIC ENGINEERING SERVICES necessary for the development of the PROJECT as follows:

A. EVALUATION PHASE SERVICES

1. The ENGINEER shall perform Evaluation Phase Services for the investigation, review, development and preliminary design required for the Lift Station Improvements Project (the PROJECT) described in the following paragraphs. The Town will assist in access to the lift station sites and provide information of existing installations.
2. The evaluation will consider the follow lift station improvement activities:
 - a. A site investigation will be performed to determine the existing condition and needs for the following lift stations:
 - i. Garden Ridge
 - ii. Kipling
 - iii. Park Bend
 - iv. Wichita 1 (Wet Well Coating Only)
 - v. Wichita 2
 - vi. Wickersham
 - b. Site assessment will include topographic survey of the lift station sites, except Wichita 1, and gravity line to assess site layout and site drainage. The wet well height will be reviewed for compatibility with drainage control. Survey shall generally include horizontal and vertical surface features; utilities, and drainage features. Accessible utility manholes/vaults shall be detailed identifying: structure size, material type, rim elevations, measure downs and corresponding flow

line and top of pipe elevations for visible pipe wall penetrations. The survey of trees shall include caliper size trunks approximately 6-in and larger. Based on the judgement of the ENGINEER the edge (tree line) of groups of trees or shrubs may be substituted for the survey of all trees within heavily wooded areas. Identification of tree species by an Arborist, if requested, shall be considered an Additional Service.

- c. Site assessment will include recommendation for landscape screening, driveway relocation, layout for control panel changes, emergency generator, SCADA location, and any additional appurtenances.
 - d. Site assessment will include what electrical and instrumentation improvements are needed including SCADA, control panels, flow meters, odor control and conversion or replacement of existing controls.
 - e. Site assessment will include review and recommendation for adding, replacing, or moving valves and associated vaults to meet TCEQ requirements.
 - f. It is understood that the Town will provide their current and future peak inflow for each lift station. Modeling and firm capacity analyses are considered Additional Services.
3. Conduct a project kick-off meeting at the beginning of the Project and hold a review meeting with the TOWN. Provide Design Memoranda which will include 30% drawings, specification TOC, design concepts, and related work for various portions of the project for review and comment. The Town will provide all available drawings or related submittal information for all lift stations and associated piping.
 4. Provide an opinion of probable construction cost of the Project for budget purposes. The ENGINEER's projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost.

B. DESIGN PHASE SERVICES – LIFT STATION IMPROVEMENTS

1. Prepare detailed plans, technical specifications, contract documents, designs and layouts of improvements, gravity interceptor reroute, generally as indicated and approved in the preliminary design task. Specifications shall include provisions for submittals, testing plans, training and warranty, and documentation requirements. Items to be designed will generally consist of the following:
 - a. Site Plans showing location of recommended improvements or work.
 - b. Demolition and removal plans.

- c. Mechanical Plans showing connection of pumping units or pumping connections, where required.
 - d. One-line diagrams showing modifications, where required.
 - e. Modifications to SCADA system to accept status, reporting, and operator override control of equipment.
 - f. Specifications.
2. Provide updated opinions of cost at approximately sixty percent (60%) and ninety percent (90%) complete milestones and prepare a detailed statement of final opinion of probable construction cost. The ENGINEER'S projection of construction costs will be based on materials and labor prices prevailing at the time of preparation, without consideration of inflationary increases in cost. The ENGINEER does not warrant the accuracy of the opinion of probable construction cost;
 3. Conduct up to two (2) review meetings with the TOWN.
 4. Furnish up to four (4) sets of interim plans (half-size), specifications, and contract documents at the sixty percent (60%) and ninety percent (90%) completion points to the TOWN. After receipt and following review, the TOWN's comments will be incorporated at each review stage.
 5. Upon completion, ENGINEER will furnish five (5) half-sized sets. Provide a copy on CD of final documents in electronic file format such as PDF.
 6. Assist the TOWN in the preparation of formal Contract Documents for Lift Station Improvements.

C. BID PHASE SERVICES

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

conformed documents on CD in electronic PDF file format and AutoCAD “dwg” format to TOWN.

D. CONSTRUCTION PHASE SERVICES

1. The ENGINEER agrees to perform the construction phase services in assisting the TOWN and Contractor during construction as described in the following paragraphs.
2. ENGINEER will attend and assist the TOWN in conducting one (1) preconstruction meeting.
3. Review submittals (up to 40, and 10 re-reviews), respond to up to five (5) requests for information from the TOWN and the Contractor, review up to two (2) Proposed Contract Modifications, and assist in the preparation of up to two (2) change orders.
4. Review Contractor’s monthly pay estimates (up to eight [8]).
5. Attend periodic site visits (up to eight [8]), monthly, or construction meetings, for reviewing the construction and the general compliance with Project Documents, and submit field report on findings.
6. Do an inspection of the work at Substantial Completion and Final Completion for general compliance with the Project documents, prepare a punch list, and recommend funds to be withheld from payment for completion of the outstanding work.
7. Assist TOWN in preparation of Project closeout documentation and prepare Plans of Record based on the mark-up information provided by the CONTRACTOR and TOWN’s inspector.
8. Perform investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the plans and specifications for each Phase.

ADDITIONAL SERVICES

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

- A. Providing shop, mill, field or laboratory inspection of materials and equipment.
- B. Assisting the TOWN in claims disputes with Contractor(s).
- C. Assisting TOWN or Contractor in the defense of prosecution of litigation in connection with or in addition to those services contemplated by this Agreement.

ENGINEER shall furnish such services, if any, on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.

- D. Sampling, testing or analysis beyond that specifically included in Basic Services.
- E. Preparing copies of Computer-Aided Drafting (CAD) electronic databases, drawings, or files for the TOWN's use in a future CAD system.
- F. Attending additional meetings as requested by TOWN.
- G. Providing additional copies of plans and specifications or providing services for more than one construction project.
- H. Providing arrangements for all subsurface investigations, including but not limited to geotechnical borings, test pits, soil resistivity surveys, and other subsurface explorations beyond what is specifically included in basic services, and the TOWN making or arranging to have made the interpretations of data and reports resulting from such investigations.
- I. Corps of Engineer Permitting, SWPPP, Traffic Control Plans, Subsurface Utility Engineering.
- J. Providing architectural or landscape design.
- K. Providing geotechnical investigations and Subsurface Utility Engineering (SUE).
- L. Providing design and surveying services for easements or temporary construction easements.
- M. Providing design services for modeling any of the lift stations.
- N. Revisions to the plans, specifications, or bid proposal made after approval of the final documents by the TOWN.
- O. Any additional services that may be required by the TOWN for completion of the project that are not included in the Basic or Special Services.

END OF DOCUMENT

ATTACHMENT B

COMPENSATION

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

A. Evaluation Services	\$ 50,000
B. Design Services	\$ 115,000
C. Bid Phase Services	\$ 20,000
D. Construction Phase Services	\$ 55,000
E. <u>Direct Reimbursable and Sub-Consultant Expenses*</u>	
a. Surveying Services	\$ 18,000
b. Reimbursables (mileage, printing)	\$ 8,500
Subtotal	\$ 266,500
Additional Services	\$ 10,000
Total	\$ 276,500

*Direct Reimbursable and Sub-Consultant Expenses includes Survey Subcontractor fees for Spooner & Associates, Mileage, Technology, Reproduction, Print, and Postage and Freight fees.

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

The budgetary allowance for Additional Services is \$10,000. Additional services must be authorized in writing by the TOWN. Time and materials billing for ENGINEER'S labor will be at the hourly rates provided in Attachment D. ENGINEER's direct expenses, including subcontractor expenses, will include a multiplier of 1.15.

ATTACHMENT C
TIME OF COMPLETION

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

	<u>Calendar Days</u>
Evaluation Services	90
Design Services	120
Bid Phase Services	60
Construction Phase Services	210

ATTACHMENT D
PLUMMER ASSOCIATES, INC.
HOURLY FEE SCHEDULE
2019

Staff Description	Staff Code	2019 Rate
Admin Staff	A1-A3	\$ 90.00
Senior Admin Staff	A4	\$ 120.00
Designer/Technician	C1-C2	\$ 90.00
Designer/Technician	C3	\$ 115.00
Senior Designer/Technician	C4	\$ 140.00
Electrical Engineer	EE1	\$ 145.00
Senior Electrical Engineer	EE2	\$ 280.00
Engineer/Scientist Intern	ES0	\$ 60.00
Engineer-in-Training/Scientist-in-Training	ES1-ES2	\$ 110.00
Engineer-in-Training/Scientist-in-Training III	ES3	\$ 125.00
Project Engineer/Scientist	ES4	\$ 140.00
Senior Project Engineer/Scientist	ES5	\$ 170.00
Project Manager	ES6	\$ 200.00
Senior Project Manager	ES7	\$ 240.00
Principal	ES8-ES9	\$ 305.00

Billing rates may be adjusted by up to 4 percent annually (at the beginning of each calendar year) during the term of this agreement.

A multiplier of 1.15 will be applied to all direct expenses.

A technology charge will be billed at \$5 per labor hour.



TOWN COUNCIL AGENDA ITEM NO. 9

REGULAR ITEM

DATE: November 18, 2019

FROM: Andrea Roy, Economic Development Director

ITEM: **Public Hearing to consider approval of an Agreed Termination of a Chapter 380 Agreement, Release of Lien, and Escrow Agreement, between the Town of Flower Mound, Old Town Development LLC, and Chris Gordon and Justin Springfield**

BACKGROUND INFORMATION: In order for the land and building (tenant is Mi Dia) at 2601 West Windsor Drive to be sold to a new owner, Old Town Development requests the Town's consideration of an Agreed Termination of the Chapter 380 Agreement and Release of Lien. To address the outstanding financial obligation associated with the purchase price of the land, and essentially replace the obligations outlined in the Chapter 380 Agreement and the Lien, the principals of Old Town Development have agreed to place the unpaid balance in an Escrow Account with the Town. Per the Escrow Agreement, if for any reason, the current restaurant ceases to exist and is no longer generating sales and use tax to the Town, the Town will draw down the unpaid balance from the Escrow Account. The terms of the Escrow Agreement are reflective of the current financial terms within the Chapter 380 Agreement.

It should be noted that the land and building sale will not affect the restaurant operations in any way.

History

On August 3, 2015, The Town approved a Chapter 380 Agreement, Sales Contract, Promissory Note, and Deed of Trust, between the Town of Flower Mound and Old Town Development LLC, related to the sale and development of a 1.613-acre Town-owned property at 2601 West Windsor Drive. The subject site was part of the approximately 22 acres purchased in April 2009 to construct West Windsor Road extension and park improvements. After development of the Senior Center, the Town solicited for bid proposals for this adjacent property to construct a large full-service restaurant. On June 15, 2015, the Town Council authorized the solicitation of bids and ultimately chose Old Town Development.

The Town sold the property to Old Town Development for a price of \$140,000 in exchange for Old Town Development constructing a restaurant consisting of 7,280 square feet of total dining space and signing Mi Dia as the sole tenant for the restaurant. The note was payable in annual installments of \$28,000 beginning five years after the issuance of a certificate of occupancy (CO issued on August 15, 2017) by the Town, subject to sales tax offsets contained within the 380 Agreement. The Chapter 380 Agreement also provided for permit fee waivers and Town maintenance of the drainage easement and detention pond's infrastructure for the term of the agreement.

On November 13, 2015, The Town entered into a subordination agreement with OTD FM2, LLC, OTD FM, LLC, and Frost Bank. The subordination agreement placed the Town in a second (or subordinate) lien position, only behind the bank, as it relates to the land transaction and the Chapter 380 Agreement between the Town and Old Town Development.

Later, on November 20, 2017, The Town entered into a new subordination agreement with OTD FM2, OTD FM, LLC, First United Bank & Trust, which maintained the Town's second lien position with no substantive changes, but allowed Old Town Development to convert the construction financing through Frost Bank to permanent financing through First United Bank and Trust.

Chapter 380 Developer Obligations

- Owner must purchase the property (Done)
- Owner must develop, construct, and operate/lease the property to Mi Dia or similar-type use (Done)
- Owner must ensure operation of the restaurant (Ongoing, Mi Dia - a 10-year lease is in place with multiple 5-year options)
- Owner must pay the Promissory Note, subject to the Sales Tax Credit (Ongoing)

To date, the majority of obligations of Old Town Development have been met, with the exception of the full payment of the \$140,000 (the land price) payable to the Town, which, per the terms of the Agreement, will be paid back to the Town through the 1% sales and use tax generated by the restaurant. The current balance due to the Town is \$59,603.78. To address this outstanding balance, the individual representatives from Old Town Development, Chris Gordon and Justin Springfield, will escrow the current balance with the Town, which will guarantee the Town will receive the remaining amount owed.

Chapter 380 Town Obligations

- Town will waive permit fees (Done)
- Town will maintain the detention pond infrastructure (Ongoing, will be terminated)
- Town will maintain the drainage easement (Ongoing, will be terminated)
- Town will provide permanent cross access and parking agreements (Done)
- Town will credit sales and use tax generated by the restaurant against the purchase price (Ongoing)

The Town currently maintains the pond and drainage easement, as part of the Chapter 380 Agreement; however, upon termination of the agreement, maintenance of the pond and drainage easement will no longer be the Town's responsibility. Maintenance responsibilities may be determined between the seller and buyer, but will become a private matter upon termination of the agreement. The **Termination Agreement** will close out the current Chapter 380 Agreement.

Escrow Agreement

While a balance of \$59,603.78 remains on the purchase price of the land, the Town is expected to receive the full \$140,000 in less than two years from now. In order to ensure receipt of the full amount, the individuals, Chris Gordon and Justin Springfield, will place \$59,603.78 in escrow with the Town. If, by August 15, 2022, the Sales and Use Tax Receipts collected by the Town from sales attributable to the restaurant, has not paid the \$140,000 balance in full, the Town will draw down the unpaid amount from the \$59,603.78 and return the remaining balance to the noted individuals.

Release of Lien

The Release of Lien will remove the existing lien originally placed on the property on August 14, 2015, for \$140,000, payable in annual installments of \$28,000, beginning five (5) years after the date of the issuance of the first certificate of occupancy. Again, the Escrow Agreement reflects these same terms, but removes the obligation from the land and places the obligation on the individuals.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: No additional costs will be incurred as a result of the termination.

LEGAL REVIEW: Drew Larkin of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the Termination Agreement, Release of Lien, and Escrow Agreement, as to form and legality.

ATTACHMENTS:

1. Agreed Termination of Chapter 380 Agreement
2. Release of Lien
3. Escrow Agreement

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

Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

**AGREED TERMINATION OF
CHAPTER 380 AGREEMENT
BETWEEN THE TOWN OF FLOWER MOUND
AND
OTD FM, LLC**

This Agreed Termination of Chapter 380 Agreement ("**Termination Agreement**") is made and entered into on this ____ day of _____, 2019, by and between the Town of Flower Mound, Texas ("**Town**"), and OTD FM, LLC d/b/a Old Town Development, LLC, a Texas limited liability company ("**Company**"), for the purposes and considerations stated below. Town and Company may sometimes hereafter be referred to individually as a "**Party**" or collectively as the "**Parties.**"

WITNESSETH:

WHEREAS, the Company, pursuant to a real estate contract of sale and agreement regarding development of property, purchased from the Town property located at 2601 West Windsor Drive, Flower Mound, Texas 75028 ("**Property**"); and

WHEREAS, the Company desired to develop, construct and lease the Property for use as a "Mi Dia" Mexican restaurant or similar upscale, full-service restaurant ("**Restaurant**"); and

WHEREAS, on August 3, 2015, the Town and Company entered into an Economic Development Agreement ("**Agreement**"), attached hereto as Exhibit A, which addresses various development issues related to the construction and operation of the Restaurant, and provides for certain economic incentives for the Company; and

WHEREAS, Town and Company agree that the development, construction, and operation of the Restaurant resulted in and promoted economic development in the Town, thereby increasing property values; and

WHEREAS, the development is consistent with the ordinances of the Town; and

WHEREAS, the Town has concluded and hereby finds that the Agreement promoted economic development in the Town of Flower Mound, Texas, and as such met the requirements of Article III, Section 52-a of the Texas Constitution, by assisting the development and diversification of the economy of the State, by eliminating unemployment or underemployment in the State, and by developing or expanding commerce within the State; and

WHEREAS, Company desires to sell the Property to a new owner and wishes to mutually terminate the Agreement; and

WHEREAS, the Town desires to enter into this Termination Agreement in exchange for escrowed funds to secure the payment of any outstanding balance potentially owed under the previous promissory note and Agreement.

NOW THEREFORE, for and in consideration of the terms and conditions contained herein, the Parties do mutually agree as follows.

Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

1. Termination of Agreement. The Agreement is terminated by mutual agreement of the Parties, effective as of the later of: (i) Town and Company's execution of this Termination Agreement; and (ii) the Town's receipt of the fully executed Escrow Agreement attached hereto as Exhibit C, and the Escrow Deposit described in the Escrow Agreement.
2. Payments and Incentives. Company has received all payments and incentives under the Agreement and waives any funds it may have had a right to claim under the Agreement whether past, present, or future.
3. Town Obligations. This Termination Agreement releases the Town from its obligations noted in the Agreement.
4. Company Obligations. This Termination Agreement releases the Company from its obligations noted in the Agreement.
5. Authority to Execute. The undersigned represent and warrant that they have the authority to act on behalf of the Parties hereto and to bind them to this Termination Agreement.
6. Voluntary Execution. Company acknowledges that it is fully and completely informed of the facts relating to this Termination Agreement, and of the rights and responsibilities of the Parties; Company enters into this Termination Agreement voluntarily after having given careful consideration to the making of this Termination Agreement; Company has discussed the provision of this Termination Agreement with an attorney of its own choice and has executed it in reliance upon its own judgement and the advice of its attorneys; and Company is legally competent to execute this Termination Agreement and understands its terms.
7. Entire Agreement. The undersigned represent that no inducement or agreement not herein contained has been made and that this Termination Agreement contains the entire agreement of the Parties.
8. Town Manager Authorization. The Town Manager, after Town Attorney review and approval, is authorized to execute a release of Town liens and subordination agreements affecting the Property.
9. Governing Law and Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Termination Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action concerning this Termination Agreement shall be in a court of competent jurisdiction in Denton County, Texas.
10. Attorney's Fees. If it becomes necessary to take legal action to interpret or enforce the terms of this Termination Agreement, the prevailing Party in such action shall be entitled to recover from the non-prevailing Party, the prevailing Party's reasonable attorney's fees and costs of court.

Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

[Signatures on following page]

Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, on this _____ day of _____, 2019.

TOWN:

TOWN OF FLOWER MOUND, TEXAS

By: _____
Steve Dixon, Mayor

ATTEST:

Theresa Scott, Town Secretary

STATE OF TEXAS §
 §
COUNTY OF DENTON §

The foregoing instrument was ACKNOWLEDGED before me on this _____, 2019, by Steve Dixon, the Mayor of the Town of Flower Mound, Texas, on behalf of said Town.

[S E A L]

My Commission Expires:

Notary Public, State of Texas

Printed Name of Notary Public

Printed Name of Notary Public

Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

EXHIBIT “A”

ECONOMIC DEVELOPMENT AGREEMENT BETWEEN

THE TOWN OF FLOWER MOUND AND

OTD FM, LLC

Denton County
Juli Luke
County Clerk
Denton, TX 76202



70 2015 00107593



Instrument Number: 2015-107593

Recorded On: September 16, 2015

As
Agreement

Parties: TOWN OF FLOWER MOUND

To

*Per Hwy Right
Old Town*

Billable Pages: 15

Number of Pages: 15

Comment: PER CUSTOMER

(Parties listed above are for Clerks reference only)

**** THIS IS NOT A BILL ****

Agreement	82.00
Total Recording:	82.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2015-107593
Receipt Number: 1338733
Recorded Date/Time: September 16, 2015 07:57:59A

Record and Return To:

TOWN OF FLOWER MOUND
2121 CROSS TIMBERS RD
FLOWER MOUND TX 75028

User / Station: T Duvall - Cash Station 2



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke

County Clerk
Denton County, Texas

**ECONOMIC DEVELOPMENT AGREEMENT BETWEEN
THE TOWN OF FLOWER MOUND
AND OLD TOWN DEVELOPMENT, LLC**

This Economic Development Agreement (hereinafter referred to as the "Agreement") is entered into by and between the Town of Flower Mound, Texas, a Texas home rule municipality (hereinafter referred to as the "Town"), and Old Town Development, LLC d/b/a Old Town Development, a Texas Limited Liability Company (hereinafter referred to as the "Owner"), pursuant to Chapter 380 of the Texas Local Government Code.

RECITALS

WHEREAS, Owner has, pursuant to a Real Estate Contract of Sale and Agreement Regarding Development of Property, contracted to purchase from the Town property located at 2601 West Windsor Drive, Flower Mound, Texas 75028, together with, all and singular, all improvements thereon and all rights and appurtenances pertaining thereto, which Property is more fully described as:

A 1.613 acre tract located at 2601 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R2, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

WHEREAS, Owner desires to develop, construct and lease the Property for use as a "Mi Dia" Mexican restaurant; and

WHEREAS, the Town and Owner wish to address various development issues related to the construction and operation of the restaurant, and to provide for certain economic development incentives for the Owner, and establish the terms and conditions for those incentives, as more fully described herein; and

WHEREAS, the Town and Owner agree that the development, construction, and operation of the restaurant will result in and promote economic development in the Town, thereby increasing property values; and

WHEREAS, the proposed development of the Property is consistent with the ordinances of the Town; and

WHEREAS, Chapter 380 of the Texas Local Government Code provides that Texas municipalities may create programs to promote local economic development; and

WHEREAS, the Town wishes to partner with Owner and provide various incentives to Owner to assist in the economic development of the Property; and

WHEREAS,, the Town has concluded and hereby finds that this Agreement in its entirety clearly promotes economic development in the Town and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and further, is in the best interests of the Town and Owner; and

WHEREAS, Owner has applied to the Town for financial accommodations, including those which are described in this Agreement and those which may be described in any exhibit or schedule attached to this Agreement.

NOW, THEREFORE, THE TOWN AND OWNER AGREE AS FOLLOWS:

SECTION 1. FINDINGS INCORPORATED

All the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

SECTION 2. TERM

This Agreement shall be effective as of the Effective Date and end when the parties have fulfilled all of their respective obligations in accordance with this Agreement, unless terminated early as provided in this Agreement. Upon Owner's payment in full and/or the full credit or offset of all Note Obligations as a result of Sales and Use Tax Receipts in accordance with all documents governing such Note Obligations, all provisions of this Agreement shall terminate and be of no further force and effect with the exception of Section 5(B), Section 5(C), and Section 5(D), which shall in all events remain in effect until the tenth (10th) anniversary of the Commencement Date of the lease between Owner and Restaurant.

SECTION 3. PROGRAM ESTABLISHED

A Program authorized under Chapter 380 of the Texas Local Government Code is hereby established to bring a "Mi Dia" restaurant to the Town, as defined below. The terms of this Agreement shall implement the Program.

SECTION 4. DEFINITIONS

The following words shall have the following meanings when used in this Agreement.

Agreement. The word "Agreement" means this 380 Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.

Certificate of Occupancy. The words "Certificate of Occupancy" means the certificate issued by the Town building official reflecting that construction has been completed in conformance with appropriate municipal codes and the Owner is authorized to secure full utility service and to permit commercial occupancy of the building.

Effective Date. The words "Effective Date" mean the latter of the date this Agreement is executed by the Town and the date this Agreement is executed by Owner.

Force Majeure. The words "Force Majeure" mean any cause, condition or event, which is beyond the control of Owner or any person for whom Owner is responsible, that could not reasonably be avoided through ordinary care, including, but not limited to, flood, fire, Acts of God, shortage of labor or materials, acts of terror, riot, war, and civil unrest.

Improvements. The word "Improvements" means the Restaurant and related amenities located on the Property.

Note Obligations. The words "Note Obligations" mean all amounts owed or which may become owed by Owner to the Town under the terms of the Promissory Note, as defined herein, including all extensions, renewals, modifications, increases and replacements of the Promissory Note, whether or not evidenced by a new promissory note or other instrument.

Opening Date. The words "Opening Date" mean the date after which a Certificate of Occupancy has been received by the Owner and the Restaurant is fully open to accommodate restaurant patrons and guests.

Owner. The word "Owner" means, as of the Effective Date, OTD FM, LLC d/b/a Old Town Development, a Texas Limited Liability Company, whose address is: OTD FM, LLC d/b/a Old Town Development, Attn: Chris Gordon, Manager and Chief Financial Officer, 2241 Veranda Avenue, Trophy Club, Denton County, Texas 76262; Telephone: (817) 863-8480; E-mail: Chris@OTDTexas.com

Program. The word "Program" means the program established pursuant to Chapter 380 of the Texas Local Government Code as set forth in Section 3 of this Agreement.

Promissory Note. The words "Promissory Note" mean the Real Estate Lien Note dated the same date as this Agreement, in the original principal amount of One Hundred Forty Thousand Dollars and no cents (\$140,000.00), and bearing pre-default interest at the rate of zero percent (0%) per annum, executed by Owner and payable to the order of the Town, and all amendments, restatements, increases, renewals, and extensions of the Promissory Note.

Property. The word "Property" means the Property located at 2601 West Windsor Drive, Flower Mound, Texas 75028, together with, all and singular, improvements thereon and all rights and appurtenances pertaining thereto, which Property is more fully described as a 1.613 acre tract located at 2601 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R2, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

Restaurant. The word "Restaurant" means "Mi Dia" an upscale, full-service Mexican restaurant with wait staff, consisting of approximately 7,280 square feet of total dining space, 5,065 square feet of air conditioned building space, and 2,215 of outdoor dining patio area, together with associated sidewalks, landscaping, lighting, utilities, signage and parking improvements, with a design substantially similar and consistent with the layout shown on Exhibit A, attached hereto, and an appearance substantially similar and consistent with the photographs shown on Exhibits B and C, attached hereto, with a general concept or site plan substantially similar and consistent with the site layout shown on Exhibits B and C.

Sales and Use Tax and Sales and Use Tax Receipts. The words "Sales and Use Tax" or "Sales and Use Taxes" or "Sales and Use Tax Receipts" mean the Town's municipal sales and use tax, currently at the rate of one percent (1.0%), pursuant to section 321.103(a) of the Texas Tax Code, as amended, generated by the Restaurant on the Property; provided, should the Texas Legislature amend the applicable Tax Code provision to increase or decrease the amount of allowed municipal sales and use tax, then in the event of a decrease, Sales and Use tax shall mean the actual amount of sales and use tax received by the Town, and in the event of an increase, the Sales and Use Tax shall mean one percent (1.0%). The Sales and Use Tax does not include any portion of any dedicated sales tax collected for any purpose or entity other than the one percent (1.0%) general municipal sales and use tax, and expressly excludes, among other taxes, any sales and use tax collected for the Town Crime Control and Prevention District, the Town Fire Control, Prevention & Emergency Medical Services District, the Town Community Development Corporation, or for street maintenance.

Sales Tax Certificate. The words "Sales Tax Certificate" mean a document provided to the Town by Owner itemizing the payment of sales and use taxes by Owner or the Lessee of Owner in connection with operation of the Restaurant.

State Comptroller. The words "State Comptroller" mean the Office of the Texas Comptroller of Public Accounts, or any successor agency.

Town. The word "Town" means the Town of Flower Mound, Texas, a Texas home rule municipality, whose address for the purposes of this Agreement is: Town of Flower Mound, Attn: Town Manager, 2121 Cross Timbers Road, Flower Mound, Texas 75028.

SECTION 5. OWNER'S OBLIGATIONS AND AGREEMENTS

A. **Owner's Obligation to Purchase the Property.** Owner must purchase the Property from the Town for a purchase price of One Hundred Forty Thousand Dollars and no cents (\$140,000.00) (the "Purchase Price"), pursuant to the Real Estate Contract of Sale and Agreement Regarding Development of Property entered into by the parties contemporaneously with this Agreement.

B. **Owner's Obligation to Construct and Operate the Restaurant.** Owner intends to develop, construct, and operate or lease the Property for purposes of

operating the Restaurant on the Property. Owner's development, construction, and leasing of the Property shall comply in all respects to applicable Town ordinances and regulations and all applicable development approvals, permits and conditions granted, provided for, or required thereunder. Owner agrees that from and after the Opening Date to use its best efforts to continuously use and operate the Property as the the Restaurant (subject, however, to any cessations due to causes or events of Force Majeure or due to restaurant remodeling, renovation or casualty/condemnation repairs and replacements), and the Property shall not be used for any purpose other than as the Restaurant open to the public and serving visitors, the adjacent business community, and the citizens of the Town. Notwithstanding anything to the contrary herein, if at any time it becomes commercially impractical to operate the Property as the Restaurant as a result of Force Majeure or otherwise due to circumstances beyond Owner's control (a "Mi Dia Closure"), Owner may replace the "Mi Dia" tenant with an alternative full-service restaurant tenant which does not have another location within five (5) miles of the Property and which must be approved by the Town ("Approved Replacement"), which Town approval shall not be unreasonably withheld, conditioned, or delayed. In the event of a Mi Dia Closure, Owner shall not be in violation of this Agreement so long as Mi Dia is replaced with an Approved Replacement, and the Approved Replacement tenant shall replace Mi Dia and be the "Restaurant" as defined by this Agreement.

C. Completion of Construction and Execution of Lease with Restaurant Operator. Except as prevented by delays caused by Force Majeure, Owner must complete construction of the Restaurant improvements and receive a certificate of occupancy no later than March 31, 2017, and enter into a lease for a period of at least ten (10) years with the Restaurant operator for the lease of the Property on or before such date; and

D. Operation of Restaurant for the Term. Owner must ensure that the Restaurant opens for business on or before March 31, 2017, and operate continuously for the term of this Agreement, excepting, however, delays and/or closures due to Force Majeure, and in the event the Restaurant ceases to operate on the Property, to lease the Property to exercise commercially reasonable diligence to lease the Property to an Approved Replacement.

E. Payment of Promissory Note. Owner must pay the Promissory Note as provided therein, subject to the Sales Tax Credit provisions below.

F. Undocumented Workers. Owner certifies that during the Term of this Agreement, Owner will not knowingly employ and directly hire an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended; provided, however, Owner shall not be in default of this covenant in the event other persons or entities working by, through or under Owner hire an undocumented worker (e.g., one of Owner's contractors hires an undocumented subcontractor or the Restaurant operator hires an undocumented worker.). If during the Term of this Agreement, Owner or its assignee, as applicable, is convicted of a violation under 8

U.S.C. § 1324a(f), and all appeal periods with respect thereto have expired or all appeals with respect thereto have been fully and finally adjudicated in favor of affirming the conviction, Owner shall repay the amount of the public subsidy provided to the Owner under this Agreement plus interest, at the rate of six percent (6%), not later than one hundred twenty (120) days after the date the Town notifies Owner of the violation in writing.

G. As-Is Sale and Waiver and Release Of Claims. OWNER ACKNOWLEDGES THAT OWNER HAS INSPECTED THE PROPERTY AND ACCEPTS IT AS IS, WITH ALL FAULTS, WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS. IN ADDITION, OWNER WAIVES AND RELEASES ANY RIGHTS AND CLAIMS UNDER THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE CHAPTER 37). AFTER CONSULTATION WITH AN ATTORNEY OF OWNER'S OWN SELECTION, OWNER ALSO VOLUNTARILY WAIVES PURCHASER'S RIGHTS AND CLAIMS UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT (TEXAS BUSINESS & COMMERCE CODE SECTION 17.41, ET SEQ.). OWNER ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF THIS SECTION INVOLVE THE INTENTIONAL RELINQUISHMENT OF KNOWN RIGHTS AND THAT THERE IS NO DISPARITY OF BARGAINING POWER BETWEEN OWNER AND THE TOWN. Owner also acknowledges that the Town has made no warranty or representation that the property is suitable for Owner's intended use. Owner waives and releases any claim that Owner may have against the Town, and the Town's officers, officials, employees, and representatives, in both their official and individual capacities, including any claims for damages and expenses, including attorney's fees and court costs, arising out of the warranties and representations disclaimed herein. The provisions of this Section will survive Closing and will be included in the Special Warranty Deed.

SECTION 6. TOWN'S OBLIGATIONS AND AGREEMENTS

A. Impact and Building Permit Fees. The Town will waive any and all fees imposed by the Town related to the Project, including, but not limited to, impact (water, wastewater, and/or road) fees, building permit fees, permit fees, inspection and drainage inspection fees, infrastructure fees, permits, inspection fees, and tap fees relating to the development of the Property and the construction of the Improvements.

B. Detention Pond Infrastructure. The Town will maintain the detention pond infrastructure and related drainage infrastructure in the Long Prairie Road and detention pond easements, and will maintain the pond's cleanliness so as to be free of garbage, rubbish, and waste and excessive algae throughout the Term.

C. Maintenance of Drainage Easement. The Town will maintain the drainage easement located on the Property and shown on the site plan attached as Exhibit D throughout the Term.

D. **Cross Access and Parking.** The Town will provide permanent cross access and parking agreements for the benefit of the Property with the adjacent Senior Center property.

E. **Sales Tax Rebate Credit Granted.** The Town will credit or offset against the Note Obligations all Sales and Use Tax Receipts collected by the Town from sales and revenues from the Restaurant operation, as reported by the Restaurant to the State Comptroller, in the five (5) years commencing on the date of issuance of the first certificate of occupancy for of the Restaurant in an amount equal to the lesser of: (1) the total of the Note Obligations, or (2) the amount collected by the Town from the Sales and Use Tax Receipts collected. If the five (5) year period ends during a reporting period, the amount of the credit for that period will be prorated accordingly.

F. **Sales Tax Credit Procedures.** The following provisions govern calculation and application of the credit or offset provided by this Section:

- (1) Late fees, interest, and attorney's fees are not eligible for credit or offset under this Section.
- (2) After the month in which Restaurant operator makes its final payment of Sales and Use Tax to the State Comptroller for its first full or partial calendar quarter of sales for the Restaurant, and continuing each successive calendar quarter thereafter, Owner agrees to submit to the Town a "Sales Tax Credit Submittal Request."
- (3) Owner's Sales Tax Credit Submittal Request shall state the gross amount of the Sales and Use Tax paid by the Restaurant operator for the applicable quarter and the amount of the credit due for such quarter, and shall include a copy of the Restaurant's quarterly report to the State Comptroller.
- (4) Owner's documentation shall identify the taxable "sales and use tax-eligible" sales from the Restaurant for the preceding quarter.
- (5) Unless otherwise determined by the Texas Attorney General in writing, the submitted documentation shall be considered confidential financial information contained in a public document (or other reproduction media) not subject to release to the public. The Town shall seek a written opinion from the Texas Attorney General, raising any applicable exception to release, prior to any release to a third-party under the Texas Public Information Act. The Parties agree, however, that this Agreement shall not be considered confidential.
- (6) If Owner shall fail to submit a Sales Tax Credit Submittal Request for a particular quarter, then the Town may give Owner written notice of Owner's failure to timely submit such Sales Tax Credit Submittal Request, and Owner shall have thirty (30) calendar days calculated from the date on which such written notice is given in which to submit such Sales Tax Credit Submittal Request.

- (7) The Town's determination of the amount of the Sales Tax Credit due Owner is final; provided, however, that Owner may appeal to the Town Council within thirty (30) days of payment, the Town Council shall hear the appeal within thirty (30) days and the Town Council's determination of the amount of the Sales Tax Credit shall be final.

SECTION 7. DEFAULT

Each of the following shall constitute an Event of Default under this Agreement:

- A. **Cessation of Operations.** At any point during the Term of this Agreement, Owner ceases operations on the Property for more than thirty (30) consecutive days, unless such cessation is due to causes or events of Force Majeure or due to restaurant remodeling, renovation or casualty/condemnation repairs and replacements.
- B. **Breach of Warranty, Misrepresentation or Omission.** Any warranty, representation or statement made or furnished to the Town by or on behalf of Owner under this Agreement or any document(s) related hereto is/are false or misleading in any material respect, either now or at the time made or furnished, and Owner fails to cure same within sixty (60) days after written notice from the Town describing the violation, or if such violation cannot be cured within such 60-day period in the exercise of all due diligence, then if Owner fails to commence such cure within such 60-day period or fails to continuously thereafter diligently prosecute the cure of such violation, or if Owner learns that any such warranty, representation or statement has become false or misleading at the time that it was made, and Owner fails to provide written notice to the Town of the false and misleading nature of such warranty, representation or statement within ten (10) days after Owner learns of its false or misleading nature.
- C. **Breach of Agreement.** Failure of Owner to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any related documents (including applicable Town ordinances), or failure of Owner to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement between Owner and the Town, and Owner fails to cure such failure within ninety (90) days after written notice from the Town describing such failure, or if such failure cannot be cured within such 90-day period in the exercise of all due diligence, then if Owner fails to commence such cure within such 90-day period or fails to continuously thereafter diligently prosecute the cure of such failure.
- D. **Early Termination.** If any Event of Default by Owner shall occur, and Owner fails to cure same in accordance herewith, the Town may terminate this Agreement. In such event, Owner shall forfeit all entitlement to future economic development incentives to Owner under this Agreement, and Owner will then be obligated to pay the balance of the Promissory Note to the Town as provided in the Promissory Note.

SECTION 8. MISCELLANEOUS

A. **Right of Access.** Owner further agrees that the Town, its agents and employees, shall have a reasonable right to access to the Property and any improvements thereon to inspect same in order to ensure that the construction of the improvements is in accordance with this Agreement and/or all applicable federal, state and local laws, ordinances and regulations. After completion of the improvements, the Town and its agents and employees shall have the continuing right of inspection to ensure that such are thereafter maintained and operated in accordance with this Agreement and/or all applicable federal, state and local laws.

B. **Inspection of Books.** The Town shall have the right to inspect Owner's books and related documents, upon five (5) days' written notice to Owner, to determine Owner's compliance with the provisions of this Agreement. The failure to allow the inspection of Owner's books and related documents shall constitute an Event of Default.

C. **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.

D. **Covenant 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 any and all phases of the Project shall be subject to this Section of this Agreement.

E. **Application of Texas 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.

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

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

If to Owner: Chris Gordon, Owner and Chief Financial Officer
 OTD FM, LLC d/b/a Old Town Development
 2241 Veranda Avenue
 Trophy Club, Texas 76262

G. **Prevailing Party in Event of Legal Action.** In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

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

I. **Invalidation.** Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

J. **Telecopied Facsimile.** A telecopy facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein.

K. **Mayor Authorized to Execute.** The Town Council hereby authorizes the Mayor of the Town of Flower Mound to execute this Agreement on behalf of the Town.

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

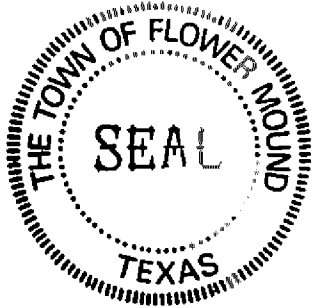
M. **Binding Obligation.** The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Owner to same. Further, this Agreement is and shall be binding upon Owner, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

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

O. **Assignment.** This Agreement may not be assigned without the express written consent of the other Party.

END OF PAGE – SIGNATURES TO FOLLOW

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, on this 83rd day of August, 2015.



TOWN:

TOWN OF FLOWER MOUND, TEXAS

Thomas E. Hayden

Thomas E. Hayden, Mayor

ATTEST:

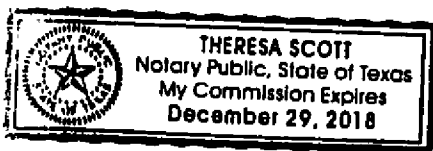
Theresa Scott

Theresa Scott, Town Secretary

STATE OF TEXAS)

COUNTY OF DENTON)

This instrument was acknowledged before me on the 17 day of Aug, 2015, by Thomas E. Hayden, Mayor of the Town of Flower Mound, Texas, a Texas home rule municipality, on behalf of said Town.



Theresa Scott
Notary Public for the State of Texas

Signed this 14th day of August, 2015.

OWNER:

**OTD FM, LLC
D/B/A OLD TOWN DEVELOPMENT**

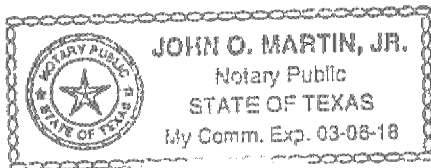
By:


Chris Gordon
Member and Manager

STATE OF TEXAS

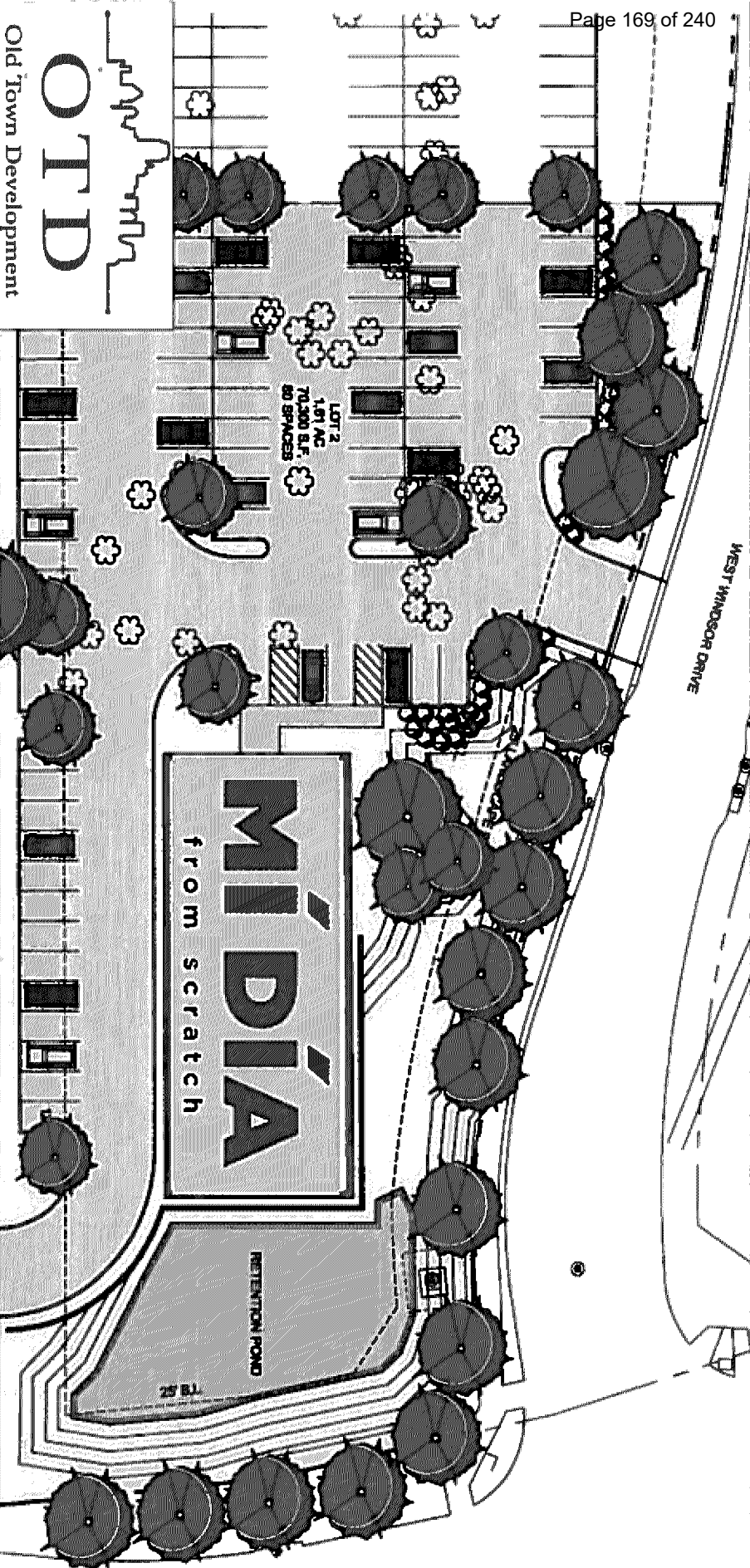
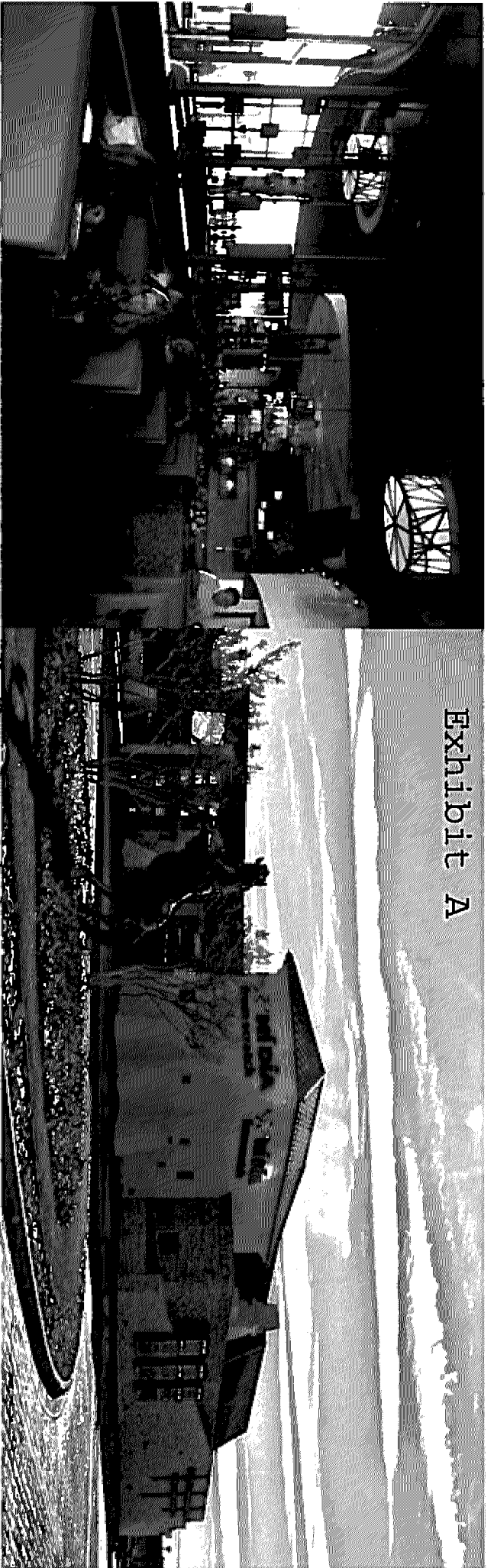
COUNTY OF Denton

This instrument was acknowledged before me on the 14th day of August, 2015, by Chris Gordon, a Member and Manager of OTD FM, LLC, d/b/a Old Town Development, a Texas limited liability company, on behalf of said limited liability company.



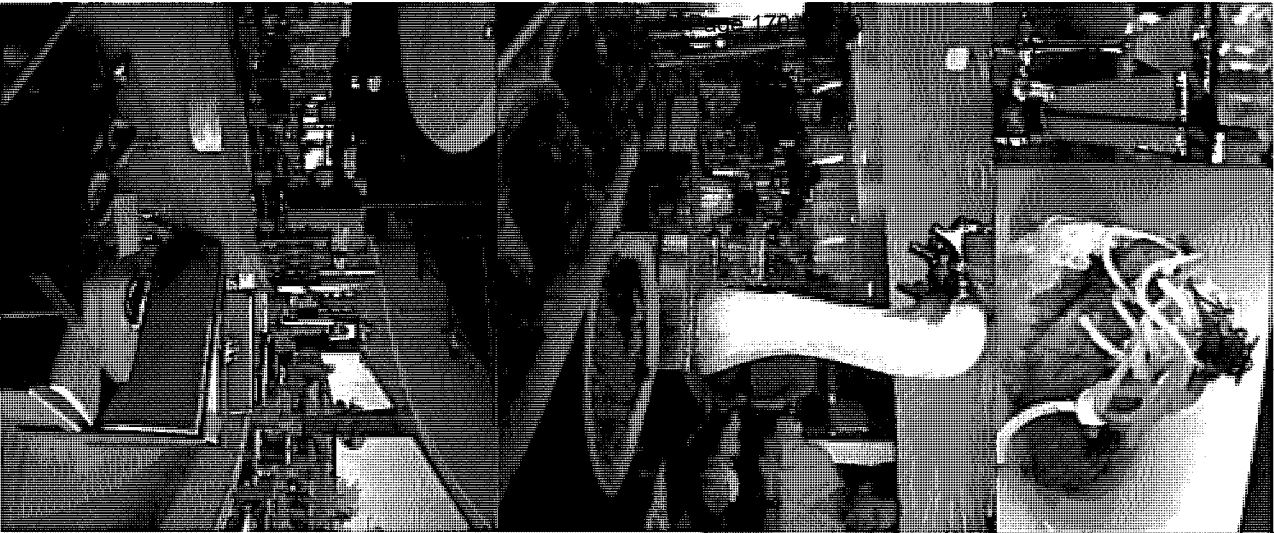

Notary Public for the State of Texas

Exhibit A



OTD

Old Town Development



RECIPROCAL ACCESS AND PARKING AGREEMENT

This Reciprocal Access And Parking Agreement (the "Agreement") is made and entered into this 15 day of September, 2015, by and between the Town of Flower Mound, a political subdivision of the State of Texas, (the "Parcel A Owner"), and OTD FM, LLC d/b/a Old Town Development, a Texas Limited Liability Company (the "Parcel B Owner").

RECITALS

- A. The Parcel A Owner is the owner of certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference ("Parcel A").
- B. The Parcel B Owner is the owner of that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference ("Parcel B"), which Parcel B is located adjacent to Parcel A.
- C. The Parcel B Owner intends to develop Parcel B for use as a Mi Dia restaurant (hereinafter defined).
- D. Parcel A is developed as a municipal senior citizen center.
- E. The parties hereto desire to provide for cross-access and shared parking on the Parcels, and to establish certain covenants with respect to said Parcels, for the mutual and reciprocal benefit and complement of Parcel A and Parcel B and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Parcel A Owner and the Parcel B Owner hereby covenant and agree that during the term of this Agreement the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms and covenants hereinafter set forth in this Agreement, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Agreement and, in connection therewith, the parties hereto on behalf of themselves and their respective successors and assigns covenant and agree as follows:

1. **Definitions.** For purposes hereof:

1.1 The term "Owner" or "Owners" means the Parcel A Owner (as to Parcel A) and the Parcel B Owner (as to Parcel B) and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment,

inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property or any tenants or other owners of non-fee estates.

1.2 The term "Parcel A" means that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

1.3 The term "Parcel B" means that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "B" attached hereto and incorporated herein by reference.

1.4 The term "Parcel" or "Parcels" means Parcel A and Parcel B, and, and any future subdivisions thereof.

1.5 The term "Permittees" means the Parcel A Owner, the Parcel B Owner, and the tenant under the Restaurant Lease, and their respective employees, agents, contractors, customers, invitees and licensees.

1.6 The term "Restaurant" means a "Mi Dia" an upscale, full-service Mexican restaurant with wait staff, consisting of approximately 7,280 square feet of total dining space, 5,065 square feet of air conditioned building space, and 2,215 of outdoor dining patio area, together with associated sidewalks, landscaping, lighting, utilities, signage and parking improvements, or its "Approved Replacement" as defined in the Economic Development Agreement Between the Town of Flower Mound and Old Town Development, LLC .

1.7 The term "Restaurant Lease" shall mean that Lease of Parcel B from the Parcel B Owner as landlord to Mi dia or other approved restaurant as tenant, and any amendments, extensions or replacements thereof.

1.8 The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit "C" and by reference made a part hereof. Except as may be otherwise provided in this Agreement, the Site Plan is for identification purposes only.

2. Easements.

2.1 Grant of Easement. Subject to any express conditions, limitations or reservations contained herein, the Owners hereby grant, establish, covenant and agree that the Parcels, and the Owners and Permittees of the Parcels, shall be benefited and burdened by a nonexclusive reciprocal easement for reasonable access, ingress, egress over the paved driveway areas as presently or hereafter constructed on Parcel A and Parcel B (the "Driveway"), so as to provide for the passage of motor vehicles to and from the Parcels, and a nonexclusive reciprocal easement for shared parking over the paved parking areas as presently or hereafter constructed on Parcel A and Parcel B (the "Parking Areas"), so as to provide for common, shared parking, all as depicted on the Site

Plan, or any alterations of such Site Plan properly approved and permitted by the Town of Flower Mound.

- 2.2 Access.** The Driveway, Parking Areas, and the street access points on the Parcels for entry into and exit from the Driveway may not be blocked, closed, altered, changed or removed except as necessary for the preservation of public safety or repairs to such areas, in which case the Owner of the property affected agrees to complete such repairs as quickly as practical, to limit access only to the extent reasonably necessary to complete such repairs, and to provide for alternate access to the extent reasonably practical. In no event shall the businesses or facilities operated on the Parcels be conducted in such a manner as to cause motor vehicles to stop or stand on the other Parcel or the Driveway, or otherwise interfere with the normal pattern and flow of vehicular traffic on and across the Parcels and the Driveway.
3. **Construction and Maintenance.** The Driveway and Parking Areas on Parcel B shall be constructed and completed by the Owner of Parcel B at the same time as such Owner develops Parcel B. Each Owner covenants, after construction of the Driveway and Parking Areas by the Owner of Parcel B, and during the term hereof, to maintain or cause to be maintained at its expense the portion of the Driveway and Parking Areas located on its Parcel in good order, condition and repair. Maintenance of the Driveway and Parking Areas shall include, without limitation, maintaining and repairing the paved surface and performing any and all such other duties as reasonably necessary to maintain the Driveway and Parking Areas, including maintaining marking, directional signs, lines and striping in good condition. All maintenance work shall be conducted in such a manner and at such time as to minimally interfere with access to and from the Parcels. An Owner must provide reasonable advance written notice to the other Owner of any maintenance work to be performed by or on behalf of such Owner that will require temporary blockage of access to, from, or along the Driveway and Parking Areas, except for emergency repairs the need for which cannot reasonably be anticipated in advance.
4. **Insurance.** Both the Parcel A Owner and Parcel B Owner agree to maintain, or require its tenants to maintain, at all times a policy providing comprehensive property casualty and liability insurance protection with limits in an amount not less than one million Dollars (\$1,000,000.00) per occurrence, issued by an insurer licensed in the State of Texas covering the Driveway and the Parking Areas located on its Parcel.
5. **No Rights in Public; No Implied Easements.** Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Parcel A or Parcel B. No easements shall be implied by this Agreement except those expressly created herein.
6. **Restrictions on Use.** The Owner of each Parcel agrees that the cross-parking rights granted herein are for occasional overflow parking only when the parking on the Owner's Parcel is at or near capacity, and each Owner agrees to use

reasonable efforts to minimize cross-parking on the other Parcel so as not to unreasonably burden the other Parcel when parking is available on the Owner's Parcel.

7. Remedies and Enforcement. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms or covenants hereof, the other Owner or its Permittees shall be entitled all legal and equitable remedies available under law for such breach.
8. Term. The easements and covenants contained in this Agreement shall be effective from the date of signature and shall terminate at the later of (1) twenty-five years, or (2) upon the cessation of operations of the Restaurant for a period of 180 days or more, provided, however, that if the cessation of operations of the Restaurant was due to an Act of God or other casualty, or otherwise due to construction and the Parcel B Owner or its Permittees are exercising reasonable diligence to recommence operations of the Restaurant, the term shall be extended during such period.
9. Miscellaneous.
 - 9.1 Attorney's Fees. In the event any party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.
 - 9.2 Amendment. The parties agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Parcel A and Parcel B.
 - 9.3 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.
 - 9.4 Severability. Each provision of this Agreement and the application thereof to Parcel A and Parcel B are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

9.5 Time of Essence. Time is of the essence of this Agreement.

9.6 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party and Walgreen may change from time to time their respective address for notice hereunder by like notice to the other party and Walgreen. Notice given by any Owner hereunder to be effective shall also simultaneously be delivered to Walgreen (during the continuance of the Walgreen Lease). The notice addresses of the Parcel A Owner and the Parcel B Owner are as follows:

Parcel A Owner: The Town of Flower Mound, Texas
Attn: Town Manager's Office
2121 Cross Timbers Road
Flower Mound, Texas 75028

Parcel B Owner: Chris Gordon, Manager
OTD FM, LLC d/b/a Old Town Development
2241 Veranda Avenue
Trophy Club, Texas 76262

9.7 Governing Law. The substantive laws of the State of Texas, exclusive of its choice-of-law rules, shall govern the interpretation, validity, performance, and enforcement of this Agreement.

9.8 Governmental Regulation. Nothing contained herein shall be construed as affecting or limiting the authority of the Town of Flower Mound to exercise its regulatory or police authority to enforce its laws, ordinances, and regulations, or creating any liability on the part of the City for exercise of such regulatory or police authority.

9.9 No Waiver of Governmental Immunity. Nothing contained herein shall be construed as waiving the Town of Flower Mound's governmental immunity or any other protection afforded to it due to its governmental status by applicable law, including any limitations on the award of damages against it.

9.10 No Third Party Beneficiaries. There are no intended third-party beneficiaries of this Agreement except the Permittees named or identified in this Agreement, and nothing contained herein shall be construed as creating any other third-party beneficiaries.

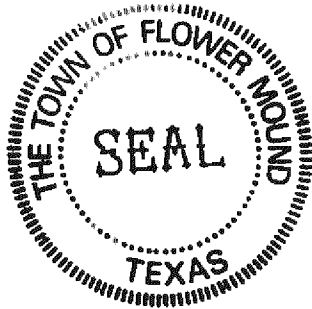
9.11 Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

9.12 Application of Texas 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.

9.13 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.

END OF AGREEMENT – SIGNATURES TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.



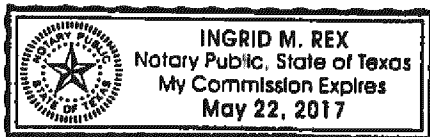
TOWN OF FLOWER MOUND, TEXAS
Parcel A Owner

A handwritten signature in cursive script, appearing to read "Jimmy Stathatos".

Jimmy Stathatos, Town Manager

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 15th day of September, 2015, by Jimmy Stathatos, Town Manager, of the Town of Flower Mound, Texas, a Texas home rule municipality, on behalf of said Town.



A handwritten signature in cursive script, appearing to read "Ingrid M. Rex".

Notary Public for the State of Texas

Signed this 9th day of September, 2015.

OTD FM, LLC
D/B/A OLD TOWN DEVELOPMENT
Parcel B Owner

By:


Chris Gordon
Member and Manager

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 9 day of September, 2015, by Chris Gordon, a Member and Manager of OTD FM, LLC, d/b/a Old Town Development, a Texas limited liability company, on behalf of said limited liability company.


Notary Public for the State of Texas

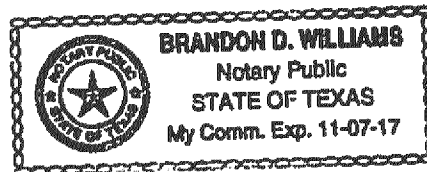


Exhibit "A" - Legal Description of Parcel A.
Exhibit "B" - Legal Description of Parcel B.
Exhibit "C" - Site Plan.

EXHIBIT "A"
Legal Description of Parcel A

A 2.878 acre tract located at 2701 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R1, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

EXHIBIT "B"

Legal Description of Parcel B

A 1.613 acre tract located at 2601 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R2, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

EXHBIT "C"
Site Plan

WEST WINDSOR DRIVE
(60' R.O.W.)

MI DIA - FLOWER MOUND PRELIMINARY SITE PLAN
NOT TO SCALE
SEPT 1, 2015

LOT 2
1.61 AC
70,300 S.F.
80 SPACES

RETENTION POND

05:04:15 E 00:00

5271-5

Figure 1

$$\begin{aligned} R &= 392.00' \\ &= 5^{\circ}29'52'' \\ L &= 37.61' \\ LC &= 85^{\circ}43'25'' \\ &= 37.60' \end{aligned}$$
$$\begin{aligned} R &= 380.00' \\ &= 30058'' \\ L &= 20.00' \\ LC &= 57427'48'' \text{ E. } 20.00' \end{aligned}$$

Pr=495.00

~~L=15271~~

11



Figure 1. Schematic diagram of the experimental setup. The subject is seated in a chair, viewing a screen displaying a target. The target is a horizontal line, and the subject is required to move the hand to the target. The distance between the hand and the target is 10 cm. The subject is required to move the hand to the target within a specified time interval. The distance between the hand and the target is 10 cm. The subject is required to move the hand to the target within a specified time interval.

1

7

PO3



2

Denton County
Juli Luke
County Clerk
Denton, TX 76202



70 2015 00127349

Instrument Number: 2015-127349

As

Recorded On: November 03, 2015

Agreement

Parties: TOWN OF FLOWER MOUND

RE-FILED

Billable Pages: 17

To

Number of Pages: 17

Comment: *Old Town Development/Parking - RE-FILED*
(Parties listed above are for Clerks reference only)

**** THIS IS NOT A BILL ****

Agreement 90.00
Total Recording: 90.00

******* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2015-127349
Receipt Number: 1355826
Recorded Date/Time: November 03, 2015 08:44:37A

Record and Return To:

TOWN OF FLOWER MOUND
2121 CROSS TIMBERS RD
FLOWER MOUND TX 75028

User / Station: J Baker - Cash Station 4



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke

County Clerk
Denton County, Texas

Denton County
Juli Luke
County Clerk
Denton, TX 76202



Instrument Number: 2015-107592

As

Recorded On: September 16, 2015

Agreement

Parties: TOWN OF FLOWER MOUND

To

Billable Pages: 15

Number of Pages: 15

Comment: *Old Town Development/PARKING*

(Parties listed above are for Clerks reference only)

**** THIS IS NOT A BILL ****

Agreement 82.00
Total Recording: 82.00

*This Parking Agreement is requested to be
refiled with the Denton County Clerk's Office
due to the addition of cross access parking
added on Flower Mound Senior Center site plan
for the parking lot for verification of
access from the Old Town Development site.
-Alma Wackelhof*

******* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2015-107592
Receipt Number: 1338733
Recorded Date/Time: September 16, 2015 07:57:59A

Record and Return To:

TOWN OF FLOWER MOUND
2121 CROSS TIMBERS RD
FLOWER MOUND TX 75028

User / Station: T Duvall - Cash Station 2



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

Juli Luke

County Clerk
Denton County, Texas

Town of Flower Mound
Town Secretary's Office
2121 Cross Timbers Road
Flower Mound, Texas 75028

RECIPROCAL ACCESS AND PARKING AGREEMENT

This Reciprocal Access And Parking Agreement (the "Agreement") is made and entered into this 15 day of September, 2015, by and between the Town of Flower Mound, a political subdivision of the State of Texas, (the "Parcel A Owner"), and OTD FM, LLC d/b/a Old Town Development, a Texas Limited Liability Company (the "Parcel B Owner").

RECITALS

- A. The Parcel A Owner is the owner of certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference ("Parcel A").
- B. The Parcel B Owner is the owner of that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference ("Parcel B"), which Parcel B is located adjacent to Parcel A.
- C. The Parcel B Owner intends to develop Parcel B for use as a Mi Dia restaurant (hereinafter defined).
- D. Parcel A is developed as a municipal senior citizen center.
- E. The parties hereto desire to provide for cross-access and shared parking on the Parcels, and to establish certain covenants with respect to said Parcels, for the mutual and reciprocal benefit and complement of Parcel A and Parcel B and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Parcel A Owner and the Parcel B Owner hereby covenant and agree that during the term of this Agreement the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms and covenants hereinafter set forth in this Agreement, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Agreement and, in connection therewith, the parties hereto on behalf of themselves and their respective successors and assigns covenant and agree as follows:

1. Definitions. For purposes hereof:

1.1 The term "Owner" or "Owners" means the Parcel A Owner (as to Parcel A) and the Parcel B Owner (as to Parcel B) and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment,

inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property or any tenants or other owners of non-fee estates.

1.2 The term "Parcel A" means that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

1.3 The term "Parcel B" means that certain real property situated in the Town of Flower Mound, Denton County, Texas, more particularly described on Exhibit "B" attached hereto and incorporated herein by reference.

1.4 The term "Parcel" or "Parcels" means Parcel A and Parcel B, and, and any future subdivisions thereof.

1.5 The term "Permittees" means the Parcel A Owner, the Parcel B Owner, and the tenant under the Restaurant Lease, and their respective employees, agents, contractors, customers, invitees and licensees.

1.6 The term "Restaurant" means a "Mi Dia" an upscale, full-service Mexican restaurant with wait staff, consisting of approximately 7,280 square feet of total dining space, 5,065 square feet of air conditioned building space, and 2,215 of outdoor dining patio area, together with associated sidewalks, landscaping, lighting, utilities, signage and parking improvements, or its "Approved Replacement" as defined in the Economic Development Agreement Between the Town of Flower Mound and Old Town Development, LLC .

1.7 The term "Restaurant Lease" shall mean that Lease of Parcel B from the Parcel B Owner as landlord to Mi dia or other approved restaurant as tenant, and any amendments, extensions or replacements thereof.

1.8 The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit "C" and by reference made a part hereof. Except as may be otherwise provided in this Agreement, the Site Plan is for identification purposes only.

2. Easements.

2.1 Grant of Easement. Subject to any express conditions, limitations or reservations contained herein, the Owners hereby grant, establish, covenant and agree that the Parcels, and the Owners and Permittees of the Parcels, shall be benefited and burdened by a nonexclusive reciprocal easement for reasonable access, ingress, egress over the paved driveway areas as presently or hereafter constructed on Parcel A and Parcel B (the "Driveway"), so as to provide for the passage of motor vehicles to and from the Parcels, and a nonexclusive reciprocal easement for shared parking over the paved parking areas as presently or hereafter constructed on Parcel A and Parcel B (the "Parking Areas"), so as to provide for common, shared parking, all as depicted on the Site

Plan, or any alterations of such Site Plan properly approved and permitted by the Town of Flower Mound.

- 2.2 Access. The Driveway, Parking Areas, and the street access points on the Parcels for entry into and exit from the Driveway may not be blocked, closed, altered, changed or removed except as necessary for the preservation of public safety or repairs to such areas, in which case the Owner of the property affected agrees to complete such repairs as quickly as practical, to limit access only to the extent reasonably necessary to complete such repairs, and to provide for alternate access to the extent reasonably practical. In no event shall the businesses or facilities operated on the Parcels be conducted in such a manner as to cause motor vehicles to stop or stand on the other Parcel or the Driveway, or otherwise interfere with the normal pattern and flow of vehicular traffic on and across the Parcels and the Driveway.
3. Construction and Maintenance. The Driveway and Parking Areas on Parcel B shall be constructed and completed by the Owner of Parcel B at the same time as such Owner develops Parcel B. Each Owner covenants, after construction of the Driveway and Parking Areas by the Owner of Parcel B, and during the term hereof, to maintain or cause to be maintained at its expense the portion of the Driveway and Parking Areas located on its Parcel in good order, condition and repair. Maintenance of the Driveway and Parking Areas shall include, without limitation, maintaining and repairing the paved surface and performing any and all such other duties as reasonably necessary to maintain the Driveway and Parking Areas, including maintaining marking, directional signs, lines and striping in good condition. All maintenance work shall be conducted in such a manner and at such time as to minimally interfere with access to and from the Parcels. An Owner must provide reasonable advance written notice to the other Owner of any maintenance work to be performed by or on behalf of such Owner that will require temporary blockage of access to, from, or along the Driveway and Parking Areas, except for emergency repairs the need for which cannot reasonably be anticipated in advance.
4. Insurance. Both the Parcel A Owner and Parcel B Owner agree to maintain, or require its tenants to maintain, at all times a policy providing comprehensive property casualty and liability insurance protection with limits in an amount not less than one million Dollars (\$1,000,000.00) per occurrence, issued by an insurer licensed in the State of Texas covering the Driveway and the Parking Areas located on its Parcel.
5. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Parcel A or Parcel B. No easements shall be implied by this Agreement except those expressly created herein.
6. Restrictions on Use. The Owner of each Parcel agrees that the cross-parking rights granted herein are for occasional overflow parking only when the parking on the Owner's Parcel is at or near capacity, and each Owner agrees to use

reasonable efforts to minimize cross-parking on the other Parcel so as not to unreasonably burden the other Parcel when parking is available on the Owner's Parcel.

7. Remedies and Enforcement. In the event of a breach or threatened breach by any Owner or its Permittees of any of the terms or covenants hereof, the other Owner or its Permittees shall be entitled all legal and equitable remedies available under law for such breach.
8. Term. The easements and covenants contained in this Agreement shall be effective from the date of signature and shall terminate at the later of (1) twenty-five years, or (2) upon the cessation of operations of the Restaurant for a period of 180 days or more, provided, however, that if the cessation of operations of the Restaurant was due to an Act of God or other casualty, or otherwise due to construction and the Parcel B Owner or its Permittees are exercising reasonable diligence to recommence operations of the Restaurant, the term shall be extended during such period.
9. Miscellaneous.
 - 9.1 Attorney's Fees. In the event any party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.
 - 9.2 Amendment. The parties agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Parcel A and Parcel B.
 - 9.3 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.
 - 9.4 Severability. Each provision of this Agreement and the application thereof to Parcel A and Parcel B are hereby declared to be independent of and severable from the remainder of this Agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

9.5 Time of Essence. Time is of the essence of this Agreement.

9.6 Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party and Walgreen may change from time to time their respective address for notice hereunder by like notice to the other party and Walgreen. Notice given by any Owner hereunder to be effective shall also simultaneously be delivered to Walgreen (during the continuance of the Walgreen Lease). The notice addresses of the Parcel A Owner and the Parcel B Owner are as follows:

Parcel A Owner: The Town of Flower Mound, Texas
Attn: Town Manager's Office
2121 Cross Timbers Road
Flower Mound, Texas 75028

Parcel B Owner: Chris Gordon, Manager
OTD FM, LLC d/b/a Old Town Development
2241 Veranda Avenue
Trophy Club, Texas 76262

9.7 Governing Law. The substantive laws of the State of Texas, exclusive of its choice-of-law rules, shall govern the interpretation, validity, performance, and enforcement of this Agreement.

9.8 Governmental Regulation. Nothing contained herein shall be construed as affecting or limiting the authority of the Town of Flower Mound to exercise its regulatory or police authority to enforce its laws, ordinances, and regulations, or creating any liability on the part of the City for exercise of such regulatory or police authority.

9.9 No Waiver of Governmental Immunity. Nothing contained herein shall be construed as waiving the Town of Flower Mound's governmental immunity or any other protection afforded to it due to its governmental status by applicable law, including any limitations on the award of damages against it.

9.10 No Third Party Beneficiaries. There are no intended third-party beneficiaries of this Agreement except the Permittees named or identified in this Agreement, and nothing contained herein shall be construed as creating any other third-party beneficiaries.

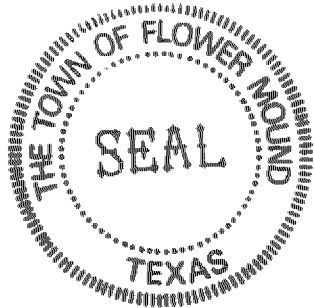
9.11 Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

9.12 Application of Texas 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.

9.13 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.

END OF AGREEMENT – SIGNATURES TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.



TOWN OF FLOWER MOUND, TEXAS

Parcel A Owner

A handwritten signature in cursive script, appearing to read "Jimmy Stathatos".

Jimmy Stathatos, Town Manager

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 15th day of September, 2015, by Jimmy Stathatos, Town Manager, of the Town of Flower Mound, Texas, a Texas home rule municipality, on behalf of said Town.



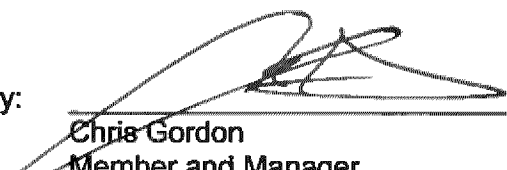
A handwritten signature in cursive script, appearing to read "Ingrid M. Rex".

Notary Public for the State of Texas

Signed this 9th day of September, 2015.

OTD FM, LLC
D/B/A OLD TOWN DEVELOPMENT
Parcel B Owner

By:


Chris Gordon
Member and Manager

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the 9 day of September, 2015, by Chris Gordon, a Member and Manager of OTD FM, LLC, d/b/a Old Town Development, a Texas limited liability company, on behalf of said limited liability company.


Notary Public for the State of Texas

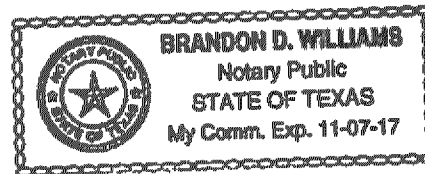


Exhibit "A" - Legal Description of Parcel A.
Exhibit "B" - Legal Description of Parcel B.
Exhibit "C" - Site Plan.

EXHIBIT "A"
Legal Description of Parcel A

A 2.878 acre tract located at 2701 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R1, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

THIS STAMP IS FOR SCANNING
PURPOSES ONLY.

THIS STAMP IS FOR SCANNING
PURPOSES ONLY.

EXHIBIT "B"

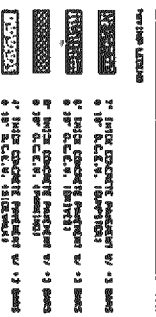
Legal Description of Parcel B

A 1.613 acre tract located at 2601 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R2, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

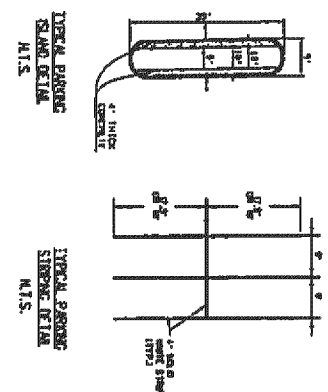
EXHIBIT "C"
Site Plan

THIS STAMP IS FOR SCANNING
PURPOSES ONLY.

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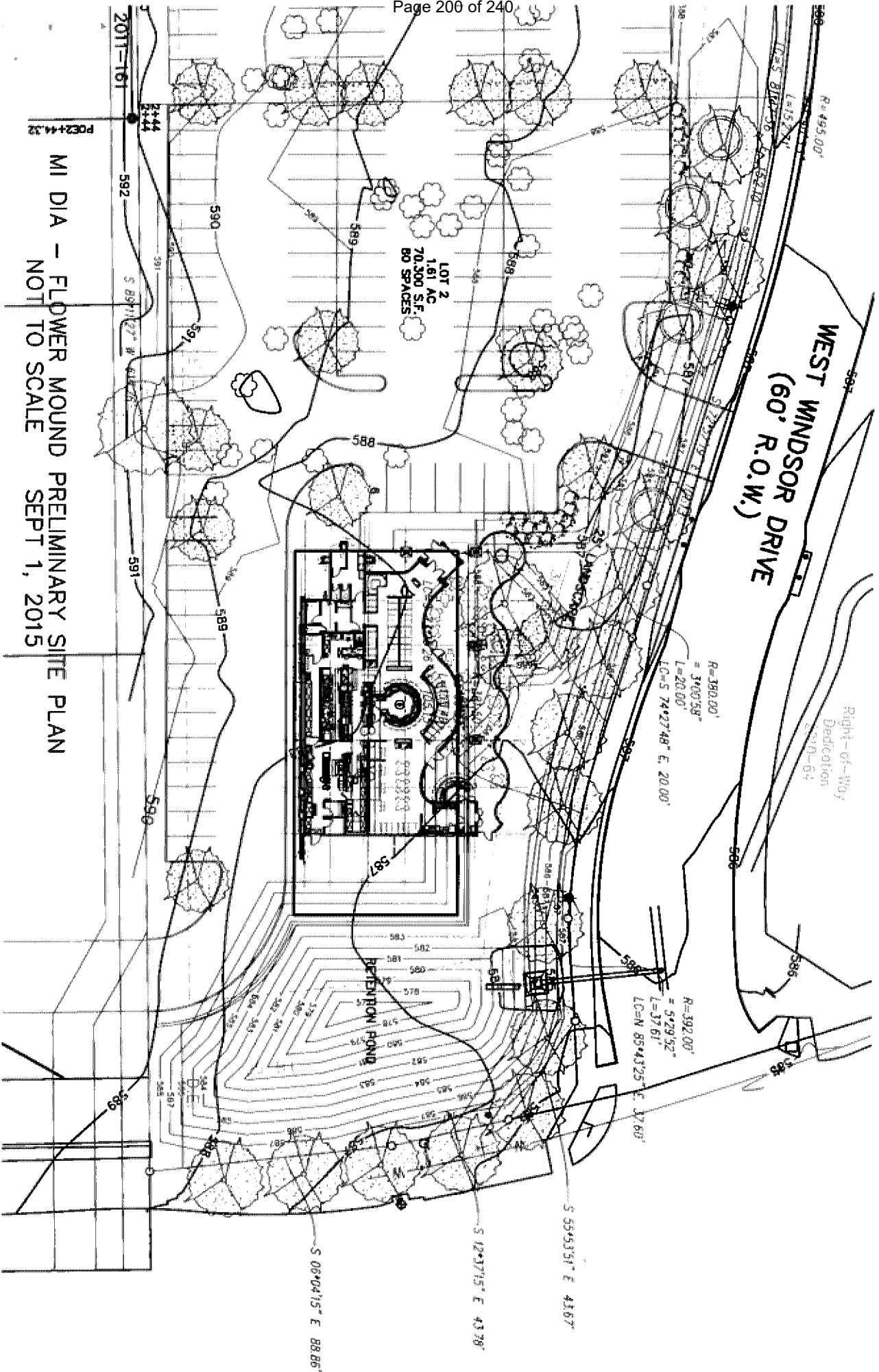
1. ALL CONCRETE SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 12000 PSI.
2. ALL CONCRETE SHALL BE PLACED WITH VIBRATORS AND COMPACTED TO THE FULL DEPTH OF THE PLACEMENT.
3. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
4. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
5. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
6. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
7. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
8. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
9. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.
10. ALL CONCRETE SHALL BE PLACED IN 12" MAXIMUM THICK LAYERS.

[illegible][illegible]

WEST WINDSOR DRIVE (60' R.O.W.)

Right-of-Way
Dedication
2010-6-4

MI DIA - FLOWER MOUND PRELIMINARY SITE PLAN
NOT TO SCALE
SEPT 1, 2015

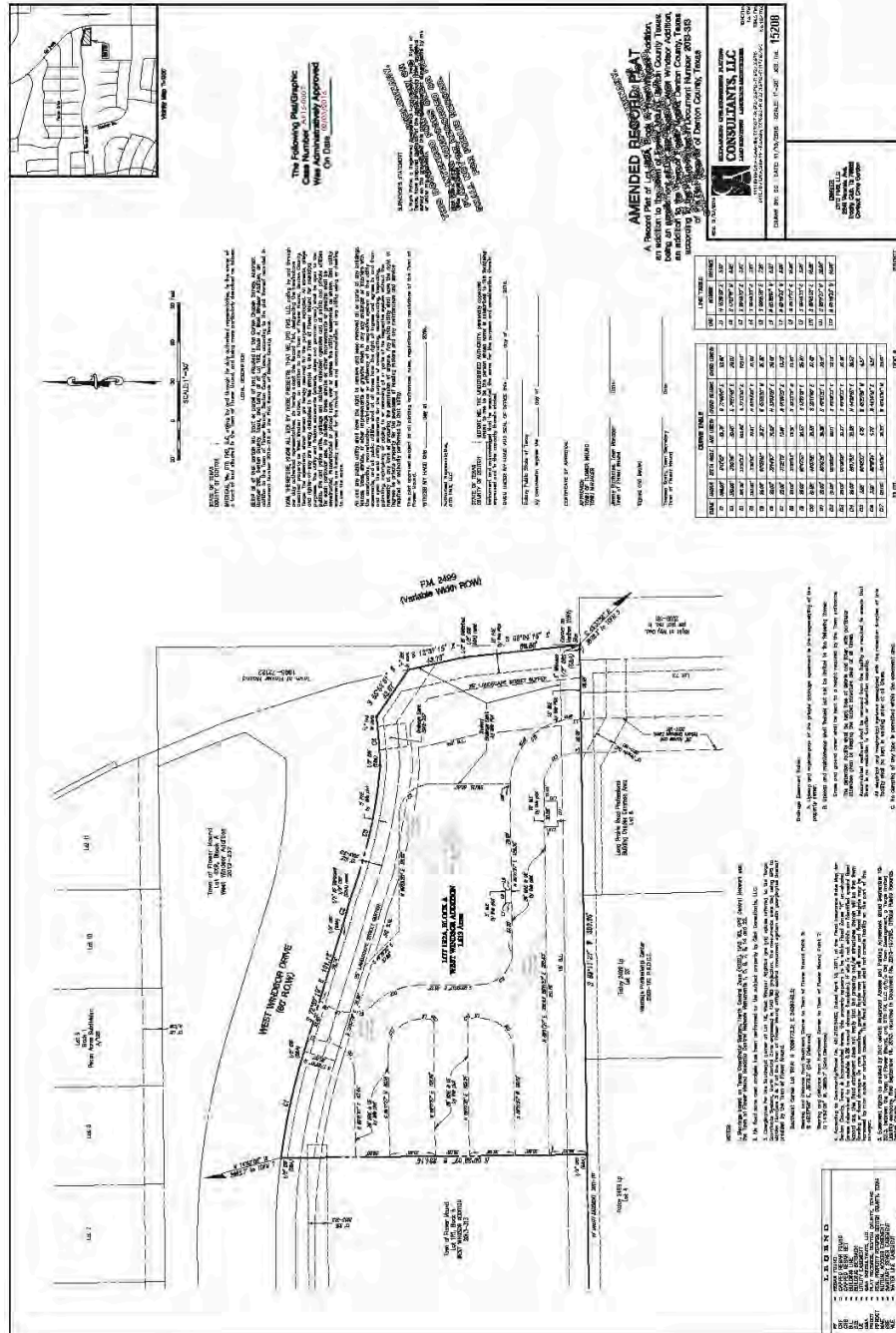


Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

EXHIBIT "B"

PROPERTY PLAT

2601WEST WINDSOR DRIVE



Attachment #1-Agreed Termination of Chapter 380 Agrmnt-Old Town Dev.

EXHIBIT “C”

ESCROW AGREEMENT

(The Escrow Agreement can be found in this packet as Attach #3 Escrow Agreement)

Attachment #2-Release of Lien-Old Town Dev.

NATCO: 14764-19-04626 - LS

RELEASE OF LIEN

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Date: October ____, 2019

Date: August 14, 2015

Original Amount: \$140,000.00

Maker: OTD FM2, LLC d/b/a Old Town Development,
a Texas limited liability company

Payee: The Town of Flower Mound

Date of Maturity: AS PROVIDED IN NOTE OF EVEN DATE

Holder of Note: The Town of Flower Mound

Holder's Mailing Address:

Note and Lien are Described in the following Documents, Recorded in:

Deed of Trust and Assignment of Rents, Leases, Profits, Income, and Contracts to Secure Payment and Performance recorded in Clerk's File No. 2015-136290, Official Public Records, Denton County, Texas.

As affected by Subordination Agreement dated as of November 20, 2017, recorded in Clerk's File No. 2017-144613, Official Public Records, Denton County, Texas.

Property (including any improvements) Subject to Lien:

Tract 1: (Fee Simple)

Lot 1R2A, Block A, WEST WINDSOR ADDITION, an addition in the Town of Flower Mound, Denton County, Texas, according to Amended Plat thereof recorded in Plat No. 2016-144, Plat Records, Denton County, Texas.

Attachment #2-Release of Lien-Old Town Dev.

Tract 2: (Easement Estate)

Easement rights as created by that certain Reciprocal Access and Parking Agreement dated September 15, 2015, between the Town of Flower Mound, and OTD FM, LLC d/b/a Old Town Development, a Texas limited liability company, filed September 16, 2015, recorded in Document No. 2015-107592, and also in Document No. 2015-127349, Official Public Records, Denton County, Texas.

Holder of the note acknowledges its payment and releases the lien from the Property.

When the context requires, singular nouns and pronouns include the plural.

The Town of Flower Mound

By:

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of October, 2019 by _____, _____ of The Town of Flower Mound.

Notary Public State of _____

Printed Name of Notary
My Commission Expires:_____

Attachment #2-Release of Lien-Old Town Dev.

AFTER RECORDING RETURN TO:
North American Title Company
101 Countryside Court
Southlake, TX 76092

PREPARED IN THE LAW OFFICE OF:
Mark A. Womble, Attorney
101 Countryside Court
Southlake, TX 7609

Attachment #3-Escrow Agreement-Old Town Dev.

ESCROW AGREEMENT

This Escrow Agreement (the "**Escrow Agreement**") is entered into on this ____ day of _____, 2019, (the "**Effective Date**") by and between The Town of Flower Mound, Texas (the "**Town**"), and Christopher Gordon and Justin Springfield (the "**Individuals**"), Principals of Old Town Development, LLC (the "**Company**"). The Town and the Individuals are each a "**Party**" and collectively the "**Parties**."

WITNESSETH:

WHEREAS, the Company, pursuant to a real estate contract of sale and agreement regarding development of property, purchased from the Town property located at 2601 West Windsor Drive, Flower Mound, Texas 75028 (the "**Property**" as more fully described below); and

WHEREAS, the Company desired to develop, construct and lease the Property for use as a "Mi Dia" Mexican restaurant or similar upscale, full-service restaurant (the "**Restaurant**" as more fully described below); and

WHEREAS, on August 3, 2015, the Town and Company entered into an Economic Development Agreement ("**Agreement**"), which addresses various development issues related to the construction and operation of the Restaurant, and provides for certain economic incentives for the Company; and

WHEREAS, the Company wishes to sell the Property and terminate the Agreement, but continue the credit of the Sales and Use Tax Receipts (as defined below) toward the purchase price of the Property based on sales and revenues from the Restaurant operation, as outlined in Section 6.E & F of the Agreement; and

WHEREAS, the Individuals, Principals of the Company, wish to place funds in an escrow account with the Town, in an amount equal to the Principal Amount (as defined below), to ensure full payment of the purchase price of the Property; and

NOW, THEREFORE, in consideration of the Town's termination of the Agreement and the release of the note and lien encumbering the Property, and for other good and valuable consideration, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS

The following words shall have the following meanings when used in this Escrow Agreement:

"Credit Period" means the period of time beginning on the Effective Date and continuing thereafter until August 15, 2022.

Attachment #3-Escrow Agreement-Old Town Dev.

“Escrow Deposit” means the Principal Amount which has been paid and deposited to Town in accordance with Section III.A. of this Escrow Agreement.

“Expiration Date” means August 15, 2022.

“Principal Amount” means \$59,603.78.

“Property” means the Property located at 2601 West Windsor Drive, Flower Mound, Texas 75028, together with, all and singular, improvements thereon and all rights and appurtenances pertaining thereto, which Property is more fully described as a 1.613 acre tract located at 2601 West Windsor Drive, Flower Mound, Texas 75028 and being all of that Lot 1R2, Block A of the West Windsor Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat recorded as Document Number 2013-313 of the Plat Records of Denton County, Texas.

“Restaurant” means “Mi Dia,” an upscale, full-service Mexican restaurant located and operating on the Property, with wait staff, consisting of approximately 7,280 square feet of total dining space, 5,065 square feet of air conditioned building space, and 2,215 of outdoor dining patio area, together with associated sidewalks, landscaping, lighting, utilities, signage and parking improvements.

“Sales and Use Tax Receipts” means the Town’s municipal sales and use tax, currently at the rate of one percent (1.0%), pursuant to Chapter 321 of the Texas Tax Code, as amended, generated by the Restaurant on the Property during the Credit Period; provided, should the Texas Legislature amend the applicable Tax Code provision to increase or decrease the amount of allowed municipal sales and use tax, then in the event of a decrease, Sales and Use Tax Receipts shall mean the actual amount of sales and use tax received by the Town, and in the event of an increase, the Sales and Use Tax Receipts shall mean one percent (1.0%). The Sales and Use Tax Receipts does not include any portion of any dedicated sales tax collected for any purpose or entity other than the one percent (1.0%) general municipal sales and use tax, and expressly excludes, among other taxes, any sales and use tax collected for the Town Crime Control and Prevention District, the Town Fire Control, Prevention & Emergency Medical Services District, the Town Community Development Corporation, or for street maintenance.

ARTICLE II TERM

This Escrow Agreement shall be effective as of the Effective Date and terminates upon the Town’s disbursement of the Escrow Deposit in accordance with Section III.B. of this Escrow Agreement.

ARTICLE III ESCROW

- A. **Escrow Deposit.** The Individuals shall deliver the Principal Amount to Town, by wire transfer, within 72 hours of the Effective Date of this Escrow Agreement. The wire transfer must be made to the account provided by Town to the Individuals upon execution of this Escrow Agreement, unless Town notifies the Individuals of another account for such wire transfer. Upon receipt of the Principal Amount, the Town will hold the Escrow Deposit in an account

Attachment #3-Escrow Agreement-Old Town Dev.

of its choosing until it makes a disbursement in accordance with Section III.B. below.

B. Disbursement of Escrow Deposit. Disbursement of the Escrow Deposit shall be made by the Town, as follows:

1. If at any time during the Credit Period or at the Expiration Date, the Town has received Sales and Use Tax Receipts in an amount equal to the Principal Amount, the Town will withdraw and return the full Escrow Deposit to the Individuals.
2. If at the Expiration Date, the Town has not received Sales and Use Tax Receipts in an amount equal to the Principal Amount, the Town will immediately withdraw and retain all or a portion of the Escrow Deposit in an amount equal to the Principal Amount less the amount of Sales and Use Tax Receipts received by Town as of the Expiration Date.
3. Notwithstanding the foregoing, if, for any reason, the Restaurant ceases operations on the Property for more than 30 days during the Credit Period, the Town will provide notice to the Individuals, and withdraw and retain all or a portion of the Escrow Deposit in an amount equal to the Principal Amount less the amount of Sales and Use Tax Receipts received by Town as of the date of the foregoing notice was sent to the Individuals.
4. The Town will provide notice to the Individuals when the Escrow Deposit is withdrawn.

**ARTICLE IV
NOTICES**

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

To the Town:

Town of Flower Mound
Attn: Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

To the Individuals:

Chris Gordon
2241 Veranda Avenue
Trophy Club, TX 76272

Justin Springfield
2010 Churchill Downs Lane
Trophy Club, 76262

Attachment #3-Escrow Agreement-Old Town Dev.

**ARTICLE V
MISCELLANEOUS**

1. Reports. While this Escrow Agreement remains in effect, the Town annually shall prepare and send to the Individuals a written report indicating the outstanding balance of the Principal Amount.
2. Accrued Interest. Any accrued interest on the Escrow Deposit shall remain property of the Town.
3. Application and Succession. This Agreement shall be binding upon, shall apply to and shall inure to the benefit of, the parties hereto and their respective heirs, administrators, executors, successors and assigns.
4. Choice of Law. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Escrow Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action concerning this Escrow Agreement shall be in a court of competent jurisdiction in Denton County, Texas.
5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.
6. Headings. The headings of this Agreement are inserted for convenience of reference only, and shall in no way affect, modify or define, or be used in construing, the text of this Escrow Agreement.
7. Severability. In the event any provision of this Escrow Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Escrow Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
8. Attorney's Fees. If it becomes necessary to take legal action to interpret or enforce the terms of this Escrow Agreement, the prevailing Party in such action shall be entitled to recover from the non-prevailing Party, the prevailing Party's reasonable attorney's fees and costs of court.

Attachment #3-Escrow Agreement-Old Town Dev.

IN WITNESS WHEREOF, the Parties have executed these presents to be effective on the day and year first above written.

INDIVIDUALS:

By: _____
Christopher Gordon

By: _____
Justin Springfield

TOWN:

Town of Flower Mound, Texas

By: _____
Steve Dixon, Mayor



TOWN COUNCIL AGENDA ITEM NO. 10

REGULAR ITEM

DATE: November 18, 2019

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of a resolution casting the vote of the Town of Flower Mound, Texas, for the election of the Board of Directors of the Denton Central Appraisal District (DCAD).

BACKGROUND INFORMATION: The property Tax Code, Section 6.03, requires that an election or appointment of members of the Board of Directors of an appraisal district be conducted in odd numbered years. The term of office for elected or appointed members is two years beginning in even numbered years. Furthermore, it is the chief appraiser's responsibility to initiate the process for taxing jurisdictions to select individuals to serve as the Board of Directors.

At the October 7, 2019, meeting Council nominated the following individuals to be considered by the taxing jurisdictions:

1. Sharon Gentry – Flower Mound
2. Mike Stallings – Flower Mound
3. Bryan Webb – Flower Mound
4. Katy Grote – Double Oak
5. David Terre – The Colony

Those names were sent to DCAD and each candidate was provided a nomination form. That information is included (attachment 1) if completed and returned to DCAD. David Johnson is a Flower Mound resident; however, was nominated by Lewisville ISD.

The purpose of this item is to cast votes, and with consideration toward the entire slate of nominees from the various taxing jurisdictions.

The Town has a total of 119 allotted votes for the DCAD Board of Directors, which is based upon the 2018 tax levy. Votes may be cast for one nominee or they can be distributed among any number of the nominees.

The five nominees that receive the most votes from the taxing jurisdictions shall become the Board of Directors as of January 1st.

LEGAL REVIEW: No alteration to the legal content of this resolution was made, which had originally been approved by Taylor, Olson, Adkins, Sralla, & Elam L.L.P.

ATTACHMENTS:

1. Memo from DCAD/Nominations
2. Draft resolution

DRAFT MOTION: Move to approve a resolution casting the vote of the Town of Flower Mound, Texas for the following individuals for the election of the Board of Directors of the Denton Central Appraisal District:



DENTON CENTRAL APPRAISAL DISTRICT

3911 MORSE STREET, P O BOX 2816
DENTON, TEXAS 76202-2816

MEMO

TO: All Taxing Jurisdictions
FROM: Kathy Williams, Deputy Chief - Administration
DATE: October 29, 2019
SUBJECT: Candidates to Board of Directors of Denton Central Appraisal District



Candidates to the Denton Central Appraisal District Board of Directors are listed below. The list is in alphabetical order by last name.

Each voting unit must cast its vote by written resolution and submit it to the Chief Appraiser before December 15th. The unit may cast all its votes for one candidate or may distribute the votes among any number of candidates. When a voting unit casts its votes, it must cast the votes for a person that was nominated and is named on the ballot. There is no provision for write-in candidates. The Tax Code does not permit the Chief Appraiser to count votes cast for someone not listed on the official ballot. The five nominees receiving the most votes will become the Board of Directors.

The candidates nominated by the taxing jurisdictions are: (Please note Asterisk below)

<u>Candidate</u>	<u>Nominating Jurisdiction</u>
1. Roy Atwood	City of Lewisville, Lewisville ISD, City of The Colony
2. Michelle French*	City of Lewisville
3. Sharon Gentry	Town of Flower Mound
4. Katy Grote	Town of Flower Mound
5. Carla Hardeman	Town of Northlake
6. David Johnson	Lewisville ISD
7. Danny Mayer	Town of Trophy Club
8. Joel McGregor	Town of Northlake
9. Laura McGregor	Town of Northlake
10. Ashleigh Miller	CFB ISD
11. Brian Montini	Town of Northlake
12. George Pryor	City of Lewisville, Denton County, City of The Colony
13. Michael Savoie	Town of Northlake
14. Kelly Sayre	Denton County, CFB ISD
15. Charles Stafford	City of Lewisville, Denton ISD, City of The Colony
16. Mike Stallings	Town of Flower Mound
17. David Terre	Frisco ISD, Northwest ISD, Little Elm ISD, City of Frisco, Lewisville ISD, Denton County, Town of Flower Mound, City of The Colony
18. Tom Washington	Lewisville ISD, Denton County
19. Bryan Webb	City of Lewisville, Argyle ISD, Lewisville ISD, Town of Flower Mound
20. Rick Woolfolk	City of Denton

* Michelle French was nominated by the City of Lewisville as a candidate. Ms. French would like to remain on the Board of Directors as an ExOfficio member.

(This would be automatic and would require no votes from the entities.)

Since some of you may not be familiar with the process of selecting the Board, please do not hesitate to contact Kathy Williams at (940) 349-3974 for clarification and/or information.

**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	6,666.84	0.0003%	1
CITY TOTAL		\$434,266,611.29	21.28%	1069
TOTAL ALL JURISDICTIONS		\$2,040,884,158.89	100.00%	5000

Nominee Information

Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Roy T. Atwood

Name

1816 Countryside

Address

Carrollton

75007

City

214-559-7399

Zip

Daytime Phone

214-616-0528

Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? **Yes**
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? **No**

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

I have resided in Carrollton, Texas since 1991. I served on various Boards and Commissions in Carrollton over the last 20 years. I do not currently serve on any City Boards or Commissions.

I have served on the boards of various non-profit organizations, including currently serving on the boards of My Possibilities and the Down Syndrome Guild of Dallas. I have been a licensed and practicing attorney in the State of Texas since 1981. I was a partner with the international law firm Jones Day in their Trial Practice section before taking early retirement and opening my own firm. My practice focuses on commercial litigation. I have experience with employment matters, construction litigation, property valuation and internal investigations. I have served on the DCAD Board for the past two years and it would be my privilege to continue serving.

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Nominee Information
Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.

Katherine Grote
 Name

1165 Double Oaks Dr
 Address

Double OAK 75077
 City Zip

972 741 4999
 Daytime Phone

Evening Phone _____

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

- Resident & home owner in Denton County for 20 years

- Licensed Real Estate Agent

- Mom of two children attending LISD schools

- Graduated From Texas A&M University, 1999

Return to:
 Kathy Williams
 Denton Central Appraisal District
 P.O. Box 2816
 Denton, TX 76202

Nominee Information

Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

David L. A. Johnson
Name

3612 San Paula Dr.
Address

Flower Mound 75022
City Zip

817-675-7693
Daytime Phone

Same
Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

See attached

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Dear LISD School Board,

My name is David Johnson. I am a 25-yr resident of Flower Mound and I would like to be nominated as one of LISD's representatives to the Denton Central Appraisal District Board of Directors. I have been fascinated by the property tax valuation process in Texas for several years and feel this position is a good way to get more involved.

I am sending this email since I have a prior commitment on the evening of Monday September 10th and cannot attend your Board meeting. I realize most of you know me personally, but I thought it would be important to provide my qualifications for this position.

I have 20+ years of involvement in many community and charity based activities. Some of them are as follows:

- Cross Timbers YMCA Board – 10 yrs, Board Chairman for 3 years
- Wellington HOA Board of Directors – 6 yrs and several Officer Positions
- Flower Mound Planning & Zoning Commissioner – 10 yrs in three different appointments
- Active Rotarian for 10+ years
- Flower Mound Summit Club Member – 10 yrs
- LISD Facilities Advisory Committee 2016-2017
- Active in several area Chambers of Commerce
- Habitat for Humanity of Denton County -3 yrs, Currently Board President

I share all this with you to show that I am committed to the communities of Denton County and enjoy having contacts in many different areas. These are characteristics that exhibit the ability to learn in different situations, work well with a variety of people and lead in different parts of our community.

In addition to my community involvement, I believe my 20+ years of work experience as a banker has given me an appreciation for the valuations of real estate. When financing commercial buildings in the banking world many factors are taken into consideration. I believe this experience will prove beneficial as an LISD DCAD Board Appointee. Combined with my exposure to the vastly different land and residential values from work with Denton County Habitat for Humanity, this will provide me a good foundation for the DCAD Board.

We all know that property values and ad valorem tax rates continue to be in the political spotlight. It will be important to have experienced, community-minded representatives on the Board of Directors to insure fairness and transparency in the appraisal process. I hope you feel that my credentials fulfill that requirement. Please nominate me to one of LISD's DCAD Board of Directors appointments.

Best Regards,

David A. Johnson
817-675-7693
[REDACTED]

Nominee Information Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

DANNY MAYER

Name

2201 PRESTWICK AVE

Address

TROPHY CLUB

City

76262

Zip

817-995-5408

Daytime Phone

817-995-5408

Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term?

☒ Yes ☐ No

2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? **Yes** ☒ **No**

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

SEE ATTACHED

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

DANNY R. MAYER

I believe that I am a highly qualified candidate that possesses a wealth of knowledge and experience gained from his business experience, public service experience and his life experiences.

I am a 6th generation NATIVE TEXAN. My first years were spent on a cotton farm in the Panhandle of Texas before my family moved to Fort Worth when I was seven. Eventually, our family relocated to Smithfield, TX, which is now a part of North Richland Hills. I attended Richland High School prior to enlisting in the US Navy. I served honorably in the Navy, spent 21 months aboard two aircraft carriers, USS Kitty Hawk and USS Hancock, on station in the Gulf of Tonkin during the Vietnam War. The Air Group to which he I attached flew the first air strikes into North Vietnam. My entire enlistment was spent attached to US Navy Aviation Squadron VAW-11.

Following my discharge from the US Navy I became a Peace Officer for the State of Texas. My criminal justice training was received at the University of Texas in Austin. Following this I was commissioned as a Texas State Peace Officer by the Texas Commission on Law Enforcement Standards and Education. As rewarding as being a peace officer was it did not fulfill my desires to enter the business world and so I decided to change careers and pursue my dreams.

In 1970 I found my future when hired as a truck salesman by Hudiburg Chevrolet in North Richland Hills. During the next 41 years I served in many capacities within the Automotive Industry including serving as a Regional Director of Operations and District Vice President for AutoNation USA, the nation's largest automobile retailer. I also have been a Dealer/Operator of several dealerships. My responsibilities have included being totally accountable for producing annual revenues in excess of \$800,000,000, budgets in excess of 700,000,000 and the responsibility of 1,500 employees at 13 locations in 4 different states.

Over the years because of my ability to be innovative and creative I have received many awards and accolades. In addition I have been invited to make presentations to many dealer groups as well as being invited to be a presenter at the annual National Automobile Dealers Association convention. General Motors of Canada contracted me to assist them in designing a Customer Satisfaction Program that was implemented in every dealership in Canada.

QUALIFICATIONS: Exceptional ability to analyze data and make sound decisions based on factual and quantifiable input.

Public relations expert with precise and effective communication skills..

Superior organizational, management and financial analysis skills.

Extensive senior management experience.

WORK HISTORY:

Retired: 2010

During this time I have established a firearms company which I operate from my home. In 2010 I was issued a Texas Real Estate License (0612504-Currently Inactive)

Self Employed

Automotive Consultant

August 2006 to July 2010

Director of Infiniti Operations

Towbin Automotive Group, Las Vegas, Nevada

January 1, 2006 to August 1, 2006

After leaving Grubbs Infiniti I volunteered the last half of 2005 raising money for wounded soldiers and marines through a national charity. I joined the Towbin Auto Group, in Las Vegas, to take over and turnaround their two Infiniti dealerships that were failing in all departments. Positive results were almost immediate and we posted large increases in all departments at both dealerships. I left Towbin only after it became apparent that each time the profits increased the expense structure of the dealerships was adjusted accordingly. Since a large portion of my income was based on net profit I realized that this was not the organization I had hoped it would be.

General Manager

Grubbs Infiniti, Inc., Euless, Texas

General Manager

April 1999 to August 2005

Was contacted by George Grubbs Jr., my previous employer, and was asked to become the General Manager of his newly built and relocated Infiniti facility in Euless, TX. This dealership has since been the number one dealership in the Dallas District in Customer Satisfaction and has been in the top 5% nationally. In 2002 and 2003 Grubbs Infiniti was also in the top 2% in net profit for the Central Region. In 2004 Grubbs Infiniti was #1 in gross profit per unit and #1 in customer satisfaction in the Central Region. Grubbs was also #1 nationally in accessory sales as a result of a national Internet marketing program that I developed.

AutoNation USA, Ft. Lauderdale, Florida
Director of Operations, Central and Western Regions
District Vice President North Texas
November 1995 to July 2005

Was the first employee hired outside the Florida Corporate Office for retail operations. I was charged with the responsibility of opening the AutoNation USA retail facilities west of the Mississippi. I opened 13 of these facilities including the staffing responsibilities and oversaw their day-to-day operations. I was also involved in the purchase of several new car franchises, primarily in Southern California, during this same period.

Grubbs Enterprises, Bedford, Texas (Nissan, Chrysler, Jeep)
General Manager
January, 1991 to November 1995

Assumed the General Manager position of a dealership that had a CSI rating in the bottom 25% in the Dallas Zone, turnover was in excess of 150% a year. In 1993 the dealership set a record for profit, CSI improved and was in the top 10% nationally and, turnover dropped to less than 25%. The dealership has been the recipient of numerous awards for sales, service, and customer satisfaction and in 1994 awarded to the prestigious Masters award for leasing excellence and was the featured dealership at Chrysler Corporation's annual seminar held in Palm Springs in April 1994.

Rodger Meier Cadillac, Dallas, Texas
General Sales Manager, August 1986 to January 1991

A highly respected dealership with an impeccable reputation. The dealership had been successful in the sale of new Cadillacs since opening in 1968 but had not shown a profit in pre-owned sales for seventeen (17) years. An aggressive marketing plan was put into effect that focused on three elements; sales personnel, advertising and inventory. The success of the program was very rapid and exceeded all expectations. The dealership was one of the premier used car operations in the DFW area. When Cadillac introduced Allante in 1987 an in-house lease program was designed, to take advantage of the Guaranteed Resale Value Plan. This plan was advertised nationally utilizing American Way magazine. Rodger Meier Cadillac delivered more Allantes than any other dealership in the nation up to the time that the car was discontinued.

In 1987 Rodger Meier surpassed Sewell Cadillac in CSI and maintained that position until my departure in 1991.

HONORS AND AWARDS:

Selected in 1990 by General Motors of Canada to address their dealers on CSI and assist in implementing Partnership 2000.

Number One in CSI, Cadillac Southwest Zone

Number One in Sales, Cadillac Southwest Zone

Number One in Allante Sales, Cadillac National

Pacesetters, Chrysler Corporation

Five Star Service Award, Chrysler Corporation

Service Excellence Award, Chrysler Corporation

Masters Award for Leasing, Chrysler Corporation

Number One in CSI, Infiniti Central Region

Number One in GP JR, Infiniti Central Region

Numerous other factory awards and recognition for achievements in sales, CSI and customer and employee retention

MILITARY SERVICE: United States Navy, Honorable Discharge

EDUCATION: University of Texas, Austin Criminal Justice
Commissioned State Peace Officer, Texas Commission on Law Enforcement Standards and Education

COMMUNITY SERVICE:

City of Southlake: Zoning Board of Adjustment
Serve on Board of Colleyville Chamber of Commerce
Serve as National Advisor for Salute America's Heroes
Co-founder Salute America's Heroes Texas
Town of Trophy Club, Town Councilman

Nominee Information

Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Joel McGregor
Name

8921 E Sam Lee Ln
Address

Northlake 76262
City Zip

817-994-8600
Daytime Phone

Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

Precint Chair #4035 6 years
Nominated for this position by Northlake City Council

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Nominee Information Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Laura McGregor
Name

8921 E Sam Lec Ln
Address

Northlake 76262
City Zip

817-994-9328
Daytime Phone

Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

Currently serving Northlake CDC
Nominated for this position by Northlake City Council

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Nominee Information Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.

GEORGE H. PRYOR
Name
957 PASATIEMPO DRIVE
Address
FRISCO, TX 75036
City Zip
214-548-7581 (CELL)
Daytime Phone
214-469-1473
Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term?

Yes/No

2. Are you an employee of a taxing unit that participates in the Denton Appraisal District?

Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

CURRENTLY IN THE FINAL STAGES OF MY FIRST TWO YEAR TERM AS A MEMBER OF THE DENTON COUNTY APPRAISAL DISTRICT BOARD OF DIRECTORS

NINETEEN YEARS RETIRED FROM A SENIOR EXECUTIVE PAYROLL POSITION OF A TEN BILLION DOLLAR (N.Y. STOCK EXCHANGE MEMBER) INTERNATIONAL LENDER.

MANY YEARS INVOLVED WITH REVIEWING PROPERTY VALUES - BOTH RESIDENTIAL AND COMMERCIAL.

HAVE BEEN SVP RUNNING DIFFERENT REGIONS THROUGHOUT USA. DEVISING FIVE YEAR BUSINESS PLANS WAS AMONG OTHER RESPONSIBILITIES.

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Nominee Information
Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Michael Savoie
 Name

8132 Florance Road
 Address

Northlake 76247
 City Zip

940-594-6637
 Daytime Phone

940-594-6337
 Evening Phone

1. Are you currently a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

Currently serve as a non-voting member of the DCTA Board of Directors

Resident of Northlake, Denton County for 24 years

Former 4-term Mayor of Northlake

President & CEO of HyperGrowth Solutions, Inc., a Denton County business since 1998

Current Clinical Professor of Operations, Logistics, and Supply Chain Management at UNT

Appointed by Rick Perry to the TG Board of Directors, 2008-2013

Served as Budget, Finance and Audit Chair of the TG board, with oversight of a \$180M budget and \$700M loan portfolio

Founding member of Northwest Communities Partnership. Served as first Treasurer

Former Board member, Upper Trinity Regional Water District

Former Board member, Trinity River Authority Board of Advisors

Involved in economic development in Denton County including Robson Ranch and Texas Motor Speedway

Return to:
 Kathy Williams
 Denton Central Appraisal District
 PO BD 2816
 Denton, TX 76202

Michael J. Savoie, Ph.D.

940-594-6637

Dr. Savoie is President and CEO of HyperGrowth Solutions, Inc., a company specializing in the integration of business and technology for competitive advantage. He is also a Clinical Professor in Operations, Logistics, and Supply Chain Management at the University of North Texas.

Dr. Savoie has over 25 years of experience in Executive Management, Strategic Planning, Cybersecurity/Risk Management, Information Systems & Data Analytics, Engineering, Operations Management, Quality, and Training. He is an internationally recognized public speaker, serves as a consultant to numerous companies, and is an advisor to federal, state, and local governments.

Prior to starting HGS, Dr. Savoie was a co-founder and served as Chief Operating Officer of Integrated Resources Group, Inc., a nuclear power consulting government contractor focusing on strategic positioning, information technology and training. At IRG, Dr. Savoie performed work for a myriad of public and private enterprises and oversaw all in-house functions, including accounting, finance, legal, compliance, and human resources.

Dr. Savoie was appointed by Texas Governor Rick Perry to the Texas Guaranteed Student Loan Corporation Board of Directors in 2008 and reappointed in 2011. While on the board, he served as Chair of the Budget, Finance and Audit (BFA) committee, overseeing roughly \$30 billion in federal student loans, a \$700 million loan portfolio, and an operating budget of \$180 million per year.

Dr. Savoie served 4 terms as Mayor of the Town of Northlake as well as one term on the city council. He was a founding member of the Northwest Communities Partnership and served as its first Treasurer. Dr. Savoie also served on various boards and commissions in Texas including the Upper Trinity Regional Water District Board of Directors, the Trinity River Authority Board of Advisors, various Mayor's councils and road coalitions. He was involved in economic development in Denton County, Texas, including Texas Motor Speedway and Robson Ranch. Dr. Savoie also co-authored the award-winning Northlake Strategic Master Plan.

Dr. Savoie is an award-winning teacher and the author of over 150 articles, chapters, and books on information technology, data security, electronic commerce, quality, operations management, and continuous improvement, among others. His current research and writings explore the role of information technology in organizational transformation. The second edition of his book *Building Successful Information Systems: Five Best Practices to Ensure Organizational Effectiveness and Profitability* was published by Business Expert Press in July 2016. In April 2015, he presented at TEDxUVU on Modularity and the Internet of Things (<https://www.youtube.com/watch?v=gwEvN3fXPp0>).

Dr. Savoie has a bachelor's degree in Mechanical Engineering, an MBA, and a Ph.D. in Operations Management with a Business Computer Information Systems support.

Industry Sector Experience: Cybersecurity, Information Technology/ICT, Energy (traditional and alternative), Engineering, Manufacturing, Quality, Education, Training, E-Commerce, Utilities, Government and Non-Profit

Nominee Information Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.

Name Kelly Sayre
 Address 1603 Fairway Drive
 City Corinth, TX Zip 76210
 Daytime Phone 940-368-1707
 Evening Phone 940-368-1707

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

34 years as owner/operator of multiple TX locations involved in furniture & appliance leasing. Consequently, had significant interaction with Appraisal districts in a dozen different counties. I served on our National Trade Association Board. I was also Chairman of the Board of our Texas (APRO), State Association (Texas Association of Rental Agencies (TARA). Broad experience with financial accounting and compliance for a \$13 million annual revenue company. My wife Becky and I have been married for 49 years. AND have lived in the same house in Corinth 23 years. Nominated by County Judge, Andy Eads.

Return to:
 Kathy Williams
 Denton Central Appraisal District
 P.O. Box 2816
 Denton, TX 76202



Arthur K. (Kelly) Sayre

Retired Small Business Owner and Commercial Real Estate Investor

1603 Fairway Dr.
Corinth, Texas 76210
Tel: 940.368.1707

E-mail: [REDACTED]

Kelly Sayre is a native Texan, born Breckenridge. He and his wife Becky have been married for 49 years and have lived in the same house in Corinth for 23 years. They have 3 children and 5 grandchildren.

Kelly is a 1969 graduate of Mac Arthur High School in Irving and attended the University of Texas at Arlington. He has hundreds of hours of continuing education in his retail specialty. Over his 34 year career he gained broad experience in business negotiations, purchasing, advertising, finance and financial accounting.

Kelly worked and lived the American Dream. He began in business in 1982 as a co-owner of an independent retailer in the furniture and appliance leasing business. In 1996 he helped arrange the sale of the company to a national Fortune 500 company. Shortly thereafter, he founded another company in the same business which grew to 10 Texas locations in 9 years. In 2006 Sayre converted his operation to a franchise of a national public company. By 2008, competing with nearly one hundred other franchisees, Kelly was awarded "National Franchisee of the Year." Kelly also served on the industry's National Association's Board of Directors and served as State President and later as Chairman of the Board of the Texas Association of Rental Agents. In April of 2015, Kelly sold his nine Texas stores to retire and dedicate his time to his family and family investments.

Over the years, Kelly has been active outside his business:

Life member and former regional governor of American Business Clubs (AMBUCS)

Commercial real estate investor

Participated in over 100 grassroots lobbying sessions with legislators in Austin and Washington D.C.

Candidate for county-wide office in 2016

Member or associate member of 5 Denton County Republican clubs

Former First Vice-Chair of Finance for the Denton County Republican Party

Current GOP Precinct Chair and Area Leader for Corinth

Attends St. Mark Catholic Church in Argyle

Nominee Information

Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Charles Stafford

Name

1903 Williamsburg Row

Address

Denton

76209

City

Zip

940-595-7253

Daytime Phone

Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? **Yes**
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? **No**

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

I currently serve on the Denton ISD's Board of Trustees.

I have a real estate broker's license.

I have served on the CAD's Board of Directors for 16 years.

I'd be delighted to answer any questions. My cell phone is 940-595-7253.

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

Nominee Information

Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

David Terre
Name

3941 Teal Cove Lane
Address

The Colony 75056
City Zip

972-740-4526
Daytime Phone

Same
Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? Yes/No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? Yes/No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

* Please see attached resume *

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

David Terre

3941 Teal Cove
The Colony, Texas 75056
972-740-4526



OBJECTIVE

If elected to a fourth term, I will continue to work hard, be organized, use common sense, and always apply the golden rule. This approach has enabled me to make significant contributions during my previous three terms.

EDUCATION

Drake University/ Moberly Community College
BS-Business Administration and a Minor in economics

EMPLOYMENT HISTORY

Vice President of Sales | Wilson Sporting Goods
Retired

46 Year Career

Successfully retired after a wonderful 46 year career where I rose through the ranks to become Vice President of Sales responsible for all domestic sales.

- Directed European Sales Operations while living in Germany
- Experience in Marketing
- Achieved successful coordination of new product introductions
- Managed West Coast Distribution Operations

LEADERSHIP

The Colony City Council

2011-Present

- 2011 - Received the honor of being elected Mayor Pro Tem during my first term on City Council
- 2012 - Appointed to the Local Development Corporation Board of Directors to oversee new Grandscape (Nebraska Furniture Mart) Development
- 2013 - First Council Member from The Colony, Texas to be elected and serve on the Denton County Tax Appraisal District Board of Directors
- 2017 - Reelected to an uncontested 3rd term on City Council

The Colony Planning & Zoning Commission

2008-2011

- Served as Vice Chair

HONORS

- 1982 – Drake University Basketball Hall of Fame
- 1994 – Moberly Community College Basketball Hall of Fame
- 1995-2003 – Three-time Senior Olympics Gold Medal Winner for USA Basketball Team
- 1999 – Wilson Wall of Fame Honor
- 2007- Moberly Community College Outstanding Alumni of the year
- 2013 –Washington High School Hall of Fame
- 2018 –Roaring Lambs Hall of Fame

DCAD ACCOMPLISHMENTS

I have worked with my fellow Board Members to achieve the following meaningful results:

- Ensure a Quorum is established by being present at each meeting while achieving perfect attendance record.
- Make informed decisions doing the necessary preparation prior to each meeting
- Assisted in developing an Annual Operating Budget to ensure spending stays within budgeted funds while always looking for opportunities to reduce expenses
- Participate in the development and evaluation of the Chief Appraisal Officer each year
- To better serve Denton County Property owners, opened a convenient offsite location in the Lewisville Career Center to handle property tax protests
- Launched an online service permitting property owners to file property tax protests electronically
- Implemented a successful, structured flex work schedule as a benefit and morale Booster for ALL employees

Nominee Information Denton Central Appraisal District Board of Directors

Your name has been submitted as a candidate for the DCAD Board of Directors. The term is for two years beginning January 1, 2020, and ending December 31, 2021. Please complete the following information and feel free to attach any additional information. **Please return this form by October 25, 2019, so that a copy can be sent to the jurisdictions with their voting ballot.**

Tom Washington
Name

1805 Countryside
Address

Carrollton 75007
City Zip

972-842-1907
Daytime Phone

972-842-1907
Evening Phone

1. Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding the beginning of this term? ☒ Yes ☐ No
2. Are you an employee of a taxing unit that participates in the Denton Appraisal District? ☒ Yes ☐ No

Please provide work or personal experiences that would be applicable to serve on the DCAD Board of Directors.

Director and Secretary, DCA, Board of Directors (2011-2012)
Treasurer and Secretary, DCA, County Military Benefits Fund
Water County Special Ordinance Commission
Treasurer, Republican Party of Texas
National Treasurer, National Society of Independent Business
National Director, BPA CFO
Former HSD Board as Campaigns Co-Chair & Treasurer
Former Public Accountant - Current Director
Former Real Estate Broker - Current Director

Return to:
Kathy Williams
Denton Central Appraisal District
P.O. Box 2816
Denton, TX 76202

BRYAN C WEBB

972.816.5661

4112 High Rd
Flower Mound, TX 75022
October 16, 2019

CV/Resume in support of a seat on the Denton County Central Appraisal District's Board of Directors

Corporate Experience: Retired, 28 Years Nissan Motor Acceptance Corp.

Strategy and Planning Manager – Remarketing Department.

- Developed strategies and monitored execution plan performance for the sale of 29,000 off-lease vehicles every month.
- The asset value carried on the company's balance sheet averaged \$400 to \$450 million.

Manager – Credit Risk Management.

- Developed and implemented credit decision automation and risk assessment algorithms for 1.2 million credit applications and \$12-15 billion worth loan and lease contract originations annually.
- Monitored loss and delinquency rates against budgeted objectives and historical performance.
- Communicated to executive team current performance, anticipated trends, and broader economic issues that could impact the company's \$50 billion portfolio of consumer contracts.

Municipal Experience – 21 Years appointed and elected positions

City of Lewisville

- Transportation Commission, Board of Adjustment, Planning and Zoning, and Chair Blue Ribbon Bond Committee

Town of Flower Mound

- Transportation Commission, Board of Adjustment, Planning and Zoning
- Elected to Town Council in 2012. Served three terms, fulfilling the charter established term limitation in 2018

Civic Engagement

Flower Mound Summit Club – The oldest civic organization in Flower Mound for twelve years.

- Academic Excellence Awards for 5th and 8th grade students
- Robotic Club Sponsorships for Middle and High School teams
- Boy Scout Troop Sponsorships
- Community Events – Prepared 5,400 hotdogs for Lewisville ISD's Back to School Fair.
- Financial and activity support for other community based organizations including WTF-Winning the Fight, the Flower Mound Police and Fire Associations, Communities in Schools, Keep Flower Mound Beautiful and High School Football booster clubs.

Personal and Professional References available upon request.

Nominee Information
Denton Central Appraisal District Board of Directors

Name Rick Woolfolk

Address 115 West College

City Denton Zip 76201

Daytime Phone 940-382-5500

Evening Phone 940-391-3728

1. **Are you a resident of Denton County and have you resided in Denton County for at least two years immediately preceding January 1, 2020?** ☒ (June 1980)
2. **Are you an employee of a taxing unit that participates in the Denton Appraisal District?** ☒
 (I am an Independent Contractor for Raymond James Financial Services, Inc.) (I have no family members or clients who work for the Denton Appraisal District)

List below work or personal experiences that would be applicable to proposed service on the DCAD Board of Directors. Feel free to attach additional information if needed.

I have been in the financial business here in Denton for over 39 years. (Arrived in June 1980)

I have served on many boards and commissions in Denton, to include the Denton Enterprise Airport Board for over 25 years, and was the Chair for most of those years. It was a time when massive growth was experienced at the Airport. Other Boards include Denton Meals on Wheels/SPAN Board; I was chair for over 4 years. I have been a member of the Denton Rotary Club since October 1980, and have been Secretary, Vice President and President in 1987-1988. Other Boards include Denton Civic Ballet, St Andrews Presbyterian Organ Committee, North Texas State Fair Commercial Exhibits Committee Chair for five years.

I was elected to the Denton Independent School Board in May 1997 and served until May 2006; I was Secretary, Vice President and President for two years during my tenure. I was a major force in changing the way the school district financed bonds and have been credited as saving the school district over \$200 million dollars since those changes were established in 1999. I was also elected to the Texas Association of School Boards and served for six years. During that time, I was the Chair of the Lone Star Investment Pool, a Money Management Fund. It was 2 billion dollar fund that grew to 6 billion dollars under my leadership as Chair. It was the largest municipal investment pool in

America at the time. I helped move the management of the money to two different providers to achieve better returns for the school districts.

I previously was a member of the Denton Central Appraisal District for 4 or 5 years and instituted several improvements in management during that time. We also reviewed the safety of the retirement plan to insure the public entities would not get a surprise assessment to keep the plan healthy in the future. I asked for a joint meeting between the public entities of all jurisdictions and the CDAB to hear issues the taxing entities might have.

I was also appointed by the City of Denton to be the alternate representative to the Denton County Transportation Authority and served about 18 months.

I own property in the City of Denton and have never filed a protest, when I was a member of the Denton Central Appraisal Board, as I did not feel my case could be considered without pressure on the staff.

I am a member of the Civil Air Patrol, an Auxiliary of the United State Air Force. I have held many positions of leadership over the last 20 years. I was the Incident Commander for CAP's response to Hurricane Harvey, overseeing 70 aircraft from 17 different states that took over 375,500 photographs to assess the damage inflicted by the storm. These photographs helped the State of Texas and FEMA respond to the damage that had been inflicted upon Texas. I am currently the Logistics Section Chief for the Hurricane Dorian damage in Florida and other areas. I deal with difficult situations and help solve problems to insure proper response when CAP is called upon to respond.

TOWN OF FLOWER MOUND, TEXAS**RESOLUTION NO. __19**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CASTING THE TOWN OF FLOWER MOUND'S ONE HUNDRED NINETEEN(119) ALLOCATED VOTES FOR THE ELECTION OF THE BOARD OF DIRECTORS FOR THE DENTON CENTRAL 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, the Town of Flower Mound, Texas, based on the 2018 tax levy for the Town, was allocated a total of one hundred nineteen (119) votes to cast for nominated candidate(s) named on the memo provided by the Chief Appraiser of the Denton Central Appraisal District;

WHEREAS, upon receiving the selections submitted by all voting units of the taxing jurisdiction, the five nominees receiving the most votes will be appointed members of the Board of Directors for the Denton Central Appraisal District;

WHEREAS, it is the desire of the Town Council of the Town of Flower Mound, Texas, to cast the Town's one hundred nineteen (119) allocated votes towards the selection of the Board of Directors for the Denton Central Appraisal District.

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

SECTION 1

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

SECTION 2

The Town Council hereby casts the votes of the Town of Flower Mound, Texas, to _____ in the election of the Board of Directors of the Denton Central Appraisal District.

SECTION 3

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 18TH DAY OF NOVEMBER 2019.

APPROVED:

Steve Dixon, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Town Council Future Agenda Items



SCHEDULED	12/2/2019	Presentation	Announcement and Presentation of 2019 Outstanding Citizenship Award(s)
		Consent	Consider approval of an amendment of the Axon Enterprise, Inc., (Axon) Master Service Agreement, for the acquisition of Axon Fleet in car video camera systems, body worn camera systems, and electric control devices; and authorization for the Mayor to execute same on behalf of the Town
		Consent	Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code - Section 42.041 and to adopt an ordinance providing for said Standards.
		Consent	Consider approval of a Professional Services Agreement with HVJ North Texas – Chelliah Consultants, Inc. to provide construction materials engineering and testing, for the Morriss Road 20-inch Water Line (Forest Vista to Lake Bluff) project, in the amount of \$45,175.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Consider approval of a resolution authorizing the adoption of the Program Year 2018 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.
		Consent	Consider approval of an ordinance amending Article II, “Park Regulations” of Chapter 54, “Parks and Recreations” of the Code of Ordinances by amending Section 54-2 to adopt regulations regarding the Disc Golf Course; amending appendix A “Fee Schedule”; providing this ordinance shall be cumulative of all ordinances; providing a severability clause; providing a penalty for violation hereof in accordance with Section 1-13 of the Code of Ordinances; providing for publication in the official newspaper; and providing an effective date (The Parks Board recommended approval by a vote of 6 to 0 at its May 2, 2019, regular meeting).
		Regular	Consider approval of a Construction Agreement with Western Municipal Construction of Texas, LLC., for the Morriss Road 20-inch Water Line (Forest Vista to Lake Bluff) project, in the amount of \$1,640,384.00; and authorization for the Mayor to execute same on behalf of the Town.
		Regular	Public Hearing to consider an ordinance for rezoning (ZPD19-0009 – Windsor Professional Centre) to amend Planned Development District No. 92 (PD-92) with Office District (O) uses, to add the Health club or athletic club use as a permitted use for Lot 4, only. The property is generally located north of Windsor Centre Drive and west of Long Prairie Road. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its November 11, 2019, meeting.)
	12/16/2019	Consent	Pink Evening Primrose Trail Connection - Design
		Consent	Gibson Grant Log Cabin Design Amendment 1

SCHEDULED	12/16/2019	Consent	Consider approval of a contract with TBD in the amount of TBD for reinsurance coverage for the Town's Group Health Plan.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2019, and ending on September 30, 2020, as adopted by Ordinance No. 50-19 for adjustments to the _____ Fund, _____ Fund and _____ Fund.
		Consent	Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2018, and ending on September 30, 2019, as adopted by Ordinance No. 30-18 and amended by Ordinance No. 39-18 and Ordinance No. 25-19 for adjustments to the _____ Fund, _____ Fund and _____ Fund.
		Consent	Library Expansion - Network Wiring
		Consent	WWTP Aaeser Compressor - Purchase & Install
		Regular	Public Hearing to consider an ordinance granting Specific Use Permit No. 460 (SUP19-0009 – Jungle Castle) to permit an amusement and recreation (indoors) use. The property is generally located south of Flower Mound Road and west of Long Prairie Road. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its December 9, 2019, meeting.)
	1/6/2020	Consent	Timber Creek Water Line Replacement Phase 1 - Design
		Consent	Timber Creek Trunk Line - Construction Award
		Consent	The Mound Monument ADA Improvements
		Consent	Edgefield Trail Reconstruction - Design
		Consent	Timber Creek Trunk Line - Testing Award
		Consent	Colonial Drive Reconstruction Phase II - Design
	2/3/2020	Consent	Red Bud Point Water Service Relocation - Construction Award.
		Consent	Placeholder: Call May 2, 2020 Election.
		Consent	Stonecrest Pump Station Phase 1 Auxillary Power - Design
		Consent	Red Bud Point Water Service Relocation - Testing Award.
		Regular	Morriss Road Water Line Phase II (FM 1171 to Milford)