AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING

6/15/2020

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

****

There will be limited seating in Jody Smith Hall to allow for social distancing

Meeting participants may be asked to wait in the lobby until their name is called

Comments regarding any item on this agenda can be sent to the Mayor/Town Council by Emailing: Towncouncil@flower-mound.com or Calling: 972.874.6005

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. ANNOUNCEMENTS

1. Announce recent and upcoming civic and social events.

F. TOWN MANAGER’S REPORT

Update and discussion on:

1. Capital Improvement projects
2. Economic Development projects
3. Financial update

G. FUTURE AGENDA ITEMS

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

H. COORDINATION OF CALENDARS

1. A strategic planning session is scheduled at the Town Hall, for Friday, June 19, at 4:00 pm, and Saturday, June 20, at 9:00 am (if needed)
2. The July 6 meeting has been cancelled due to the Independence Day holiday
3. Consider approval of canceling the work session scheduled for Thursday, July 16
4. A regular meeting is scheduled for Monday, July 20

I. CONSENT ITEMS

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

1. Minutes 6/1- Consider approval of the minutes from a regular meeting of the Town Council held on June 1, 2020.
2. DENCO Resolution- Consider approval of a resolution casting the Town of Flower Mound's vote for a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District for a two-year term beginning October 1, 2020.
3. Patrol Rifle Replacement- Consider approval of the purchase of new patrol rifles utilizing available seizure funds.
4. Morriss 20" Water Line Change Order- Consider approval of Change Order No. 1 for the construction of the Morriss Road 20-inch Water Line (Forest Vista To Lake Bluff) project, amending the contract with Western Municipal Construction of Texas, LLC, to provide for an increase to the contract in the amount of $51,861.34; and authorization for the Mayor to execute same on behalf of the Town.
5. Engineering Firms- Consider approval of sixteen (16) professional engineering firms to provide professional engineering services, five (5) geotechnical engineering firms to provide material testing services, two (2) independent property appraisal firms to provide real property appraisals, and two (2) subsurface utility engineering firms to provide subsurface utility engineering for the Town, for a two-year term ending June 15, 2022.
6. Advertising Services Contract- Consider approval of an advertising contract between Denton County and the Town of Flower Mound, providing $2,500 to the Town in exchange for the Town's promotion of the County's Open Business Grant Program until December 30, 2020; and authorization for the Mayor to execute same on behalf of the Town.

J. REGULAR ITEMS

7. Peters Colony Park Design- Consider approval of a Professional Services Agreement with Mesa Design Associates, Inc., for the design services associated with the Peters Colony Memorial Park project, in the amount of $194,730.00; and authorization for the Mayor to execute same on behalf of the Town. (Town Council postponed this item to June 15, 2020 at its May 18, 2020, meeting).

8. Certificates of Obligation- Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, Certificates of Obligation, Series 2020, establishing parameters for the sale and issuance of such bonds, delegating certain matters to an authorized official of the Town and resolving all matters incident and related thereto.

9. General Obligation Refunding Bonds- Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, General Obligation Refunding Bonds, Series 2020, establishing parameters for the sale and issuance of such bonds, delegating certain matters to an authorized official of the Town and resolving all matters incident and related thereto.

10. MPA19-0005 - Grace Park- **Public Hearing** to consider an ordinance amending the Master Plan (MPA19-0005 – Grace Park) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Low Density Residential Uses to Medium Density Residential Uses. The property is generally located south of Cross Timbers Road and east of Regency Park Court. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its June 8, 2020, meeting.)

11. ZPD19-0013 - Grace Park- **Public Hearing** to consider an ordinance amending the zoning (ZPD19-0013 – Grace Park) from Agricultural District (A) to Planned Development District No. 177 (PD-177) with Single-Family District-10 (SF-10) uses, with certain exceptions, waivers and modifications to the Code of Ordinances. The property is generally located south of Cross Timbers Road and east of Regency Park Court. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its June 8, 2020, meeting.)

12. SUP20-0004 - Mueller Access. Dwelling- **Public Hearing** to consider an ordinance granting Specific Use Permit No. 462 (SUP20-0004– Mueller Accessory Dwelling) to permit an accessory dwelling. The property is generally located south of Bay Park Court and east of Bayshore Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)

13. Z20-0002 - The River Walk- **Public Hearing** to consider an ordinance for rezoning (Z20-0002 - The River Walk at Central Park) to amend the River Walk at Central Park Zoning Ordinance No. 05-15, by adding a new concept plan depicting Presbyterian Hospital's proposed expansion. The property is generally located north of Central Park Avenue and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)

14. SP19-0012 - DFW North Dist Cntr- Consider a request for a Site Plan (SP19-0012 – DFW North Distribution Center (Lisanti)) to approve aggregate or inorganic materials in accordance with Section 82-247 of the Land Development Regulations. The property is generally located south of Spinks Road and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)

15. High Rd Water Line Ph III Const Award- Consider approval of a Construction Agreement with Muniz Construction Inc., for the High Road Water Line Replacement Phase III project, in the amount of $1,225,406.00; and authorization for the Mayor to execute same on behalf of the Town.

16. ILA-Denton County CRF- Consider approval of an Interlocal Cooperation Agreement between Denton County, Texas and the Town of Flower Mound, which designates a portion of the County's CARES Act funding to the Town for the purpose of reimbursing expenditures associated with its ongoing response to COVID-19; and authorize the Mayor to execute the same on behalf of the Town.

K. CLOSED MEETING

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

a. Consultation with Attorney.

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, public rights-of-way, 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.

L. RECONVENE TO REGULAR MEETING

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

M. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: June 11, 2020, at 4:15 p.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

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

TOWN COUNCIL AGENDA ITEM NO. 1

CONSENT ITEM

DATE: June 15, 2020

FROM: Theresa Scott, Town Secretary

ITEM: **Consider approval of the minutes from a regular meeting of the Town Council held on June 1, 2020.**

BACKGROUND INFORMATION: The Town Council held a regular meeting on June 1, 2020.

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.

THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING HELD ON THE 1ST DAY OF JUNE 2020, 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:

Anne Carnes	Executive Assistant
Theresa Scott	Town Secretary (participating remotely solely to transcribe the minutes)
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
Andrea Roy	Director of Economic Development

A. CALL REGULAR MEETING TO ORDER

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

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

Chaplain Mike Liles gave the invocation and 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.	Bill Jander, 5108 Timberhaven Ct	Thanking the town

E. ANNOUNCEMENTS

Mayor Pro Tem Sharma, Councilmember Bumgarner, and Mayor Dixon shared their thoughts regarding the recent protest.

F. TOWN MANAGER'S REPORT

Mr. Stathatos provided the following updates:

1. Capital improvement projects

   - Windsor Drive roundabout connection
   - 1171 Westbound turn lane at FM 2499

2. Economic Development projects

   - New businesses now open or coming soon
   - Cultural Arts Study report

G. FUTURE AGENDA ITEMS

1. There were no future agenda items requested.

H. COORDINATION OF CALENDARS

Mayor Dixon announced the following upcoming meetings and indicated he may not be at the June 15th meeting:

The next Town Council regular meeting is scheduled for Monday, June 15.

I. CONSENT ITEMS

1. Consider approval of the minutes from a regular meeting of the Town Council held on May 18, 2020.
2. Consider approval of the minutes from a regular meeting & work session of the Town Council held on May 21, 2020.
3. Consider approval of a Merchant Card Services Agreement and Merchant Application with Global Payments Direct, Inc. and authorization for the Mayor to execute same on behalf of the Town.
4. Consider approval of an Interlocal Cooperation Agreement between Tarrant County and the Town of Flower Mound, which designates a portion of the County's CARES Act funding to the Town for the purpose of reimbursing expenditures associated with its ongoing response to COVID-19; and authorize the Mayor to execute the same on behalf of the Town.
5. Consider approval of an Interlocal Agreement (ILA) between the Town and Denco Area 9-1-1 District permitting the use of the Denco Emergency Communications Center Annex building by Town staff; and authorization for the Mayor to execute same on behalf of the Town.
6. Consider approval of the award of Bid No. 2020-85-A Street Sweeping Services to Mister Sweeper, LP and to establish an annual unit bid price contract for street sweeping services in an annual estimated amount of $47,000.00; and authorization for the Mayor to execute same on behalf of the Town. The contract is for one-year with four one-year renewal options.

<u>Deputy Mayor Pro Tem Forest moved to approve by consent Items 1 – 6, as presented in the agenda caption. Mayor Pro Tem Sharma 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.</u>

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

J. REGULAR ITEMS

Mayor Dixon opened items 7, 8, and 9 at the same time.

7. Public Hearing to consider an ordinance amending the Master Plan (MPA19-0004 – Mustang Creek Assisted Living) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Flood Plain to either Low Density Residential uses or Medium Density Residential Uses. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its February 24, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 0 at its May 18, 2020, meeting.)

8. Public Hearing to consider an ordinance amending the zoning (ZPD19-0012 – Mustang Creek Assisted Living) from Planned Development District-49 (PD-49) with Single Family Detached (Medium Density) (SFDM) uses to Planned Development District-176 (PD-176) with Single Family Estate (SF-E) uses and a nursing or congregate care facility, with a request for an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with certain waivers, exceptions and modifications to the Code of Ordinances. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The Planning and Zoning Commission recommended approval by a vote of 5 to 1 at its February 24, 2020, meeting.) (The Town Council moved to postpone this item by a vote of 4 to 0 at its May 18, 2020, meeting.)

9. Public Hearing to consider an application for a tree removal permit for five (5) specimen trees on property proposed for development as Mustang Creek Assisted Living. The property is generally located north of College Parkway, east of Timberland Parkway and south of Locke Drive. (The Environmental Conservation Commission recommended approval to remove four (4) of the eight (8) specimen trees requested for removal by a vote of 5-1-0 at its February 4, 2020, meeting). (The Town Council moved to postpone this item by a vote of 4 to 0 at its May 18, 2020, meeting.)

Staff Presentation

Ms. Murphy gave a presentation for items 7, 8, and 9 identifying or noting:

- Detailed location
- Land use and zoning
- Conceptual site plan
- Master Plan exhibit
- Conceptual landscape plan/topographic slope
- Tree removal request
- Proposed elevations

and she responded to the following questions from Council:

- Clarification regarding the slope exception and how it passed SMARTGrowth
- What is the median age of Flower Mound residents
- Possibility of changing the single-family estate definition

Applicant Presentation

Joe Helmberger Kimley-Horn, 260 East Davis St, McKinney
Renee Ramsey, CEO Mustang Creek Enterprises, 500 Legacy Drive, Plano

Ms. Ramsey or Mr. Helmberger gave a presentation identifying or noting:

- Company background information
- Letter from LISD school district offer
- Types of homes and elevations
- Travel path video
- Tree summary
- Reasons to choose Mustang Creek over other developments
- Demographic study

and they responded to the following questions from Council:

- If there will be outbuildings next to the fence/greenbelt

Mayor Dixon opened the Public Hearing for items 7, 8, and 9 at 6:35 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 **Indicated did not wish to speak*	**Opposition: Comments/Questions**	**Question(s)/Comments Only**
Bill Jander, 5108 Timberhaven Ct	None	None
Jan Arrington, 4116 Tiffany Dr		
Cindy Neander, 3004 High Chaparral Dr		
Doug Fulmer, 5313 Townsend Dr		
Anne Scales, 3017 High Chaparral Dr		
Dorrie Loughborough, 5513 Sundale Dr		
Kim Snyder, 5105 Timberhaven Ct		
Patrick Schott, 3400 Tanyard Ct		
Margaret Wroblewski, 2804 Carterton Way*		
Deanne Angonia, 1913 Stevenson Ln*		
Trista Abernethy, 2700 Winnpage Rd*		
Rebecca Bowen, 3104 Dwyer Ln*		
Liz Wiegers, 1409 Simmons Rd*		
Marlene Price, 2604 Huntly Ln*		
Bob Neander, 3004 High Chaparral*		
Henry Loughborough, 5513 Sundale Dr*		
Jennifer Mattingly, 2125 Stevenson Ln*		
Wendi Vaughn, 1801 Kingston Ln*		
Tami Braun, 1721 Marble Pass Dr*		

Mayor Dixon closed the Public Hearing at 6:51 p.m.

Council Discussion:

There was Council discussion regarding:

- Concerns that a clear category doesn't exist to allow an assisted living facility use adjacent to medium/low density housing
- Master Plan definition of mixed use
- Senior overlay discussion review
- Assisted living versus residential development impact
- Past committees that discussed the creation of transitional zones
- How the develop is not like an apartment or multifamily use
- How Mustang fits within the proposed area
- Master Plan amendments
- Whether this project is a good fit for the area
- How there were multiple bidders for the property; however, they walked away due to the development cost involved
- How the application itself is different from the funding gained for LISD with the sale of the property
- Planned development or agricultural zoning option

Item 7 Motion (MPA19-0004 – Mustang Creek Assisted Living):

Deputy Mayor Pro Tem Forest moved to approve as presented; however, with a low-density residential Master Plan designation. Councilmember Bumgarner seconded the motion.

ORDINANCE NO. 10-20

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0, LAND USE PLAN, OF THE MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN, SPECIFICALLY TO CHANGE THE CURRENT LAND USE REFLECTED ON THE LAND USE PLAN MAP FROM FLOOD PLAIN TO LOW DENSITY RESIDENTIAL ON APPROXIMATELY 9.007 ACRES OF LAND SITUATED IN THE J. WATKINS SURVEY, ABSTRACT NUMBER 1324; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

Item 8 Motion (ZPD19-0012 – Mustang Creek Assisted Living):

Councilmember Pierson moved to approve as presented; however, with agricultural uses instead of single family estate (SF-E) uses. Councilmember Bumgarner seconded the motion.

ORDINANCE NO. 11-20

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 9.007 ACRES OF LAND SITUATED IN THE J. WATKINS SURVEY, ABSTRACT NUMBER 1324, FROM PLANNED DEVELOPMENT DISTRICT-49 (PD-49) WITH SINGLE FAMILY DETACHED (MEDIUM DENSITY) (SFDM) USES TO PLANNED DEVELOPMENT DISTRICT-176 (PD-176) WITH AGRICULTURAL USES AND A NURSING OR CONGREGATE CARE FACILITY 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, ENGEL, PIERSON
NAYS: SHARMA

Item 9 Motion (Tree Removal Permit – Mustang Creek)

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

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

10. Public Hearing to consider an ordinance amending the Land Development Regulations (LDR19-0010 – Platting Updates) by amending Chapter 74 entitled "General Provisions", Chapter 78 entitled "Administration" and Chapter 90 entitled “Subdivisions” of the Town's Code of Ordinances to create a process for assessing project completeness and associated vested rights, as well as project expiration dates, and to clarify review and approval processes for development plans and plats, in compliance with new state regulations. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its May 11, 2020, meeting.)

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- Previous discussion summary
- Sec. 74-3 definitions
- Paper copies references
- Outdated titles
- Corrections (Sec. 90-33, 90-93, 90-219)
- Updates (90-55, 90-126, 90-127, 90-219, 90-221)
- Proposed changes (by staff)
- Changes needed due to state law
- Vested rights
- Benchmark cities

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

- Clarification regarding the septic requirements
- Clarification regarding approval time lines as it relates to plat/plan applications
- Clarification regarding the vested rights entitlements
- Concerns regarding decisions being made by a single individual and the appeal process

Mayor Dixon opened the Public Hearing at 8:30 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 8:30 p.m.

<u>Mayor Pro Tem Sharma moved to approve as presented; however, with the addition of an appeal process with the Board of Adjustment for vested rights determinations made by the Town Manager. Deputy Mayor Pro Tem Forest seconded the motion.</u>

ORDINANCE NO. 12-20

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 74, "GENERAL PROVISIONS" OF THE TOWN'S CODE OF ORDINANCES, SECTION 74-3, "DEFINITIONS" TO UPDATE THE DEFINITIONS OF LAND USE PLAN AND TOWN MANAGER; AMENDING SECTION 74-5, "CONSISTENCY WITH COMPREHENSIVE MASTER PLAN" TO REMOVE OUTDATED TEXT REFERENCING SPECIFIC PLAN AREAS; AMENDING CHAPTER 78, "ADMINISTRATION" OF THE TOWN'S CODE OF ORDINANCES, TO CREATE ARTICLE VI, "VESTED RIGHTS"; AMENDING CHAPTER 90, "SUBDIVISIONS" OF THE TOWN'S CODE OF ORDINANCES, ARTICLE I, "IN GENERAL," ARTICLE II, "DEVELOPMENT PLAN," ARTICLE III, "PLATS," ARTICLE V, "IMPROVEMENTS," AND ARTICLE VI, "STANDARDS" TO ESTABLISH REQUIREMENTS AND PROCESSES FOR COMPLETENESS DETERMINATIONS, AS WELL AS TO REFLECT CURRENT TOWN PRACTICES AND STATE REQUIREMENTS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

11. Public Hearing to consider approval of a Chapter 380 Agreement between the Town of Flower Mound and Gerault Office Warehouse I, LP

<u>**Staff Presentation**</u>

Ms. Roy gave a presentation identifying or noting:

- Site map
- Project details, including the site plan
- Incentives

and she responded to the following questions from Council:

- Clarification regarding the amount for the sidewalk

Mayor Dixon opened the Public Hearing at 8:38 p.m. No one spoke. Mayor Dixon closed the Public Hearing at 8:38 p.m.

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

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

K./L. CLOSED/OPEN MEETING

The Town Council did not convene into a closed meeting. No action was taken on items a. – c. below.

a. Consultation with Attorney.

b. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights-of-way, 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. ADJOURN REGULAR MEETING

Mayor Dixon adjourned the meeting at 8:39 p.m. on Monday, June 1, 2020, 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: June 15, 2020

FROM: Theresa Scott, Town Secretary

ITEM: **Consider approval of a resolution casting the Town of Flower Mound's vote to appoint Brandon Barth as a member of the Board of Managers of the Denco Area 9-1-1 Emergency Communications District for a two-year term beginning October 1, 2020.**

BACKGROUND INFORMATION: Chapter 772, Texas Health and Safety Code, provides for the Denco Area 9-1-1 District Board of Managers to have "two members appointed jointly by all the participating municipalities located in whole or part of the district". Each year the term of one of the two members appointed by participating municipalities expires. Click here for current FY2020 Board of Managers.

On March 31, 2020, the Denco Area 9-1-1 requested participating municipalities nominate a representative for potential appointment to the district's board of managers. On May 18, 2020, the Town Council nominated Brandon Barth, Emergency Management Officer. Two additional individuals were nominated by participating cities. Now the Denco Area 9-1-1 District is requesting each participating municipality vote for one of the nominees, with a deadline of July 31, 2020. The draft motion and resolution casts the Town's vote for its nominee - Brandon Barth.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

Proposed Expenditure:	Account Number(s):
N/A	N/A

Finance Review by: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Letter from Denco, nominees and qualifications
2. Draft resolution

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

Denco Area 9-1-1 District
1075 Princeton Street ▪ Lewisville, TX 75067
Phone: 972-221-0911 ▪ Fax: 972-420-0709 ▪ DENCO.ORG

TO: Denco Area 9-1-1 District Participating Jurisdictions

FROM: Greg Ballentine, Executive Director

DATE: June 1, 2020

RE: Appointment to the Denco Area 9-1-1 District Board of Managers

On March 31, 2020, the Denco Area 9-1-1 District requested participating cities to nominate a representative to the district board of managers for the two-year term beginning October 1, 2020. Denco received the following nominations by the May 31, 2020 deadline:

Nominee	City/Town Making Nomination
Brandon Barth	Town of Flower Mound
Jim Carter	City of Aubrey City of Highland Village City of Krugerville City of Lake Dallas City of Lewisville City of Oak Point City of Pilot Point Town of Bartonville Town of Corral City/Draper Town of Cross Roads Town of Double Oak Town of DISH Town of Hickory Creek Town of Northlake Town of Shady Shores Town of Trophy Club
David Terre	City of The Colony

The Denco Area 9-1-1 District requests that each participating city vote for one of the candidates and advise the district of its selection by 5 p.m. on July 31, 2020. No votes will be accepted after that time. If a nominating municipality does not formally vote, it's nomination will automatically count as a vote for its nominee. Please send a copy of the resolution recording council action. I have attached a sample resolution you may wish to use and resumes for the candidates. Also attached is a copy of the resolution outlining board appointment procedures and a list of current board members.

Please send a copy of your council's office action to the Denco Area 9-1-1 District, 1075 Princeton Street, Lewisville, TX 75067 or to Melinda Camp at melinda.camp@denco.org.

Thank you for your assistance in this matter.

Brandon Barth, CEM®

[redacted]

PROFILE SUMMARY

Results-oriented, dependable professional with 15 years of emergency response and fire rescue experience. Certified and skilled in emergency management, media, and public relations. Possesses superior communication and multi-tasking skills with an acute attention to detail in a fast-paced, high-stress environment.

PROFESSIONAL EXPERIENCE

Flower Mound Fire Department, Flower Mound, TX

Emergency Management Officer **March 2014-Present**

- Leads, manages, directs, and supervises the functions and programs of the Emergency Management Division.
- Assists in the development, planning, and implementation of Departmental goals and objectives.
- Participates in the development and administration of the Emergency Management Division budget, including the financial planning for staffing, equipment, and supplies for the Emergency Management Division.
- Responds to incidents and provides Emergency Management Support
- Assists the Suppression Division during times of emergency as an officer of the Flower Mound Fire Department i.e. FIT, Safety Officer, Division assignment, SME.
- Manages the Town's Mobile Incident Command Vehicle and supervises the trained driver/operators of the vehicle.
- Serves as the Public Information Officer for the Fire Department, providing news releases/statements, coordinates projects with the Town's Communications Department, and oversees the FMFD website and social media accounts.
- Oversees administrative compliance and scheduling of the AMBUS with the North Central Texas Trauma Regional Advisory Council and the State of Texas Emergency Medical Task Force. Coordinates that the AMBUS and its ancillary equipment are operationally ready.
- Maintains information on hazardous materials that are stored in the Town of Flower Mound and project manages hazardous materials spills within the Town.
- Performs various special research projects and may be responsible for administering special programs.
- Secures technical and financial assistance through grants and Public/Private partnerships.
- Prepares and presents public awareness programs to civic groups, medical facilities, schools, and other organizations.
- Reviews Special Event Permits and works with other Town departments to plan for special events and to prepare Special Event Emergency Operations Plans.
- Examines potential disaster events and evaluates the effect on the Town.
- Produces the Town's Debris Management Plan and master Emergency Operations Plan and 22 supporting Annexes. Plans the Town's response to disasters and ensures that all entities can respond as outlined in the Emergency Operations Plan.
- Serves in the Town's Emergency Operation Center (EOC), if activated.
- Responsible for designing, training, and evaluation of periodic exercises to test elements of emergency plan.
- Provides expert knowledge and advice to operating departments on special conditions and operating requirements that would be imposed by disasters.
- Responsible for ensuring operability of outdoor warning sirens and securing interlocal agreements and easements for the installation of sirens (installed 16 new sirens since 2014).
- Manage the Town's Everbridge emergency notification system.
- Serves as liaison with community, state and federal authorities concerned with disaster planning, response, and recovery.

Brandon Barth, CEM®

[redacted]

- Responsible for seeking FEMA reimbursement post-disaster or reimbursement from the State of Texas post-deployment of Town resources to other disaster or emergency events.
- Serve as the co-chair for the North Central Texas EOC Support Team

Allied International Emergency, LLC – Fort Worth, TX **May 2011- March 2014**

Operations Manager **September 2013-March 2014**

•Managed the daily operations and supervised a staff of 8 employees for the Allied International Emergency's corporate branch.
•Oversaw 500+ annual hazardous materials and environmental remediation projects daily in a rapid paced environment with multiple deadlines.
•Prepared bids and proposals to current and future customers.
•Ensured that all supplies and equipment at the facility are in a constant state of operational readiness.
•Provided response and laboratory reports to customers as well as state regulatory agencies regarding hazardous material/environmental incidents.
•Executed service agreements with new customers during numerous emergency responses.
•Maintained an up-to-date survey that tracks employees' training, certifications, fit tests, and physical exams to ensure conformance with OSHA regulations.
•Conducted training classes for employees and customers on subjects such as hazardous materials, confined space entry, and fall protection.

Project Manager **May 2011-September 2013**

•Managed personnel at various types of hazardous materials and environmental incidents ranging from tractor-trailer accidents to chemical plant fires per OSHA 1910.120 and requiring travel to various cities and states on a moment's notice.
•Supervised projects through the emergency response, mitigation, remediation, and closure phases.
•Oversaw the decontamination of Naturally Occurring Radioactive Materials (NORM) as a Radiation Safety Officer.
•Performed confined space entry and confined space rescue standby as outlined by OSHA 1910.146.
•Interacted with customers as well as state regulatory agencies such as the Texas Railroad Commission and the Texas Commission on Environmental Quality during hazardous materials incidents as well as environmental emergencies.
•Responsible for the profiling and disposal of hazardous, non-hazardous, and RCRA E&P exempt waste streams.
•Conducted sampling of water, air, and soil to determine potential contamination.
•Wrote policies for new hires to the company.

Baldwin County Fire Rescue – Milledgeville, GA **January 2005- March 2011**

Full-time Firefighter/Public Information Officer **January 2007-March 2011**

•Presented a marketing/communications plan to the department's executive staff, thus creating the position of a PIO as well as creating the department's social media accounts.
•Conducted interviews with local media outlets: newspaper, radio, and TV.
•Wrote news releases and operated the department's social media site.
•Redesigned the department's report writing system and making a quick reference guide to assist those.

Brandon Barth, CEM®

[redacted]

•Worked in conjunction with the Executive Staff of the fire department in projecting their message to the public.
•Assisted with grant and compliance research on behalf of the executive staff.

•Worked 24-hour shifts; responding to various types of emergency incidents including emergency medical calls, vehicle accidents, and fires.
•Served as the acting-officer in charge; certified through the National Professional Qualifications Pro Board as a Fire Officer 1; overseeing the day-to-day tasks and emergency operations of the on-duty personnel when the shift officer was absent.
•Served as part of the regional Hazardous Materials Team; certified through the National Professional Qualifications Pro Board as a Hazardous Materials Technician
•Assisted in the training of firefighters; certified through the National Professional Qualifications Pro Board as a Fire Instructor 1.
•Provided fire safety demonstrations and classes to children in the local school system.
• Conducted pre-incident/safety inspections of commercial properties to assess dangers and to determine proper mitigation procedures based on building layout, hazards, and building construction.
• Drove and operated fire apparatus to include engines, tankers, aerials, and rescue trucks.
• Awarded Firefighter of the Year – Baldwin County Fire Rescue 2008-2009.

Part-time/Volunteer Firefighter **January 2005-January 2007**
While pursuing bachelor's degree, worked part-time covering shifts for full-time personnel who were on leave. Was entrusted to work alone at stations in rural parts of the county that only had one person on-duty during a shift. Maintained attendance in more than 80% of emergency calls and training drills and responded to emergencies via notification by pager.

EDUCATION

Bachelor of Business Administration, International Business
Georgia College & State University - Milledgeville, GA May 2007

PROFESSIONAL CERTIFICATIONS

Certified Emergency Manager, International Association of Emergency Managers
Advanced Professional Series, Federal Emergency Management Agency
Professional Development Series, Federal Emergency Management Agency
Amateur Radio License, Federal Communications Commission
Intermediate Firefighter, Texas Commission on Fire Protection
Intermediate Fire Investigator, Texas Commission on Fire Protection
Emergency Medical Technician-Basic, National Registry and Texas Department of State Health Services
Wildland Firefighter, Texas Commission on Fire Protection and Texas A&M Forest Service
Fire Officer IV, Texas Commission on Fire Protection
Fire Instructor II, Texas Commission on Fire Protection
Incident Safety Officer, Texas Commission on Fire Protection
ICS 100, 200, 300, 400, 700, and 800, Federal Emergency Management Agency

JIM CARTER
[redacted] [redacted]
Flower Mound, Texas 75028

EDUCATION

College Degree:	University of Georgia, B.B.A. Finance
Post Graduate:	Georgia Tech, University of Tennessee, University of Michigan, Texas Women's University, American Management Association

PROFESSIONAL EXPERIENCE

Department Head, Finance	General Motors Corporation
Zone Vice-President	Frito-Lay, Inc., International and Domestic Development
President, C.E.O.	Mercantile Corporation Responsible for 3 Banks, developed 2,000 prime commercial acres in Fort Worth adjacent to I-35W,
Current: Principal	James P. Carter & Associates – Consultant & Mediator To business and governmental entities
Professional Licenses	Texas Real Estate License, Certified Mediator

PUBLIC SERVICE EXPERIENCE

Mayor	Trophy Club, Texas – 14 years
Municipal Court Judge	Trophy Club, Texas – 12 years
Emergency Manager	Trophy Club, Texas – 14 years
County Commissioner	Denton County, Texas – 8 years
Vice President	Texas Association of Counties
President-Current	Denton County Emergency Services District #1 Fire and Emergency Medical over 65 square miles Serving 5 municipalities: (Argyle, Bartonville, Copper Canyon, Draper, and Northlake); Lantana Freshwater Supply Districts #6 and #7 and unincorporated areas of Denton County
Texas State Board Member-Current	State Association Fire and Emergency Service Districts – Trains Emergency Services District Commissioners

Board Member Denco 911- Current	Emergency telecommunications system that assists its member jurisdictions in managing police, fire and medical emergency calls.
Mission Leader – Guatemala	Constructed purified water system in remote villages, shared the “Good News” of Jesus’s love.
Team Leader	Provide housing and food to victims of Hurricane Katrina.
Team Leader	Made several trips to Sabine Pass to aid victims of Hurricane Rita.

COMMUNITY AND CHARITY SERVICES

Baylor Healthcare System	Trustee – 10 Years
University of North Texas	President’s Council
Texas Student Housing Corp	Chairman – 20 Years, providing Residential Scholarships at UNT, A&M, UT Austin
Boy Scouts of America	Longhorn Council, District Chairman
First Baptist Church, Trophy Club	Chairman, Stewardship Committee and Senior Bible Teacher

US MILITARY

US Navy	11 years – active and reserve service

Honors: Who’s Who in the South and Southwest, Who’s Who in U.S. Executives, Honorary Fire Chief Argyle Fire District

David Terre

[redacted]

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

See reverse

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. ___-20

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPOINTING ONE MEMBER TO THE BOARD OF MANAGERS OF THE DENCO AREA 9-1-1 DISTRICT.

WHEREAS, Section 772, Health and Safety Code, provides that two voting members of the Board of Managers of an Emergency Communications District shall be appointed jointly by all cities and towns lying wholly or partly within the District.

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

SECTION 1

The Town of Flower Mound hereby votes to appoint Brandon Barth as a member of the Board of Managers for the Denco Area 9-1-1 Emergency Communication District for a two-year term beginning October 1, 2020.

SECTION 2

This Resolution shall become effective immediately upon its passage and approval.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF __ TO ___ ON THIS 15th DAY OF JUNE, 2020.

APPROVED:

____
Steve Dixon, MAYOR

ATTEST:

____
Theresa Scott, TOWN SECRETARY

TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: June 15, 2020

FROM: Shane Jennings, Police Captain

ITEM: **Consider approval of the purchase of new patrol rifles utilizing available seizure funds.**

BACKGROUND INFORMATION: The Flower Mound Police Department began its Patrol Rifle program in 2007/2008. At the time, the choice of an acceptable rifle and optic were very limited. These rifles have been deployed in the field multiple times per day over the past thirteen years, being function checked, and transported by officers to and from the equipment room to patrol vehicles several thousand times. They have also been exclusively used for qualification and training during this time. The personal patrol rifle program has allowed us to extend the life of the current rifles, but this heavy use has caused wear and tear on the critical components of the equipment requiring the need of a major upgrade or replacement. The Trijicon optics used on these rifles contains the radioactive element Tritium which has a half-life or service of ten years. The current Trijicon optics have reached their end of service life and must be replaced.

Over the past few years, development and improvement in rifles, optic designs, and performance have increased and last year, the department deployed sound suppressors on the patrol rifles to help protect officers hearing. One undesirable downside to using suppressors is the increase in the amount of gas that is blown back into the shooter's face, and the Sionics rifle chosen to replace our current rifle is designed with a reduced gas port which decreases this effect. Therefore, replacing the rifles with a more modern model will serve the needs of the department more so than upgrading and replacing parts on what would still be nearly fifteen-year-old weapons.

The department currently has twenty-six patrol and SRO rifles. An additional rifle is needed for the PRU supervisor. Four of the SRO rifles are new and are configured like the rifle being considered to replace our current patrol rifle and therefore, do not need to be replaced. This leaves the department needing to replace twenty-three patrol rifles and associated equipment, which can be accomplished as an approved purchase using seizure funds and not impacting the Town's General Fund Budget.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: The purchase of the new rifles will be covered utilizing available seizure funds.

Proposed Expenditure/(Revenue):	Account Number(s):
$ 51,776.90	331-360-00000-2300

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Quote
2. Sole source letter

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

Attachment 1

SIONICS Weapon Systems - Quotation#11220-5 - FMPD

SIONICS

Quotation Date:	20-May-2020
To:	Flower Mound Police Department 4150 Kirkpatrick Lane Flower Mound, Texas 75028
From:	SIONICS Weapon Systems 5118 East Pima Street Tucson, Arizona 85712

Description	Units	Cost Per Unit	Amount
Patrol Three SBR - Flower Mound Edition	23	$869.95	$20,008.85
FMPD Edition includes SWS 11.5" Medium Contour Barrel, SWS 10.5" M-LOK Rail, SWS M-LOK Rail Piece, SWS Enhanced Trigger,			
SWS NP3 Coated BCG, SWS H2 Buffer, SWS Ambidextrous Selector, SWS QD End Plate, Radian Ambidextrous Charging Handle,			
Magpul MOE SL Stock and Magpul K-2 Grip - No Magazines included with Rifle			
Accessory Package - Flower Mound Edition	23	$1,339.95	$30,818.85
FMPD Accessory Package includes Silencerco Saker 556K ASR, Aimpoint H2 w/ Geissele Mount, Streamlight ProTac Rail Mount HL-X,			
Blue Force Gear Vickers Padded Sling and Blue Force Gear Push Button QD Sling Swivel x 2			
Silencerco Saker ASR 556K	4	$509.95	$2,039.80
Patrol Three Upper Receiver - Flower Mound Edition	12	$599.95	$7,199.40
FMPD Edition includes SWS 11.5" Medium Contour Barrel, SWS 10.5" M-LOK Rail,			
SWS M-LOK Rail Piece, SWS NP3 Coated BCG and Radian Ambidextrous Charging Handle			

Sub Total #1	$60,066.90
COLT Commando x 22 Trade-In Value*	-$4,400.00
Thunder Beast 556 x 25 Trade-In Value*	-$2,500.00
Colt Commando Upper Receivers with Surefire Forend Lights x 12 Trade-In Value*	-$2,040.00
Sub Total #2	$51,126.90
Texas Sales Tax - LE Agency Exempt ???	???
UPS Freight	$650.00
TOTAL	**TBD**

This Quotation is based on the issuance of an Official Department Purchase Order and F.A.E.T. Exemption

*Flower Mound PD is responsible for shipping Trade-In items to SIONICS Weapon Systems

Attachment 2

SIONICS

SIONICS Weapon Systems
5118 East Pima Street
Tucson, Arizona 85712

21-May-2020

Officer Boon:

This letter will confirm that SIONICS Weapon Systems is the Sole Rifle Manufacturer, that I am aware of, that produces an AR-15 Type Mil-Spec Rifle that features the following enhancements:

Radiograph Inspected Barrel w/ Chrome Lining - 1:7 Twist
Magpul Furniture Package
Nickel Teflon Coated Trigger
NP3 Coated Bolt Carrier Group with Carpenter 158 Bolt
Sprinco Enhanced Buffer Spring and HD Extractor Spring

Although there are other Manufacturers that may offer these items individually, there is no other Manufacturer that I am aware of that includes these items with their Standard Rifle Package.

In addition, SIONICS Weapon Systems is the Sole Rifle Manufacturer, that I am aware of, that will refurbish an Upper Receiver and Lower Receiver and replace 100% of all the necessary items needed to make the item fully functional.

It should also be noted that in addition to offering the enhancements listed above, SIONICS Weapon Systems spends a considerable amount of time, far more than the industry average, to manufacture and assemble the final product. Based on the time spent and craftsmanship put into the Rifle, we receive minimal if any returns or issues over the lifetime of the product.

If you should have any questions, please don't hesitate to give me a call.

Best Regards,

Joshua E. Katz

Joshua E. Katz
Chief Executive Officer

TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: June 15, 2020

FROM: Dale Crown, P.E., Senior Project Engineer

ITEM: **Consider approval of Change Order No. 1 for the construction of the Morriss Road 20-inch Water Line (Forest Vista To Lake Bluff) project, amending the contract with Western Municipal Construction of Texas, LLC, to provide for an increase to the contract in the amount of $51,861.34; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: On December 2, 2019, Western Municipal Construction of Texas, LLC was awarded the Morriss Road 20-inch Water Line (Forest Vista to Lake Bluff) project in the amount of $1,640,384.00. The project consists of the construction of 4,100 linear feet of 20-inch water line, 1,000 linear feet of 8-inch water line, and 250 linear feet of 12-inch water line. The 20-Inch water line will be located along Morriss Road from Forest Vista to Lake Bluff Drive. In order to maintain redundancy in the water distribution system, a proposed 8-inch water line will replace the portion of the existing 20-inch water line located along Tudor Way that is planned to be taken out of service as part of this project.

Change Order No. 1 allows for additional work described below:
- Additional work associated with removal of an abandoned signal pole foundation located in the path of the bore beneath the Morriss Road and Forest Vista Drive intersection.
- Additional work associated with installing the new 20-inch water line where it is in conflict with approximately 40-feet of an existing electric conduit.
- Removal and replacement of a faulty existing 24-inch butterfly valve located at FM 3040 and Tudor Way.

ALTERNATIVES/OPTIONS: Additional work associated with removal of the abandoned signal pole foundation and installation of water line alongside a conflicting electric conduit is required to complete the project. A decision not to approve this change order would result in additional project delays and design changes to the water line alignment. A decision not to approve the replacement water valve will significantly increase the number of potential residents affected by service disruptions during maintenance and repairs.

FISCAL IMPACT: $51,861.34

Proposed Expenditure/(Revenue):	Account Number(s):
$51,861.34	630-960-98849

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

Total project cost is $ 2,500,000. Funding source (s) are:

- Other $ 200,000
- Utility Debt $ 2,300,000

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order 1

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

Attachment 1

CHANGE ORDER No. 1

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound
Contractor: Western Municipal Construction of Texas, LLC
Project: Morriss Road 20" Water Line (Forest Vista to Lake Bluff)

CHANGE ORDER NO. 1

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

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

Item No.	Description	Unit	Add/ Deduct	Qty.	Unit Price	Extended Amount
CO1-A	Additional Costs to Jackhammer, Cut and Remove Obstructing Concrete Foundation	LS	Add	1	$ 6,884.20	$ 6,884.20
CO1-B	Haul Off and Disposal	LS	Add	1	$ 431.25	$ 431.25
CO1-C	Standby Hours Bore Equipment/Crew Rate	HRS	Add	16	$ 688.42	$ 11,014.72
CO1-D	Additional Water Line Installation Costs due to Conflicting Previously Unknown Utility	LS	Add	1	$ 3,226.17	$ 3,226.17
CO1-E	Remove and Replace Existing 24-inch Butterfly Valve with New 24-inch Butterfly Valve	EA	Add	1	$ 28,655.00	$ 28,655.00
Bid Item 26	Sodding	SY	Add	33	$ 50.00	$ 1,650.00
SUBTOTAL						**$ 51,861.34**

JUSTIFICATION

Change Order No. 1 provides for the following:

Items CO1-A and CO1-B allows for the removal of an abandoned concrete signal pole foundation along Morriss Road obstructing boring operations across Forest Vista Drive. The concrete obstruction must be removed, so boring operations and installation of the 20-inch water line can continue moving forward.

Item CO1-C accounts for time lost by the boring contractor due to the concrete obstruction.

Item CO1-D accounts for additional effort by the contractor to install the new 20-inch water line where it is in conflict with an existing electric conduit between Stations 8+60 and 9+00. The existence of the conduit was previously unknown and not shown on plans. This change order item accounts for additional equipment and time spent by the contractor to protect the electric conduit while installing the new water line.

Item CO1-E accounts for removal and replacement of a faulty 24-inch butterfly valve located at FM 3040 and Tudor Way. The valve is located in close proximity to an existing 20-inch to be abandoned as part of this project.

Bid Item 26 accounts for additional sodding associated with removal and replacement of a 24-inch butterfly valve.

REVISED CONTRACT AMOUNTS

Original Contract	$ 1,640,384.00
Change Order #1	**$ 51,861.34**
Revised Contract Price	**$ 1,692,245.34**

Recommended for Approval

6/8/2020

Brian Waltenburg, P.E. — Date
Assistant Director of Engineering

6/8/2020

Contractor — Date

PM

Contractor Title

Approved

Steve Dixon — Date
Mayor

TOWN COUNCIL AGENDA ITEM NO. 5

CONSENT ITEM

DATE: June 15, 2020

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

ITEM: **Consider approval of sixteen (16) professional engineering firms to provide professional engineering services, five (5) geotechnical engineering firms to provide material testing services, two (2) independent property appraisal firms to provide real property appraisals, and two (2) subsurface utility engineering firms to provide subsurface utility engineering for the Town, for a two-year term ending June 15, 2022.**

BACKGROUND INFORMATION: A request for statement of qualifications (SOQ) for Professional Engineering Services was advertised in the Denton Record Chronicle (DRC) on April 5, 2020, and April 12, 2020. Each prospective firm was requested to submit their qualifications for master plans, roadway, water, wastewater, project cost estimating, property acquisition, modeling for water and wastewater systems, parks design and facilities design. The selection team reviewed each submittal based upon qualifications, experience, office location, and previous experience with the Town.

Professional Engineering Services

Forty-Nine (49) firms responded to the request for SOQ for Professional Engineering Services for Various Projects (2020-71-B). A selection team, comprised of the Assistant Director of Engineering, Project Managers, and Project Engineers, reviewed the submittals and chose the following sixteen (16) firms as qualified:

- Burns & McDonnell Engineering Company, Inc
- CP&Y Inc.
- Criado & Associates, Inc.
- Freese & Nichols, Inc.
- Halff Associates, Inc.
- JoneslCarter (Jones & Carter, Inc.)
- Kimley-Hom and Associates, Inc.
- Lee Engineering, LLC
- Mesa (Mesa Design Associates, Inc.)
- Nathan D. Maier Consulting Engineers, Inc
- Pacheco Koch Consulting Engineers, Inc
- Parkhill, Smith & Cooper, Inc.
- Plummer, Inc.
- Power Engineers, Inc (POWER Engineers, Incorporated)
- RJN Group, Inc.
- Teague Nall and Perkins, Inc.

Upon approval by the Town Council, staff will have the authority to initiate negotiations with any of the selected firms to perform professional engineering services for individual Town projects. Each time staff negotiates with one of the selected firms, the professional services agreement will be submitted to the Town Council or the Town Manager for approval.

Professional Material Testing Services

Also included in the SOQ advertisement April 5, 2020, and April 12, 2020, was a request for SOQ for Professional Material Testing Services. The selection team reviewed each submittal based upon qualifications, experience, office location, and previous experience with the Town.

Twenty (20) firms responded to a request for SOQ for Professional Material Testing Services (2020-72-B). A selection team, comprised of Project Managers and Project Engineers in the Town's CIP group, reviewed the submittals and chose the following five (5) firms as qualified:

- Alliance Geotechnical Group, Inc.
- ECS Texas, LLP
- ETTL Engineers & Consultants, Inc.
- Fugro (Fugro USA Land, Inc)
- Professional Service Industries, Inc.

Upon approval by the Town Council, staff will have the authority to initiate negotiations with any of the five firms to perform professional materials testing services for individual Town projects. Each time staff negotiates with one of the selected firms, the Professional Services Agreement will be submitted to the Town Council or the Town Manager for approval.

Real Property Appraisal Services

Also included in the SOQ advertisement April 5, 2020, and April 12, 2020, was a request for SOQ for Real Property Appraisal Services. The selection team reviewed each submittal based upon qualifications, experience, office location, and previous experience with the Town.

Six (6) firms responded to a request for SOQ for Real Property Appraisal Services (2020-73-B). A selection team, comprised of Project Managers and Project Engineers in the Town's CIP group, reviewed the submittals and chose the following two (2) firms as qualified:

- JLL Valuation & Advisory Services, LLC
- Pyles Whatley Corporation

Upon approval by the Town Council, staff will have the authority to select any of the two (2) firms to perform real property appraisals for individual Town projects.

Subsurface Utility Engineering

Also included in the SOQ advertisement April 5, 2020, and April 12, 2020, was a request for SOQ for Subsurface Utility Engineering. The selection team reviewed each submittal based upon qualifications, experience, office location, and previous experience with the Town.

Fourteen (14) firms responded to a request for SOQ for Subsurface Utility Engineering (2020-74-B). A selection team, comprised of Project Managers and Project Engineers in the Town's CIP group, reviewed the submittals and chose the following two (2) firms as qualified:

- The Rios Group, Inc.
- SurvWest, LLC

Upon approval by the Town Council, staff will have the authority to select any of the two (2) firms to perform subsurface utility engineering for individual Town projects.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

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

TOWN COUNCIL AGENDA ITEM NO. 6
CONSENT ITEM

DATE: June 15, 2020

FROM: Andrea Roy, Economic Development Director

ITEM: **Consider approval of an advertising contract between Denton County and the Town of Flower Mound, providing $2,500 to the Town in exchange for the Town's promotion of the County's Open Business Grant Program until December 30, 2020; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: The subject request relates to an advertising contract in which the County would like to enter with the Town. The contract will authorize payment of $2,500 to the Town in exchange for the Town advertising and promoting the County's "Open for Business" Grant Program through our various social media outlets to the business community. The Denton County Open for Business Grant Program was established to assist the County's small businesses (50 or fewer employees) most impacted by Covid 19. Phase I of the program commenced in mid-May and will continue with a second Phase soon.

Town Staff has already engaged in promoting the program and will continue to do so, as Flower Mound businesses are anticipated to greatly benefit from the Program.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Net $0

Proposed (Revenue)/Expenditure:	Account Number:
($2,500)	378-4793
$2,500	378-586-00000-5110

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

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

ATTACHMENTS:

1. Advertising Contract
2. Background on the Open Business Grant Program

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

Attachment 1

COUNTY OF DENTON

STATE OF TEXAS

AMENDED AGREEMENT FOR ADVERTISING SERVICES BETWEEN DENTON COUNTY, TEXAS, AND THE TOWN OF FLOWER MOUND

This Agreement for Advertising Services, hereinafter “Agreement,” is entered into by and between DENTON COUNTY, TEXAS, hereinafter “Denton County,” whose address is 110 West Hickory Street 2nd Floor, Denton, Texas 76201, and the Town of Flower Mound - Economic Development Department, hereinafter “2121 Cross Timbers Road, Flower Mound, Texas 75028. Denton County and the TOWN OF FLOWER MOUND are both collectively referred to herein as “the Parties.”

WHEREAS, the TOWN OF FLOWER MOUND organized in compliance with state and federal regulations; and

WHEREAS, both Denton County and the TOWN OF FLOWER MOUND desire to promote a positive business and economic climate in the community through public advertising to promote an economic grant program for the benefit of Denton County small businesses which have been negatively impacted by the COVID-19 disaster known as the Denton County OPEN Business Grant Program; and

WHEREAS, Denton County and the TOWN OF FLOWER MOUND have agreed to partner together to advertise the Denton County OPEN Business Grant Program in order to promote economic grants for the benefit of Denton County small businesses which have been negatively impacted by the COVID-19 disaster; and

WHEREAS, the TOWN OF FLOWER MOUND has agreed to provide advertising services on behalf of Denton County to assist the County in implementing the Denton County

OPEN Business Grant Program, which will publicize economic grant opportunities and promotional activities on behalf of small businesses in Denton County which have been negatively impacted by the COVID-19 disaster, all of which are in the public interest and serve a public purpose.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein made and the benefits to each party resulting here from, Denton County and the TOWN OF FLOWER MOUND - EDD do hereby contract, covenant and agree with each other as follows:

1. Denton County will pay to the TOWN OF FLOWER MOUND , within thirty days of approval of this Agreement by both of the Parties, the amount of TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS ($2,500.00) in consideration of the TOWN OF FLOWER MOUND providing Advertising Services to promote the Denton County OPEN Business Grant Program, as set forth in this Agreement.

2. The TOWN OF FLOWER MOUND - EDD shall promote the public purpose of the Denton County OPEN Business Grant Program to benefit of Denton County small businesses which have been negatively impacted by the COVID-19 disaster and hereby agrees to undertake the following Advertising Services on behalf of Denton County including, but not limited to:

(a) Promote the Denton County OPEN Business Grant Program.

(b) Provide information to members of the TOWN OF FLOWER MOUND, all local businesses and members of the general public regarding the CARES Act, the Coronavirus Relief Fund and available grants to small businesses negatively impacted by the COVID-19 disaster.

(c) Provide training and workshops about how local businesses can submit applications for consideration to become a recipient of a grant under the Denton County OPEN Business Grant Program.

(d) Coordinate and host forums or roundtable discussions during the Contract Year about the Denton County OPEN Business Grant Program

(e) Provide advertising and promotion of the Denton County OPEN Business Grant Program on radio, television, print media and other forms of public advertising, such as signs, billboards, mailers, circulars and push cards.

(f) Provide advertising and promotion of the Denton County OPEN Business Grant Program on all available forms of social media, including, but not limited to: internet websites, blogs, Facebook, Twitter, Google+, LinkedIn, SnapChat and others not listed herein; and

3. TOWN OF FLOWER MOUND assumes all liability and responsibility for its negligent acts and agrees to fully indemnify, hold harmless and defend Denton County, its officers, agents, servants and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, for injury to or death of a person or damage to property, arising out of or in connection with, directly or indirectly, the performance, attempted performance or nonperformance of the Advertising Services or in any way resulting from or arising out of the negligence of the TOWN OF FLOWER MOUND or its staff in regard to the management, supervision, and operation of the Advertising Services specifically pertaining to the Denton County OPEN Business Grant Program.

4. The persons signing this Agreement on behalf of each party hereto have been duly authorized and empowered to do so.

5. This Agreement may not be assigned. It embodies the entire Agreement between the Parties and may not be amended except in writing by the Parties hereto.

6. In the event that one or more of the provisions contained in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of this Agreement shall be construed as if such invalid, illegal or unenforceable

provision had never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

7. In the event of any dispute regarding this Agreement or the terms contained herein, the Parties hereto agree that they shall first submit such dispute to non-binding mediation before availing themselves of any legal or equitable remedies.

8. The term of this Agreement shall be from the date of its execution and shall expire on December 30, 2020, unless terminated prior to the expiration date. Either party may modify this Agreement by submitting, in writing, the proposed Amendment to be considered and executed by both of the Parties. This Agreement may be terminated with or without cause by either party by giving thirty days written notice to the other party. No later than 30 days after termination, the TOWN OF FLOWER MOUND will return to Denton County all funds not spent by TOWN OF FLOWER MOUND in performing Advertising Services to promote the Denton County OPEN Business Grant Program.

9. The TOWN OF FLOWER MOUND is not and shall not be considered an agent or employee of Denton County and shall in no way have authority to bind Denton County. The relationship of the TOWN OF FLOWER MOUND to Denton County shall be that of an independent contractor. Relative thereto, Denton County shall not be liable for any claims or demands for damages, monetary or otherwise, including any claim for attorney's fees, that in any way may grow out of, or arise from, the TOWN OF FLOWER MOUND's actions in carrying out its duties and obligations under the terms of this Agreement. The TOWN OF FLOWER MOUND does hereby agree and shall hold the Town harmless from and indemnify it against all such claims and demands.

10. This Agreement shall be governed in all respects by the laws of the State of Texas. Venue for any action shall lie in Denton County, Texas, exclusively.

11. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Denton County warrants and represents that the individual executing this Agreement on behalf of Denton County has full authority to execute this Agreement and bind the Town to the same. The TOWN OF FLOWER MOUND warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind the TOWN OF FLOWER MOUND to same.

12. TOWN OF FLOWER MOUND shall maintain complete and accurate financial records of each expenditure of the funds in consideration of the Agreement and upon expiration or termination of the Agreement, the TOWN OF FLOWER MOUND shall provide the Denton County Auditor with a full report of all services provided by the TOWN OF FLOWER MOUND in providing Advertising Services on behalf of Denton County for the Denton County OPEN Business Grant Program and the TOWN OF FLOWER MOUND shall promptly provide the Denton County Auditor with a copy of all records and invoices pertaining to providing Advertising Services to promote the Denton County OPEN Business Grant Program. In addition, the TOWN OF FLOWER MOUND shall fully cooperate with any Federal audit or investigation pertaining to this Agreement.

IN WITNESS WHEREOF, Denton County and the TOWN OF FLOWER MOUND have signed this Agreement for Advertising Services.

EXECUTED THIS ______ day of ___________________, 2020.

DENTON COUNTY, TEXAS	TOWN OF FLOWER MOUND, TEXAS
_______________________________	_______________________________
Andy Eads, Denton County Judge	Sandeep Sharma, Mayor Pro Tem

Attachment 2

Denton County OPEN Operational Plan for Economic Normalization Business Grant Program, Phase 1 $2.2 million available for grants

Denton County has launched the OPEN (Operational Plan for Economic Normalization) Grant with $2.2 million available through grants for businesses physically operating within Denton County. The goal of this program is to help the businesses that have been closed the longest and negatively impacted by COVID-19.

If you still have questions after reading the information below, please email questions to OPENgrants@dentoncounty.gov or call 940-349-4280 from 8 a.m. to 5 p.m. Monday through Friday.

Denton County Commissioners Court is launching a small business grant program at noon on Wednesday, May 13, 2020, through noon on Wednesday, May 20, 2020, to provide up to $10,000 grants to Denton County businesses who closed the longest and have been the most negatively impacted during the COVID-19 pandemic.

In Phase 1 of Denton County OPEN, for-profit businesses headquartered and located in Denton County with 50 or fewer employees (excluding ineligible entities listed below) are eligible to apply.

The amount a business can receive will be based on the percentage of closure the business experienced during the COVID-19 Stay-at-Home order.
- Business operations completely closed can get 100% of eligible grant.
- Business operations partially closed can get 75% of eligible grant.

The eligible amount of the grant is the higher of:

- 1.75x the average monthly payroll costs for the first quarter of 2020 (form 941) - including gross payroll, retirement costs and health insurance costs; if sole proprietor can use the average monthly amount of Schedule C net income divided by twelve (must have a net profit); if partner can use the average monthly amount of net self employment income. (Schedule K-1)

- 2x fixed costs (rent, lease or mortgage interest of real and business property, real property taxes, business personal property taxes, and utilities excluding costs of your personal residence) calculated on 2019 monthly average

The $2.2. million identified for the Denton County OPEN grant was accumulated by Denton County from CoServ Capital Credit funds over a 20-year period and set aside. Denton County is re-investing these non-taxpayer funds into the Denton County OPEN program to benefit Denton County businesses impacted by COVID-19.

General Information

Grants awarded will be up to $10,000.

Individual grants will be awarded based on such factors as need, eligibility, number of employees, loss due to full/partial shutdown, being deemed non-essential during the COVID-19 pandemic and availability of funds.

Eligibility

- Business started before March 1, 2019 (*May be modified to include newer businesses*)
- 50 Employees or fewer
- No more than $7 Million in Gross Annual Revenue
- If an owner has more than one business, the owner is eligible for application for up to three businesses (all businesses must be located in Denton County). Ownership defined as 20% or more. The application must include a disclosure of all 20% or more owners.
- Applications and required documentation will be reviewed by assigned Denton County Auditors based on Commissioners Court approved Denton OPEN Grant Program Guidelines. The applicant will receive an email indicating Denton County OPEN Program approval or denial or did not meet qualifications.
- Checks will be issued to qualifying applicants by Denton County Accounts Payable.
- Applicant must have no outstanding Denton County tax liens or judgments
- The application will be open from Wednesday, May 13 at 12 p.m. CST to Wednesday, May 20 at 12 p.m. CST.
- A business receiving grant funding may be notified via email on or about June 8th.
- Denton County is a governmental body subject to the Texas Public Information Act. Information you submit to Denton County in this application may be subject to the Act and, therefore, subject to public release.

Application process includes

- Good Faith Certification as to truth and accuracy of information provided
- That the grant request is necessary due to conditions caused by COVID-19
- Agreement to audit the use of grant funds received
- Agreement to claw-back provisions if funds are used for ineligible purposes
- Unsworn Declaration of Owner

Types of Businesses

- Corporation
- Individual

- Sole proprietorship
- Single-member limited liability company (LLC)
- LLC treated as a partnership
- LLC – C corporation
- LLC – S corporation
- Partnership

Eligible Uses of Grant Proceeds

- Payroll costs for employees or owners draw (sole proprietors/partners)
- Contract labor
- Supplier payments
- Rent, lease or interest on mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence.)
- Rent, lease or purchase payment for business property (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment)
- New or expanded technology applications and Wi-Fi services
- Utility payments for business properties, excluding personal residence.
- Cost of critical business operations (raw materials, marketing expenses, etc. payments)
- PPE and sanitation supplies and equipment
- Interest on other business debt obligations incurred before March 1, 2020, excluding personal residence.

Documents Required

- Documentation of business (Choose one of the following)
  - Secretary of State Texas File number; State of Texas License number; DBA, 2018 or 2019 tax return (including all schedules); Employer Identification Number or Individual Taxpayer Identification Number (Example: Occupational License, Sales Tax Certificate)
  - Certificate of Filing. If sole proprietor, please provide documentation on when you started your business.
  - Drivers' license or state-issued ID
  - 2018 or 2019 tax return (including all schedules)
  - Most recent payroll report and number of employees – 1st QTR 941 for 2020
  - Bank Statements for the following four months – March & April 2019; March & April 2020
  - Submit documentation for proof of fund uses by February 15, 2021, including Form W-3, Form 941, utility statements, canceled checks/receipts or bank statements
  - For Sole Proprietor, applicants provide 2018 or 2019 Schedule C
  - Form W-9.

Ineligible Businesses

- Non-Profits
- Sexually/Adult-Oriented Businesses
- Professional Services deemed essential by local/state government
- Lobbying organizations and political organizations subject to Internal Revenue Code 527
- Gambling Concerns, including casinos, racing operations or other activities whose purpose involves gambling
- Concerns engaged in illegal activities under federal, state or local laws
- A business that is otherwise prohibited by federal or Texas law
- A business that is ineligible or precluded to receive federal or State of Texas funding due to federal laws (including but not limited to the CARES Act) or Texas laws

- Multi-level marketing concerns
- Governmental/taxing agencies/departments

Frequently Asked Questions

My business received PPP funding. Am I still eligible for a Denton County OPEN grant?
Yes, businesses that received PPP funding are eligible for Denton County OPEN grants. Denton County OPEN grant amounts will not take PPP funding into account; however, when reporting on the expenditure of Denton County OPEN grant funds, businesses should not include expenses that were covered by PPP funds.

What documentation do I need for proof of the existence of my business?
The county only needs to receive one document that proves the existence of a business. That document may be the Secretary of State of Texas File number, State of Texas License number, DBA, or a tax return. It is not necessary to provide more than one of these documents.

Can supply or inventory costs be included in the calculation of fixed costs?
No. Fixed costs for calculation of the grant amount include only: 1. Rent, lease, or mortgage interest; 2. Business personal property taxes; and 3. Utilities. (Cost associated with a personal residence may not be included) However, supply and inventory costs are allowable uses of the grant proceeds.

What businesses are considered "sole proprietorships" for the purpose of using net income to calculate payroll costs?
Any business with only one owner that does not have payroll cost may report using net income as a sole proprietor. This includes LLCs with one owner and with no payroll cost; however, sole proprietors who have payroll costs (that file 941's, W-3's, etc.) must report payroll costs and net income.If partner, can use the average monthly amount of net self employment income (Schedule K1) and payroll costs.

My business has locations in Denton County and other counties. Do I qualify for the Denton County OPEN grant program?
Yes, if your business meets the other criteria, you will qualify.

How do I prove how long I have been in business?
Provide your Certificate of Filing with the Secretary of State. If you do not have it, you can find it on the Texas Secretary of State website at https://direct.sos.state.tx.us/acct/acct-login.asp

If you are a sole proprietor, you can provide a DBA, first state bank statement, first income tax or sales tax filing, or a professional license.

Will there be additional funds added to this program?
Possibly. Denton County Commissioners Court is in the process of confirming the allowed uses for funds provided through the CARES Act and will earmark portions of the fund to help Denton County small businesses.

My professional services business was considered essential by local/state government orders, but I feel that my business was affected by the mandates. Why can I not apply?
At this time, Denton County is working first to assist those businesses that were closed by the local/state government orders. While we understand that all businesses were likely affected to some degree, we have limited available funds.

- **Will I be notified whether or not my application is approved for a grant?**

Yes. We will notify all applicants on whether they are approved for a grant, may still be considered for future grants or have been disqualified for ineligibility.

- **Do I need to file all of these documents?**

Yes. These documents are necessary to ensure all applicants meet the required eligibility to receive grants. These same documents are required by many state and federal grant programs.

- **How soon will these grants be awarded?**

Denton County will work to turn around grant funds quickly upon the conclusion of the 1-week submission period. The intent is to issue grants on or about June 8th.

- **Who can I call to answer some of the questions I have about this application?**

Denton County has created a call center that will be available to assist you from 8 a.m. to 5 p.m. Monday through Friday. Please call 940-349-4280. You can also send questions via email to **OPENgrants@dentoncounty.gov**.

TOWN COUNCIL AGENDA ITEM NO. 7
REGULAR ITEM

DATE: June 15, 2020

FROM: Kari Biddix, Park Development Manager

ITEM: **Consider approval of a Professional Services Agreement with Mesa Design Associates, Inc., for the design services associated with the Peters Colony Memorial Park project, in the amount of $194,730.00; and authorization for the Mayor to execute same on behalf of the Town. (Town Council postponed this item to June 15, 2020 at its May 18, 2020, meeting).**

BACKGROUND INFORMATION: This item provides for a Professional Services Agreement (PSA) with Mesa Design Associates, Inc., to implement the Master Plan for Peters Colony Memorial Park. The Master Plan was recommended by the Parks Board at the October 3, 2019, meeting and approved by Town Council on November 4, 2019.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: If not approved, it will prolong the implementation of the approved master plan.

FISCAL IMPACT: $194,730.00

Proposed Expenditure/(Revenue):	Account Number(s):
$36,730.00	310-320-90731-6210 Park Development
158,000.00	317-110-90731-6070 Peters Colony Park

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

Total project cost is $1,305,000. Funding sources are:

- Park Development $ 105,000
- Dedicated Sales Tax $ 1,200,000

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.

Attachment 1

THE STATE OF TEXAS §
COUNTY OF DENTON §

PROFESSIONAL SERVICES AGREEMENT WITH
MESA DESIGN ASSOCIATES, INC.

This contract is entered into on this 15th day of June, 2020, 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 **MESA Design Associates, Inc.,** ("hereinafter referred to as "CONSULTANT") whose address is 2001 North Lamar Street, Suite 100, Dallas, TX 75202.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to design services for the Peters Colony Memorial Park project; and

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

III.
Payment for Services

Total payment for services described herein shall be a sum not to exceed One Hundred Ninety-Four Thousand Seven Hundred Thirty and No/100 Dollars ($194,730.00). 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
2121Cross 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 <u>require</u> 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:

   Kari Biddix, RLA, LI
   Park Development Manager
   Town of Flower Mound
   2121 Cross Timbers Road
   Flower Mound, Texas 75028
   972-874-6278 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:

Kari Biddix, RLA, LI
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6278 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:

Fred Walters
Principal
MESA Design Associates, Inc.
2001 North Lamar Street, Suite 100
Dallas, Texas 75202
214-871-4411 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:
MESA Design Associates, Inc.

By: [signature]
Name: Fred L. Walters
Title: Principal

Date Signed: 3/9/2020

State of Texas §
§
County of DALLAS §

This instrument was acknowledged before me on the 9th day of March, 2020, by Fred Walters in his capacity as Principale of Mesa Design Group, a TEXAS Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Principal.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9th DAY OF MAR 20 20.

Karen Melaun
Notary Public, State of Texas

My Commission Expires:

5-3-2021

KAREN MELAUN
My Notary ID # 4832523
Expires May 3, 2021

ATTACHMENT A – SCOPE OF SERVICES

February 28, 2020

Town of Flower Mound
Kari Biddix,
Park Development Manager
2121 Cross Timbers Rd.
Flower Mound, TX 75028

Project: Peter's Colony Memorial Park Detail Design & Construction Documents
Flower Mound, Texas

Dear Kari,

We are pleased to present this proposal and contract describing the landscape architectural services to be provided by MESA, the costs of these services and general terms and conditions under which these services would be executed. We have prepared our approach and proposal based upon meetings and conversations to date. The scope of work described herein for the project, and the responsibilities and teaming relationships between MESA and its sub consultants to achieve the project goals for the design and implementation of the master plan for Peter's Colony Memorial Park, with an estimated construction budget of approximately $2.3 million. Based on our understanding, MESA's design and proposal approach is structured as a three part process:

- Part 1: Detailed design services
- Part 2: Construction document services
- Part 3: Construction related services

SCOPE OF SERVICES

This proposal addresses the construction of Peter's Colony Memorial Park which responds to the Master Plan previously approved by Park Board and Town Council. The proposal describes the design scope needed to address anticipated construction program per a final budget yet to be determined. MESA will be prime consultant and retain the services of sub-consultants for Architectural, Civil, Structural, and MEP Engineering and Irrigation. Geotechnical Survey (by Town contract).

- Demolition
- Tree Mitigation (current survey)
- Geotechnical survey
- Grading/Drainage (Civil)
- Utilities (Civil + MEP)
- Fountain design (Structural +MEP)
- Flag pole area
- Park entry/portal
- Remembrance/memorial
- Signature Pavilion (Custom)
- Furnishings
- Children's Play Area
- Water feature wall
- Sculpture element (art selection not included)
- Enhanced pathway selection
- Site/security lighting
- Children's Play Area
- Event Lawn
- Soft Trail
- Project Identity Signage
- Landscape and Irrigation

It is understood by MESA that the site is currently zoned for recreational uses and the site will not require zoning or variance requests to accommodate the proposed site plan. MESA also understands that the final plats exists, is recorded, and is in conformance with City standards.

PART 1: DETAILED DESIGN SERVICES

Task 1.1: Data Collection and Project Kick-Off

Data Collection

MESA and the consultant team will use existing base information and tree survey for the design scope of this project. MESA has the right to rely on this information. Additional to the existing data, the design team will require information to include, but not limited to:

A. Street design data for Peter's Colony Drive, Old Settlers Road (existing and proposed)
B. Utility information with the R.O.W.s and adjoining library property and improvements.
C. Utility Easement information and Town liaison
D. Any applicable Town of Flower Mound design standards and construction details
E. Any future plans or initiatives by the Town which may affect the project
F. Topographic survey verification
G. Geotechnical investigation

Kickoff & Programming

MESA will attend a Kick-off meeting with the Client to confirm project scope, points of contact, schedule and deliverable expectations. It understood the Town will provide final direction/content for the following:

A. Final Library Construction Plans, especially civil engineering
B. Boundary/project limits verification
C. Topographic survey verification
D. Geotechnical survey – by Town
E. Commemorative and Interpretive Content (text, drawings, photos, etc.)-by Town

Deliverable: Technical Base information and confirmation of project expectations.
Meetings: As described under Task 1.5

Task 1.2: Schematic Design

Based on the Client budget and master plan programming, MESA will prepare one (1) schematic design layout for the project areas identified. The schematic design will include one (1) AutoCAD plan of the park as well as sections or other diagrams to help convey the concept and intent of the design. An associated cost projection will be included, delineating the estimate of probable cost of the proposed design based on the current construction market.

The following addresses the assumed design program for the critical elements of the Architecture, Remembrance Feature, and Water Wall.

Pavilion:

A. An open covered pavilion amenity of approximately 3,000 square feet.
    1. Communications, security, and audio-visual systems are not included in the electrical fee except as noted.
    2. Fire protection design services are limited to criteria specifications only, with actual design services, hydraulic calculations and piping design documents by the design/build sprinkler subcontractor.
    3. All site utilities are presumed to be adequate for building requirements without need for supplemental or booster systems.

Remembrance Feature:

A. A feature element designed to commemorate the Town's community heroes and leaders.
B. Designed to accommodate future additions
C. Create a feature focal point that is iconic and inspirational

D. Please note the following exclusions to the scope:
   1. Copywriting for interpretive signing and remembrance wall
   2. Logo design and branding
   3. Temporary signing
   4. Print & Amenity design
   5. Sculptures / Feature pieces
   6. Fabrication of prototypes nor the coordination of prototypes.

Water Wall:

A. An underground equipment vault located under the paving near the feature to house all the pumps, filtration, and controls for the feature.
B. A separate small vault to contain the chemical erosion feeder for adding sanitizing chemicals.
C. This water feature will not be considered interactive, and therefore not be subject to the Texas Title 25 code.
D. The design will include hydraulic calculations, plan sheet development, and specifications for the pumps, pipes, controls, and filtration of the water. Plans will also include equipment selection and equipment room/vault layout.
E. Details will be provided such as water stops, nozzles, diverter plates, anti-vortex plates, pipe penetrations, eyeball fittings, skimmers, and other details deemed necessary by MESA.
F. Details for lighting within the water feature basin as well as plans depicting the wire routing and electrical requirements within the fountain structure back to the control panel.

Deliverable: Plan and detail studies of the park based on the master plan as adopted by the Town for input and approval by staff. At the conclusion of the schematic design phase, Cost projections will be analyzed in relation to the budget.
Meetings: As described under Task 1.5

Task 1.3: Schematic Design Revisions

If the Client desires additional design alternatives, MESA will prepare up to two (2) schematic design revisions depicting the program elements of the approved master plan. These revisions will address questions or concerns posed by the Town regarding the ability to execute the design as envisioned. This task will address specific layout, detail concepts of site elements (remembrance wall, pavilion, water feature, etc.) to a sufficient level of approval that the design development task may be initiated. MESA will prepare up to two (2) revised opinions of probable costs for review by the Client if needed.

Deliverable: Up to two (2) Schematic Design revisions, if requested, including plans, sketches, images and diagrams depicting the overall design intent, and revised opinion of probable cost.
Meetings: As described under Task 1.5

Task 1.4: Opinion of Probable Construction Cost

MESA and the consultant team will prepare an opinion of probable construction costs (cost projection) for the proposed improvements in the park. This projection will identify the assumed construction means, materials, and sequencing for construction of the park improvements. Through this process, MESA and the consultant team along with Town staff will identify and agree on the final design program for the team to proceed with design development and construction documentation.

Deliverable: MESA and the consultant team will provide the Town staff cost projections that depict the facilities within the master plan for design and engineering. These projections will be based on a single phase of construction for the park.
Meetings: As described under Task 1.5

Task 1.5: Staff Guidance Meetings and Consultant Coordination for Part 1

Anticipated coordination meetings, conference calls, and presentations for Part One are listed below
Meetings for Part 1 are as follows:

Meetings: Up to Three (3) meetings as detailed below:
  Task 1.1: One (1) kickoff/coordination meeting
  Task 1.2: Two (2) meetings/presentations with Town staff

Task 1.3: One (1) meeting/presentation with Town staff
Task 1.4: Assumed as part of meeting agenda for other tasks.

Additional meetings and presentations, as required or requested, and the preparation of additional presentation materials other than those described above shall be considered Additional Services, and will be invoiced in accordance with the attached hourly rate schedule.

PART 2: CONSTRUCTION DOCUMENT SERVICES
Task 2.1: Design Development
Based upon the approved schematic design submittal, MESA will finalize the design program with input from Town staff. This input will include budgetary considerations, maintenance, and operational considerations. This level of development will deal with more detailed and refined aspects of the design such as materials selection, budget refinement, and consultation with contractors about construction methods. These design documents and an accompanying refinement of the cost analysis will be presented to the Parks Department for review, comment, and endorsement prior to initiating bidding and construction documents. This task includes refinement of the following areas:

A. Preliminary Engineering Plans
   1. Preliminary Drainage Area Map: Prepare one Preliminary Drainage Area Map and associated hydraulic calculations to show the pre- and post-development discharge from the site. MESA and its sub consultants understand that there is an existing detention pond adjacent to the site. Therefore, Detention Pond Design or Downstream Assessment is not included in this task.
   2. Preliminary Storm Design: MESA and its sub consultants anticipate that the site will drain towards area drains which will be approved by the Town. The area drains will connect to a storm drain pipe that will discharge to the existing detention pond adjacent to the site. This line will also include an inlet for the existing parking lot per the Town's request. It is assumed that no quality control measures will be required. It is also assumed that the existing detention pond was sized to accommodate the proposed drainage from this site. If a detention pond or subsurface detention is required, it will be billed as an Additional Service. The Town is to provide grading plan and storm line locations for preliminary analysis.
   3. Preliminary Water Plan: It is MESA and its sub consultants' understanding that a water line exists which has adequate capacity to serve the proposed development. A water study has therefore not been included in this scope.
   4. Preliminary Erosion and Sediment Control Plan: MESA and its sub consultants will prepare a preliminary erosion and sediment control plan with erosion control details for the project site in accordance with local, state, and federal regulations and Best Management Practices (BMPs).
   5. Preliminary Lighting and Conduit Plan: MESA and its sub consultants will prepare one Preliminary Lighting and Conduit Plan based on Client lighting design along with irrigation conduit locations and sizes.
   6. Preliminary Traffic Control Plan: MESA and its sub consultants will prepare a Preliminary Traffic Control Plan. The plan will show the necessary traffic control measures required during construction of the site.

B. Preliminary hardscape layout plans
C. Preliminary landscape grading
D. Preliminary landscape lighting layout and fixture selection
E. Preliminary landscape planting layout plans for all areas within project scope
F. Development of hardscape details
G. Begin selection of hardscape materials, plant palette and plant species
H. Finalize and coordinate hardscape designs, review of materials, patterns and textures and coordinate solutions with the Client for areas identified in MESA's scope of work.
I. Coordinate irrigation system requirements with design team for water source, water usage, and water saving concepts. Coordinate with electrical consultant all irrigation controller locations. Our scope includes designing the irrigation system per State Ordinance 1656 and the City of Flower Mound requirements. Any additional city requirements will be considered additional services.
J. Update projections of probable costs based on progress of work.
K. Outline specifications.

Deliverable: Design Development Documents.
Meetings: As described under Task 2.4

Task 2.2: Park Board Presentation
As requested by Town staff, MESA will attend the Park Board meeting and present an update to the project for the Board's information prior to submitting for Plat/Site Plan approval and beginning Construction Documents. The presentation is assumed to be a briefing rather than focused on gathering any input from the Board or the public at large. Should any design changes result from the meeting, they will be considered as Additional Services.

Deliverable: One (1) Park Board meeting and presentation.
Meetings: As described under Task 2.4

Task 2.3: Construction Documents
Upon approval of the design development documents as well as any value engineering efforts that result from the Client's direction, MESA will prepare Construction Documents and specifications necessary to communicate the scope of work to a competent contractor. Construction documents shall include:

A. Drainage Area Map: MESA and its sub consultants will prepare one pre and post Drainage Area Map and associated hydraulic calculations to show the pre- and post-development discharge from the site. Detention Pond Design or Downstream Assessment is not included in this task.
B. Storm Design: MESA and its sub consultants anticipate that the site will surface drain to the existing pond on the south east corner of the site and that no quality control measures will be required. The civil engineering consultant anticipates handling increased storm runoff through sheet flows with limited area drains across the site into the existing detention pond. We assume that the existing storm water detention pond will not need further analysis; however, this may not be accepted by the Town in which case an analysis of the existing detention pond may be required. If analysis of the existing detention pond is required, it will be billed as an Additional Service.
C. Water Plan: It is MESA and its sub consultants' understanding that existing water lines have adequate capacity to serve the proposed development. A water study has therefore not been included in this scope.
D. The Architect or the Town will determine if a fire suppression system is required for this development. If one is required, the consultant will need this information in sufficient time prior to final plan design to accommodate this connection.
E. Erosion and Sediment Control Plan: MESA and its sub consultants will prepare an erosion and sediment control plan with erosion control details for the project site in accordance with local, state, and federal regulations and Best Management Practices (BMPs).
F. Traffic Control Plan: MESA and its sub consultants will prepare a Traffic Control Plan. The plan will show the necessary traffic control measures required during construction of the site.
G. Lighting and Conduit Plan: MESA and its sub consultants will prepare one Lighting and Conduit Plan based on Client provided light pole base, light pole conduit, and irrigation conduit locations and sizes. Lighting specifications, photometric analysis, wiring, and all associated details to be provided by others.
H. MESA and its sub consultants will prepare an application and one set of exhibits to coordinate with Oncor power pole relocations and easement encroachments.
I. Storm Water Pollution Prevention Plan: MESA and its sub consultants will prepare one Storm Water Prevention Pollution Plan per TCEQ and City standards including specifications.
J. Final landscape grading and drainage plans at appropriate scales for all architecture and hardscape elements. MESA will coordinate landscape drain locations with Civil Engineer.
K. MEP documentation of water feature plans (MESA will provide MEP light fixture locations and cut-sheets for incorporation into final documents – MESA will provide review during final documentation process)
L. Hardscape details and specifications for exterior paving, pavilion, water wall, miscellaneous park structures/foundations within scope, and retaining walls at appropriate scales. Structural details, anchoring, and foundations for any playground apparatus are not included, and will be per manufacturer's recommendation or typical Town standards.
M. Planting plans, details, and specifications.
N. Irrigation plans, details and specifications.
O. Coordination with fountain consultant (MEP) on water feature edge placement and grading.
P. Final material selections – Deliverable, colors, textures and sizes.
Q. Selection of site furnishings including benches, bike racks, etc.
R. Landscape lighting plans, details, and specifications (electrical engineering by others).
S. Tree Mitigation Plans and calculations.

T. Submittal for TDLR/TAS review and inspection upon substantial completion.
U. Final construction cost projections.

Permitting

Based on the 90% Construction Documents, MESA will format the documents as part of the Building Permit Application for Town review. Any attendance at City review, coordination or presentation meetings are not included but will be billed per our hourly fee schedule. It is assumed Park Department staff will lead this effort internally with other Town departments.

Deliverable: The Design/Planning Team will provide the following sets for the park throughout the construction phase:

1. One electronic drawing set, 24" x 36" format
2. One electronic set of bid forms and specifications at 95% progress
3. One electronic set each of drawings, specifications, and bid forms.

Meetings: As described under Task 2.4

**Revisions to plans in response to budgetary overages outside of MESA's budget will be prepared as an additional service.*

Task 2.4: Staff Guidance Meetings and Consultant Coordination for Part 2

MESA will perform the role of "prime consultant" for the project. In that capacity, we will coordinate the input of the other design team members as necessary as it relates to the final accepted project vision and construction program. MESA will provide meeting minutes for any meetings attended as well as any resulting schedule updates to be distributed via e-mail. Any necessary meetings and coordination outside of our office will be billed on an hourly basis. Services for this task will be billed as hourly services according to the attached hourly rate schedule. Anticipated coordination meetings, conference calls, and presentations for Part 2 are as follows:

Meetings: Up to Twelve (8) meetings as detailed below:

Task 2.1: Two (2) meetings/presentations with the Client
Task 2.2: Assumed as part of meeting agenda for other tasks
Task 2.3: One (1) Park Board meeting and briefing, one (1) review phone call
Task 2.4: Three (3) meetings/presentations with the Client to review the construction and bid documents
Task 2.5: Up to Two (2) periodic meetings during execution of Part 2 services

Additional meetings and presentations, as required or requested, and the preparation of additional presentation materials other than those described above shall be considered Additional Services, and will be invoiced in accordance with the attached hourly rate schedule.

PART 3: CONSTRUCTION RELATED SERVICES

Task 3.1: Bidding and Negotiation

MESA will provide assistance to the Client with the following services in conjunction with completion of the construction documents described in the task above.

A. Prepare and bid proposals related to the hardscape, landscape, and irrigation construction
B. Attend pre-bid and bid opening meetings
C. Answer questions and interpret drawings and specifications during the bidding period
D. Prepare and distribute any required addendums
E. Provide review and analysis of the bids as submitted
F. Plans will be distributed via BidSync (or similar service). Any printing or distribution of hardcopies for bidding will be charged as an additional reimbursable expense.

Deliverable: Successful contractor on budget with final construction scope ready for preparation of contracts by Client. Consultation with client to form strategies for bid alternates, if needed to maintain the aesthetic value, vision, and budget.
Meetings: As described under Task 3.4

Task 3.2: TDLR Review Coordination
MESA will prepare submission drawings for TDLR submittal. Upon completion of the review, MESA will work with all consultants in formulating a response to any issues raised.

Deliverable: Coordination of TDLR submission.
Meetings: As described under Task 3.4

Task 3.3: Contract Administration/Construction Observation
MESA will conduct contract administration and construction observation services as related to the implementation of the construction documents described in this proposal. Construction observation services will be as follows:

A. MESA will make up to ten (10) site visits as necessary to the construction sites as they progress to determine conformance of the work to the design as portrayed in the construction documents. These will occur at regularly scheduled site meetings and other periodic inspections as appropriate through the course of construction. Site visits will be documented in field memos provided to the Town staff. These memos will generally describe MESA's response to issues identified by the staff and other issues that the team feels merit consideration. This scope assumes various meetings /site visits during the construction sequence.
B. MESA will clarify questions regarding the construction as the staff and contractors present them (RFI's), provide consultation, and advise the staff. MESA will prepare supplementary sketches where such sketches are needed to resolve conflicts between field conditions and the requirements of the drawings.
C. Review of contractor submittals and shop drawings as submitted by the contractor, for conformance with the project design. An evaluation of the submittal will be provided.
D. Tagging and inspection of plant materials (via photos before delivery and on site) to assure conformance with the plans and specifications. (Plant tagging trips at nursery can be provided as an optional service).
E. Approve the staking of tree locations, plant material layout, and quality of material installation.
F. Approve the placement of irrigation head locations, materials layout, and quality of the irrigation system installed.
G. Review of certificates for payment submitted by the contractor.
H. Preparation of change orders agreed to by the Client for the Client's approval and execution that pertains to the project scope.
I. Coordinate final site walk-through with the Client (at the conclusion of construction) and provide a punch list of incomplete of non-conforming items to the Contractor to complete the project.
J. Perform a post completion project inspection (at Town's request)within one year after final acceptance and issue a punch list of incomplete and non-conforming items prior to release of maintenance agreement

Deliverable: Response to field conditions and contractor questions as they develop. Field reports will be distributed regarding the status of the project after each site visit.
Meetings: As described under Task 3.4

Task 3.4: Staff Guidance Meetings and Consultant Coordination for Part 3
Anticipated coordination meetings, conference calls, and presentations for Part 3 are listed below
Meetings for Part 1 are as follows:

Meetings: Up to Five (5) meetings as detailed below:
  Task 3.1: Three (3) review/coordination meetings
  Task 3.2: Two (2) walk through/final punch list meetings
  Task 3.3: none anticipated other than included field visits

Additional site visits or meetings will be billed as additional services as per the attached hourly rate schedule and the preparation of presentation materials other than those described above shall be considered Additional Services, and will be invoiced in accordance with the attached hourly rate schedule.

ATTACHMENT B – COST OF SERVICES

COST OF SERVICES
The below scope of services will be billed on a percentage completion basis or hourly not to exceed as applicable (in accordance with the fee schedule specified below) with the total cost of services not to exceed the amount specified for each without a written addendum to this contract. The below tasks shall be billed as follows:

Task	Base Fees
PART 1: DETAILED DESIGN SERVICES	
Task 1.1: Data Collection and Project Kick-Off *Lump Sum Fee*	$6,450.00
Task 1.2: Schematic Design *Lump Sum Fee*	$15,000.00
Task 1.3: Schematic Design Revisions *Lump Sum Fee*	$2,500.00
Task 1.4: Opinion of Probable Construction Cost *Lump Sum*	$2,500.00
Task 1.5: Staff Guidance Meetings and Consultant Coordination for Part 1 *Lump Sum Fee*	$2,000.00
PART 2: CONSTRUCTION DOCUMENT SERVICES	
Task 2.1: Design Development *Lump Sum Fee*	$52,500.00
Task 2.2: Park Board Presentation *Lump Sum Fee*	$3,000.00
Task 2.3: Construction Documents *Lump Sum Fee*	$73,280.00
Task 2.4: Staff Guidance Meetings and Consultant Coordination for Part 2 *Lump Sum Fee*	$4,500.00
PART 3: CONSTRUCTION RELATED SERVICES	
Task 3.1: Bidding and Negotiation *Lump Sum Fee*	$5,000.00
Task 3.2: TDLR Review Coordination *Lump Sum Fee*	$2,700.00
Task 3.3: Contract Administration/Construction Observation *Lump Sum Fee*	$22,500.00
Task 3.4: Staff Guidance Meetings and Consultant Coordination for Part 3 *Lump Sum Fee*	$2,800.00
Total Cost of Base Services:	**$194,730.00**

Reimbursable Expenses are included in the Fee, not to exceed $10,500.00. Out of Town travel not included for MESA or sub consultants.
Note: Fees required for TDLR review are not to exceed $1,500.00 and included in the fee proposal. **Changes to the fees required by any regulatory agency will be billed as an Additional Service.**
Permitting, Platting, Testing, and impact fees are not included.

Sub consultant fees for, Architecture, Civil Engineering, MEP (lighting and water feature), Structural Engineering, Irrigation, and Survey are included within the fees quoted above:

Architecture:	$26,000.00
Civil Engineering:	$24,460.00
MEP:	$25,000.00
Interpretive Graphics:	$26,000.00
Structural Engineering:	$ 2,500.00
Geotechnical:	$ 4,450.00
Irrigation:	$ 1,275.00

No other sub-consultants are anticipated at this time for the Construction phase of this project.

ADDITIONAL SERVICES/HOURLY FEE SCHEDULE

Services requested, but not specifically included in the scope of services listed above, will be considered additional services. Modifications to drawings, after approval by Owner, as a result of changes requested by Owner or other consultant will be considered additional services and billed at an hourly rate as follows:

Senior Principal	$235.00
Principal	$180.00
Associate	$150.00
Senior Project Manager	$120.00
Project Manager	$100.00
Senior Designer	$ 90.00
Designer	$ 80.00
Marketing/Acct./Admin	$ 75.00
Intern	$ 65.00

1. The client will provide the following and MESA has the right to rely on this information and rely on any information provided by others:
    a. Boundary and general survey locating structures, property lines, utilities that cross the property and interior lobby plans in AutoCAD format.
    b. Soils Report (if required).
    c. Budgetary Considerations.

2. Not included are the following:
    a. Public Engagement of Focus group input on design elements
    b. Structural design for remembrance wall or other final recognition content (by contractor)
    c. Content or illustrations for interpretive signage.
    d. Vehicular Paving Improvements outside of scope area
    e. Utilities (water, sewer, storm, electrical, cable, telephone, etc.) outside of scope area
    f. Architectural and Mechanical Engineering design outside of described scope
    g. Geotechnical
    h. Landscape Lighting Electrical Plans
    i. Design of new or additional elements added to the scope of work or any related off-site improvements
    j. Redesign of elements due to site plan changes (i.e., buildings relocated, site grading changes)
    k. Illustrative plans, models and drawings not specifically described in the Scope of Services
    l. As Built or Record Drawings other than irrigation and plumbing, based on information provided by contractor.
    m. Permitting
    n. Site Safety, Operations and Maintenance

o. Changes in the project scope/objectives or changes to items that were previously approved by the Client will constitute a change order. Change orders will be scoped and bid as additional projects. Turnaround time for change orders will be subject to Square Peg Design resource availability.
p. LEED and/or Green building programs, documentation and analyses are not included.
q. All work associated with expediting and/or procuring permits is excluded.
r. Communications, security, and audio-visual systems are not included in the electrical fee except as noted.
s. Traffic Study and Modeling, Traffic Analysis, Parking Flow Study, Signal Warrant Study Studies: Line of Sight, Water, Sanitary Sewer, Drainage, Feasibility
t. City Encroachment Agreements
u. Community Facilities Agreements (CFA), Community Facilities Contracts (CFC)
v. TxDOT Driveway/Utility Permit, Design and Details
w. Permits: Grading, Tree Removal, Tree Preservation Plan, Urban Forestry Compliance Plan, Water Appropriations, Dam Safety, FAA, TxDOT, TRA, Railroad, Driveway
x. Environmental assessment, impact statement, Waters of the US/Wetland delineations or permits

3. MESA Design Associates may subcontract consultants in the performance of any services described in this agreement.

4. MESA Design Associates does not act as General Contractor in any way, or accept responsibility for poor craftsmanship.

TOWN COUNCIL AGENDA ITEM NO. 8

REGULAR ITEM

DATE: June 15, 2020

FROM: Debra Wallace, Deputy Town Manager/CFO

ITEM: **Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, Certificates of Obligation, Series 2020, for the purpose of paying for waterworks and sewer system improvements, establishing parameters for the sale and issuance of such bonds, delegating certain matters to an authorized official of the Town and resolving all matters incident and related thereto.**

BACKGROUND INFORMATION: The Financial Services staff and Hilltop Securities, the Town's financial advisor, request the Town Council's approval of an ordinance authorizing the potential issuance of Certificates of Obligation, Series 2020, ("the Certificates").

In order to efficiently complete the sale, the attached ordinance establishes the following parameters, giving the Town Manager and Deputy Town Manager/CFO the authority to approve all necessary documents and finalize the sale. The authorization will expire 180 days after passage of the ordinance.

Maximum Principal Amount	$9,100,000
Maximum True Interest Cost	3.00%
Final Maturity Date	March 1, 2040

The Certificates will pay for the contractual obligations incurred for projects approved on the FY 19-20 Five-Year Capital Improvement Program ("CIP") as listed on Attachment 1. On October 7, 2020, the Town Council approved a reimbursement resolution for an amount not to exceed $10,215,000 to fund improvements in accordance with the FY 19-20 CIP. CIP Amendments during the fiscal year have modified funding sources and move project start dates to future years, thus reducing the proposed debt issuance from $10,215,000 to $8,900,000. The proposed principal amount of $9,100,000 includes $200,000 for estimated financial closing costs.

At the Town Council meeting on April 20, 2020, the Town Council authorized the publication of notice to issue Certificates of Obligation, Series 2020, (the "Certificates") in the principal amount not to exceed $9,100,000.

The issuance will be conducted as a negotiated sale with the pricing to occur on June 16, 2020. The Certificates will begin accruing interest on July 1, 2020 (the Dated Date), which the Town will receive upon delivery of the funds on July 9, 2020. The Bank of New York Mellon Trust Company, N.A., will serve as the Paying Agent/Registrar for the Certificates. The preliminary official statement, which discloses details related to issuance of the Certificates and the Town, is available in the Financial Services Department for review.

FISCAL IMPACT: Approximate amount of $9,100,000

Proposed Expenditure:	**Account Number(s):**
A maximum of $9,100,000 in certificates.	The utilities system will fund the waterworks and sewer system improvements.

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

LEGAL REVIEW: The Town's Bond Counsel, Norton Rose Fulbright US LLP, prepared the proposed ordinance. No alteration to the legal content of this ordinance, which was originally approved by Taylor, Olson, Adkins, Sralla, & Elam L.L.P, was made.

ATTACHMENTS:

1. Proposed Projects
2. Ordinance
3. Paying Agent/Registrar Agreement

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

Certificates of Obligations, Series 2020 Attachment 1

Utility Capital Projects
Water Projects:

Garden Ridge Blvd. Water Line Ph. II Water Line (South of Kirkpatrick)	$	300,000		
High Road Water Line Replacement Phase II		1,500,000		
Hillside Water Line Connection		200,000		
Morriss Road 20-Inch Water Line (Forest Vista to Lake Bluff)		2,300,000		
Morriss Road Water Lines Phase II (Milford to Eaton)		350,000		
Stonehill 10MG Ground Storage Tank Rehabilitation		600,000		
Timber Creek Water Line Replacement Phase I		1,000,000		
Utility Asset Management & Utility Replacement		300,000	$	6,550,000
Wastewater Projects:				
Inflow-Infiltration/Evaluation and Repair	$	250,000		
Lift Station Improvements and Decommissioning Phase II		1,800,000		
Timber Creek Trunk Line (Morriss Road to Rawlings Street)		300,000	$	2,350,000
Total Utility			**$**	**8,900,000**
Estimated financing costs			$	200,000
Grand Total of Debt Issuance			**$**	**9,100,000**

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____-20

AN ORDINANCE authorizing the issuance of "TOWN OF FLOWER MOUND, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2020"; providing for the payment of said certificates of obligation by the levy of an ad valorem tax upon all taxable property within the Town and a limited pledge of the net revenues derived from the operation of the Town's waterworks and sewer system; providing the terms and conditions of such certificates and resolving other matters incident and relating to the issuance, payment, security and delivery of said certificates of obligation; delegating matters relating to the sale and issuance of said certificates to an authorized Town official; and providing an effective date.

WHEREAS, the Town Council of the Town of Flower Mound, Texas, has heretofore determined that certificates of obligation should be issued in the maximum principal amount not to exceed $9,100,000 for the purpose of paying contractual obligations to be incurred for authorized needs and purposes, to wit: (i) constructing waterworks and sewer system improvements and extensions, including the acquisition of land and rights-of-way therefor and (ii) professional services rendered in connection therewith; and

WHEREAS, a "Notice of Intention to Issue Town of Flower Mound, Texas, Certificates of Obligation" was (a) duly published in *The Denton Record-Chronicle*, a newspaper hereby found and determined to be of general circulation in the Town of Flower Mound, Texas, on April 29, 2020 and May 6, 2020, the date of the first publication of such notice being not less than forty-six (46) days prior to the tentative date stated therein for the passage and adoption of this Ordinance and (b) duly published continuously on the City's website for at least forty-five (45) days before the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, no petition protesting the issuance of such certificates of obligation and bearing valid petition signatures of at least 5% of the qualified voters of the Town, has been presented to or filed with the Mayor, Town Secretary or any other official of the Town on or prior to the date of the passage of this Ordinance; and

WHEREAS, the Town Council hereby finds and determines that all of the certificates of obligation described in such notice should be issued and sold at this time in the amount and manner as hereinafter provided; and

WHEREAS, the Town Council by this Ordinance, in accordance with the provisions of Texas Government Code, Chapter 1371, as amended ("Chapter 1371"), delegates to a Pricing Officer (hereinafter designated) the authority to determine the principal amount of the Certificates to be issued and to negotiate the terms of sale thereof; and

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

SECTION 1: Authorization – Designation – Principal Amount – Purpose. Certificates of obligation of the Town shall be and are hereby authorized to be issued in an amount not to exceed the aggregate original principal amount hereinafter set forth to be designated and bear the title "TOWN OF FLOWER MOUND, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2020" or such other designation as specified in the Pricing Certificate (hereinafter referred to as the "Certificates"), for the purpose of paying contractual obligations to be incurred for authorized needs and purposes, to wit: (i) constructing waterworks and sewer system improvements and extensions, including the acquisition of land and rights-of-way therefor and (ii) professional services rendered in connection therewith, pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended, and Chapter 1371.

SECTION 2: Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates - Date. The Certificates are issuable in fully registered form only; shall be dated as provided in the Pricing Certificate (the "Certificate Date") and shall be in denominations of $5,000 or any integral multiple thereof (within a Stated Maturity) and the Certificates shall become due and payable on a date certain in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rates in accordance with the details of the Certificates as provided in the Pricing Certificate.

The Certificates shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate (calculated on the basis of a 360-day year of twelve 30-day months) and shall be payable in each year, on the dates and commencing on the date, set forth in the Pricing Certificate.

SECTION 3: Delegation of Authority to Pricing Officer. (a) As authorized by Chapter 1371, the Town Manager or the Deputy Town Manager/CFO of the Town (either a "Pricing Officer") is hereby authorized to act on behalf of the Town in selling and delivering the Certificates and carrying out the other procedures specified in this Ordinance determining the aggregate principal amount of the Certificates, the date of the Certificates, any additional or different designation or title by which the Certificates shall be known, the price at which the Certificates will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Certificates will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Certificates will accrue, the interest payment dates, the record date, the price and terms upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the Town, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the terms of any bond insurance applicable to the Certificates, any modification of the continuing disclosure undertaking contained in Section 32 hereof as may be required by the purchasers of the Certificates in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Certificates, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Certificates shall not exceed $9,100,000;

(ii) the maximum true interest cost for the Certificates shall not exceed 3.00%; and

(iii) the maximum maturity date of the Certificates shall not exceed March 1, 2040.

The execution of the Pricing Certificate shall evidence the sale date of the Certificates by the Town to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the Town's interest costs associated with the Certificates, then the Pricing Officer is authorized, in connection with effecting the sale of the Certificates, to make the selection of the municipal bond insurance company for the Certificates (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy in support of the Certificates. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to affect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Certificates, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Certificates are authorized and to pay costs of issuing the Certificates. The delegation made hereby shall expire if not exercised by the Pricing Officer within one (1) year of the date of the adoption of this Ordinance. The Certificates shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4: <u>Terms of Payment-Paying Agent/Registrar.</u> The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Certificates (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of The Bank of New York Mellon Trust Company, N.A., Dallas, Texas, to serve as "Paying Agent/Registrar" for the Certificates is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the Town by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the Town may prescribe. The Mayor or Mayor Pro Tem and Town Secretary are hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Certificates. The Town covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the Town agrees to promptly cause a written notice thereof to be sent to each Holder by United States mail, first-class, postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates, shall be payable at the Stated Maturities or the redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices initially in East Syracuse, New York, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest on the Certificates shall be paid to the Holder whose name appears in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and shall be paid by the Paying Agent/Registrar (i) by check sent United States mail, first-class, postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when such banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 5: Registration - Transfer - Exchange of Certificates - Predecessor Certificates. The Paying Agent/Registrar shall obtain, record and maintain in the Security Register the name and address of each and every owner of the Certificates issued under and pursuant to the provisions of this Ordinance or, if appropriate, the nominee thereof. Any Certificate may be transferred or exchanged for Certificates of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Certificate (other than the Initial Certificate authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates, executed on behalf of, and furnished by, the Town, of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holders, Certificates (other than the Initial Certificate authorized in Section 8 hereof) may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange upon surrender of the Certificates to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Certificates are so surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Certificates, executed on behalf of, and furnished by the Town, to the Holder requesting the exchange.

All Certificates issued upon any transfer or exchange of Certificates shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first-class, postage prepaid, to the Holder and, upon the registration and delivery thereof, the same shall be valid obligations of the Town, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered and delivered in lieu thereof pursuant to Section 25 hereof and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the Town nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained herein relating to the payment and transfer/exchange of the Certificates, the Town hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York ("DTC"), in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the Town and DTC (the "Depository Agreement").

In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, or in the event the Town decides to discontinue use of the system of book-entry transfers through DTC, the Town covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions of Sections 4 and 5 hereof.

SECTION 7: Execution - Registration. The Certificates shall be executed on behalf of the Town by the Mayor or the Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the Town Secretary. The signature of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of said individuals who are or were the proper officers of the Town on the date of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the Town, notwithstanding that such individuals or any of them shall cease to hold such offices prior to the delivery of the Certificates to the initial purchaser(s), and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided by Texas Government Code, Chapter 1201, as amended.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

SECTION 8: Initial Certificate. The Certificates herein authorized shall be initially issued as a single fully registered certificate in the total principal amount with principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1 (hereinafter called the "Initial Certificate") and the Initial Certificate shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Certificate, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Certificate delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and to be completed and modified with the information set forth in the Pricing Certificate and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with bond insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the Town or determined by the Pricing Officer. The Pricing Officer shall set forth the final and controlling forms and terms of the Certificates. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The Certificates, including the Initial Certificate, shall be typewritten, printed, lithographed, or photocopied, or produced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

(b) Form of Definitive Certificate.

REGISTERED REGISTERED
NO. ________ $___________

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF FLOWER MOUND, TEXAS
CERTIFICATE OF OBLIGATION
SERIES 2020

Certificate Date:	Interest Rate:	Stated Maturity:	CUSIP No.:
__________, 2020	______ %	______, ___	

Registered Owner:

Principal Amount: __________________________ DOLLARS

The Town of Flower Mound (hereinafter referred to as the "Town"), a body corporate and municipal corporation in the Counties of Denton and Tarrant, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Certificate appearing below (unless this Certificate bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Certificate is prior to the initial interest payment date, in which case it shall bear interest from ______) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on ___________ and _____________ of each year, commencing _________, 20____, until maturity or prior redemption of this Certificate. Principal of this Certificate is payable at its Stated Maturity or redemption to the registered owner hereof upon presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while the Certificate is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount may be accomplished without presentation and surrender of this Certificate. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____________ day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of $_______ to be designated and bear the title "TOWN OF FLOWER MOUND, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2020" (hereinafter referred to as the "Certificates"), for the purpose of paying contractual obligations to be incurred for authorized needs and purposes, to wit: (i) constructing waterworks and sewer system improvements and extensions, including the acquisition of land and rights-of-way therefor and (ii) professional services rendered in connection therewith, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, and Texas Government Code, Chapter 1371, as amended, and pursuant to an ordinance adopted by the Town Council of the Town (herein referred to as the "Ordinance").

[The Certificates having Stated Maturities on and after ____ 1, 20___ may be redeemed prior to their Stated Maturities, at the option of the Town, in whole or in part, in principal amounts of $5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on ____ 1, 20____, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the Town shall cause a written notice of such redemption to be sent by United States mail, first-class, postage prepaid, to the registered owners of each Certificate to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Certificate (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon the redemption date such Certificate (or the portion of its principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount redeemed.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Certificate is selected for redemption, in whole or in part, the Town and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the Town, be conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the Town shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.]

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the Town and are additionally payable from and secured by a lien on and limited pledge of the Net Revenues (as defined in the Ordinance) of the Town's combined waterworks and sewer system (the "System"), such lien and pledge being limited to the amount of $1,000 and being junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of "Prior Lien Bonds" (identified and defined in the Ordinance) now outstanding and hereafter issued by the Town. In the Ordinance, the Town reserves and retains the right to issue Prior Lien Bonds while the Certificates are outstanding without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise, as well as the right to issue additional obligations payable from the same sources as the Certificates and, together with the Certificates, equally and ratably secured by a parity lien on and pledge of the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the Net Revenues of the System pledged to the payment of the principal of and interest on the Certificates; the nature and extent and manner of enforcement of the limited pledge; the terms and conditions relating to the transfer or exchange of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Town and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The Town and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the Town nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and covenanted that the Town is duly organized and legally incorporated under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the Town have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a pledge of the Net Revenues of the System as aforestated. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Town Council of the Town has caused this Certificate to be duly executed under the official seal of the Town as of the Certificate Date.

TOWN OF FLOWER MOUND, TEXAS

____
[Mayor][Mayor Pro Tem]

COUNTERSIGNED:

____
Town Secretary

(TOWN SEAL)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on the Initial Certificate only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER (
OF PUBLIC ACCOUNTS (
(REGISTER NO. ______________________
THE STATE OF TEXAS (

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this ____________________ .

____
Comptroller of Public Accounts
of the State of Texas

(SEAL)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued and registered under the provisions of the within-mentioned Ordinance; the certificate or certificates of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar located in East Syracuse, New York is the Designated Payment/Transfer Office for this Certificate.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., Dallas, Texas,
as Paying Agent/Registrar

Registration Date:

____

By: ________________________________
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)
____
____
____

____
(Social Security or other identifying number: ____)
the within Certificate and all 7rights thereunder, and hereby irrevocably constitutes and appoints ____________________________ attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: ____________________________

Signature guaranteed:

____

____
NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

(f) <u>The Initial Certificate shall be in the form set forth in paragraph (b) of this Section, except that the heading and first paragraph shall be modified as follows</u>:

REGISTERED: REGISTERED:
NO. T-1 $________

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF FLOWER MOUND, TEXAS,
CERTIFICATE OF OBLIGATION
SERIES 2020

Certificate Date: ____________, 2020

Registered Owner:

Principal Amount: _______________________________________ DOLLARS

The Town of Flower Mound (hereinafter referred to as the “Town”), a body corporate and municipal corporation in the Counties of Denton and Tarrant, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the above stated Principal Amount on _______ 1 in each of the years and in principal installments in accordance with the following schedule:

YEAR	PRINCIPAL INSTALLMENT ($)	INTEREST RATE (%)

(Information to be inserted from the Pricing Certificate).

(or so much thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid Principal Amount from the interest payment date next preceding the “Registration Date” of this Certificate appearing below (unless this Certificate bears a “Registration Date” as of an interest payment date, in which case it shall bear interest from such date, or unless the “Registration Date” of this Certificate is prior to the initial interest payment date, in which case it shall bear interest from the ______________) at the per annum rate(s) of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on __________ and __________ of each year, commencing ______ 1, 20____, until maturity or prior redemption of this Certificate. Principal installments of this Certificate are payable at the year of maturity or on a redemption date to the registered owner hereof by The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (the "Paying Agent/Registrar"), upon presentation and surrender at its designated offices in East Syracuse, New York, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Certificate whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the __________ day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues therefor, the following words or terms, whenever the same appear herein without qualifying language, are defined to mean as follows:

(a) The term "Additional Certificates" shall mean tax and revenue obligations hereafter issued under and pursuant to the provisions of Texas Local Government Code, Subchapter C of Chapter 271, or other law and payable from ad valorem taxes and additionally payable from and secured by a lien on and pledge of the Net Revenues of the System on a parity with and of equal rank and dignity with the lien and pledge securing the payment of the Certificates.

(b) The term "Certificate Fund" shall mean the special Fund created and established under the provisions of Section 11 of this Ordinance.

(c) The term "Certificates" shall mean the "Town of Flower Mound, Texas, Certificates of Obligation, Series 2020" authorized by this Ordinance.

(d) The term "Collection Date" shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the Town become delinquent.

(e) The term "Fiscal Year" shall mean the twelve month period ending on September 30 of each year.

(f) The term "Net Revenues" shall mean the gross revenues of the System, less the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to render efficient service; provided, however, that only such repairs and extensions, as in the judgment of the Town Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the Town and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any obligations payable from and secured by a lien on the Net Revenues of the System, shall be deducted in determining "Net Revenues".

(g) The term "Outstanding" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

(1) those Certificates canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates deemed to be duly paid by the Town in accordance with the provisions of Section 24 hereof; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 25 hereof.

(h) The term "Prior Lien Bonds" shall mean all bonds or other similar obligations now outstanding and hereafter issued that are payable from and secured by a lien on and pledge of the Net Revenues of the System, which is prior in right and claim to the lien on and pledge of the Net Revenues securing the payment of the Certificates.

(i) The term "System" shall mean the Town's combined waterworks and sewer system, including all properties (real, personal or mixed and tangible or intangible) owned, operated, maintained and vested in the Town for the supply, treatment and distribution of treated water for domestic commercial, industrial and other uses and the together with all future additions, extensions replacements and improvements thereto.

SECTION 11: Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special account on the books of the Town to be designated "SPECIAL 2020 TAX AND REVENUE CERTIFICATE OF OBLIGATION FUND," and all moneys deposited to the credit of such account shall be kept and maintained in a banking fund maintained at the Town's depository. The Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO or Town Secretary, individually or collectively, are hereby authorized and directed to make withdrawals from the Certificate Fund sufficient to pay the principal of and interest on the Certificates as the same become due and payable, and, shall cause to be transferred to the Paying Agent/Registrar from moneys on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest falling due on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the last business day next preceding each interest and principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the Town, be invested in obligations identified in, and in accordance with the provisions of the Town's Investment Policy as the same may be amended from time to time and the "Public Funds Investment Act" relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Fund will be available at the proper time or times. All interest and income derived from deposits and investments in said Certificate Fund shall be credited to, and any losses debited to, the said Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12: Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied, within the limitations prescribed by law, for the current year and each succeeding year thereafter while said Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in said Town, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund. The Town Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the Town for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(a) Prior to the date the Town Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the Town Council shall determine:

(1) The amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Net Revenues of the System appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(2) The amount of Net Revenues of the System, and any other lawfully available revenues which are appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(3) The amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

(b) The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (3) above less the sum total of the amounts established in paragraphs (1) and (2), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 13: Limited Pledge of Net Revenues. The Town hereby covenants and agrees that, subject to the prior lien on and pledge of the Net Revenues of the System to the payment and security of Prior Lien Bonds, the Net Revenues of the System in the amount of $1,000 are hereby irrevocably pledged, equally and ratably, to the payment of the principal of and interest on the Certificates, and the limited pledge of $1,000 of the Net Revenues of the System herein made for the payment of the Certificates shall constitute a lien on the Net Revenues of the System until such time as the Town shall pay all of such $1,000, after which time the pledge shall cease. Furthermore, such lien on and pledge of the Net Revenues securing the payment of the Certificates shall be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act; all as provided in Texas Government Code, Chapter 1208, as amended.

Texas Government Code, Section 1208, as amended, applies to the issuance of the Certificates and the pledge of the Net Revenues of the System granted by the Town under this Section 13, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are Outstanding such that the pledge of the Net Revenues of the System granted by the Town under this Section 13 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the Town agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 14: Revenue Fund. The Town hereby covenants and agrees that so long as the pledge of the Net Revenues is made to the payment of the Certificates all revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts and moneys of the Town, and all such revenues shall be deposited as collected into the “Town of Flower Mound, Texas, Waterworks and Sewer System Revenue Fund” (heretofore created and established and hereinafter called the “Revenue Fund”). All moneys deposited to the credit of the Revenue Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown, to wit:

First: To the payment of the reasonable and proper operating and maintenance expenses as defined herein or required by statute to be a first charge on and claim against the gross revenues of the System.

Second: To the payment of all amounts required to be deposited in the special Funds created and established for the payment, security and benefit of Prior Lien Bonds in accordance with the terms and provisions of any ordinance authorizing the issuance of Prior Lien Bonds.

Third: To the payment, equally and ratably, of the limited amounts required to be deposited in the special funds and accounts created and established for the payment of the debt service requirements of the Certificates and Additional Certificates.

Any Net Revenues remaining in the Revenue Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other Town purpose now or hereafter permitted by law.

SECTION 15: Deposits to Certificate Fund. Subject to the provisions of Section 13 hereof, the Town hereby covenants and agrees to cause to be deposited in the Certificate Fund from the pledged Net Revenues of the System in the Revenue Fund, the amount of Net Revenues of the System pledged to the payment of the Certificates.

The Town covenants and agrees that the amount of pledged Net Revenues of the System ($1,000), together with other lawfully available revenues appropriated by the Town for payment of the debt service requirements on the Certificates and ad valorem taxes levied, collected, and deposited in the Certificate Fund for and on behalf of the Certificates, will be an amount equal to one hundred percent (100%) of the amount required to fully pay the interest and principal due and payable on the Certificates. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues of the System.

SECTION 16: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17: Special Covenants. The Town hereby further covenants as follows:

(1) It has the lawful power to pledge the Net Revenues of the System supporting this issue of Certificates and has lawfully exercised said powers under the Constitution and laws of the State of Texas, including said power existing under Texas Government Code, Chapter 1502, as amended, and Texas Local Government Code, Sections 271.041, et seq., as amended.

(2) Other than for the payment of the Prior Lien Bonds and the Certificates, the Net Revenues of the System are not pledged to the payment of any debt or obligation of the Town or of the System.

SECTION 18: Issuance of Prior Lien Bonds and Additional Certificates. The Town hereby expressly reserves the right to hereafter issue Prior Lien Bonds, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable thereto under law or otherwise, and also reserves the right to issue Additional Certificates which, together with the Certificates, shall be secured by a parity lien on and pledge of the Net Revenues of the System.

SECTION 19: Application of Prior Lien Bonds Covenants and Agreements. It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained herein bearing upon the management and operations of the System, and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in the ordinances authorizing the issuance of the Prior Lien Bonds, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of the Prior Lien Bonds, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders of the Prior Lien Bonds. Notwithstanding the above, any change or modification affecting the application of revenues derived from the operation of the System shall not impair the obligation of contract with respect to the pledge of revenues herein made for the payment and security for the Certificates.

SECTION 20: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Town all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Certificates. In addition, prior to the initial delivery of the Certificates, the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO, or Bond Counsel to the Town are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the Town whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 21: Notices to Holders Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class, postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 22: Cancellation. All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the Town, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The Town may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the Town may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Certificates held by the Paying Agent/Registrar shall be returned to the Town.

SECTION 23: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

"*Closing Date*" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Town shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the Town shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the Town or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Certificates.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Town shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The Town shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The Town shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Certificate is discharged. However, to the extent permitted by law, the Town may commingle Gross Proceeds of the Certificates with other money of the Town, provided that the Town separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the Town shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The Town shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the Town shall pay to the United States from the general fund, other appropriate fund, or if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Certificate Fund, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The Town shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Issuer shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) Elections. The Town hereby directs and authorizes the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager and Deputy Town Manager/CFO, either or any combination of them to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(k) Qualified Tax-Exempt Obligations. The Pricing Officer is hereby authorized to designate in the Pricing Certificate the designation of the Certificates as "qualified tax-exempt obligations" in accordance with the provisions of the paragraph (3) of subsection (b) of Section 265 of the Code in the event the Certificates qualify for such designation and confirm that the Certificates are not "private activity bonds" as defined in the Code and confirm the amount of "tax-exempt obligations" to be issued by the Town (including all subordinate entities of the Town) for the calendar year in which the Certificates are issued will not exceed the applicable limitation.

SECTION 24: Satisfaction of Obligations of Town. If the Town shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied under this Ordinance and the Net Revenues of the System (to the extent such limited pledge of Net Revenues shall not have been discharged or terminated by prior payment of principal of or interest on the Certificates) and all covenants, agreements, and other obligations of the Town to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section ("Defeased Certificates") when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities (as defined below) shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/ Registrar have been made) the redemption date thereof. At such time as Certificates shall be deemed to be Defeased Certificates hereunder, as aforesaid, such Certificates and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the taxes or revenues levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Government Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem the Defeased Certificates that is made in conjunction with the payment arrangements specified in (i) or (ii) above in this paragraph shall not be irrevocable, provided that in the proceedings providing for such payment arrangements, the Town: (1) expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the registered owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes. The Town covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the Town or deposited as directed by the Town. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Certificates such moneys were deposited and are held in trust to pay shall upon the request of the Town be remitted to the Town against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Town shall be subject to any applicable unclaimed property laws of the State of Texas.

Unless otherwise modified by the Pricing Officer, the term "Government Securities" as used herein, means (a) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (b) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the Town are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (c) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the Town, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (d) any other then authorized securities or obligations that may be used to defease obligations such as the Certificates under the then applicable laws of the State of Texas.

SECTION 25: Mutilated, Destroyed, Lost, and Stolen Certificates. In case any Certificate shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the Town and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the Town and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, or destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Certificates.

SECTION 26: Ordinance a Contract - Amendments. This Ordinance, together with the Pricing Certificate, shall constitute a contract with the Holders from time to time, be binding on the Town, and shall not be amended or repealed by the Town so long as any Certificate remains Outstanding except as permitted in this Section and Section 32 hereof. The Town, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Town may, with the written consent of Holders holding a majority in aggregate principal amount of the Certificates and Additional Certificates then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 27: Sale of the Certificates – Official Statement. The Certificates authorized by this Ordinance are to be sold by the Town to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the Town, as the act and deed of this Council, and to make a determination as to whether the terms are in the Town's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Certificates;
2. The details of any public offering of the Certificates by the Purchasers, if any;
3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Certificates and the Town's Rule 15c2-12 compliance, if applicable;
4. A security deposit for the Certificates, if any;
5. The representations and warranties of the Town to the Purchasers;
6. The details of the delivery of, and payment for, the Certificates;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the Town under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the Town;
11. The survival of representations made in the Purchase Contract;

12. The payment of any expenses relating to the Purchase Contract;

13. Notices; and

14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Certificates.

The Mayor or Mayor Pro Tem and Town Secretary of the Town and the Pricing Officer are each further authorized and directed to deliver for and on behalf of the Town copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Certificates by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 28: <u>Proceeds of Sale</u>. The proceeds of sale of the Certificates excluding accrued interest, if any, received from the Purchasers, and amounts to pay costs of issuance and any additional proceeds to be deposited to the Certificate Fund as specified in the Pricing Certificate, shall be deposited in a fund maintained at a Town depository bank (the "Construction Fund"). Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including specifically guaranteed investment contracts permitted by Texas Government Code, Section 2256.015, et seq., and the Town's investment policies and guidelines, and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the Town Council. Accrued interest, if any, received from the Purchasers as well as proceeds of sale, including investment earnings thereon, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

SECTION 29: <u>Control and Custody of Certificates</u>. The Mayor or Mayor Pro Tem of the Town shall be and is hereby authorized to take and have charge of all necessary orders and records pending the sale of the Certificates, the investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Certificates, and shall take and have charge and control of the Initial Certificate pending the approval thereof by the Attorney General and its registration thereof by the Comptroller of Public Accounts.

Furthermore, the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the Town and the issuance of the Certificates, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Certificates as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the Town's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to make the necessary arrangements for the delivery of the Initial Certificate to the initial purchasers.

SECTION 30: <u>Bond Counsel's Opinion</u>. The Purchasers' obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, Bond Counsel to the Town, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. An executed counterpart of said opinion shall accompany the global certificates deposited with The Depository Trust Company or a reproduction thereof shall be printed on the definitive Certificates in the event the book-entry-only system shall be discontinued. The Town Council confirms the continuation of the engagement of Norton Rose Fulbright US LLP as the Town's bond counsel.

SECTION 31: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the Town nor attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 32: Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

> "*Financial Obligation*" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The Town shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the Town of the general type included in the Official Statement approved by the Pricing Officer and described in the Pricing Certificate, and (2) if not provided as part of such financial information and operating data, audited financial statements of the Town within twelve months after the end of each fiscal year, when and if available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation. If audited financial statements are not available by the required time, the Town will file unaudited financial statements within such twelve-month period and audited financial statements when and if such audited financial statements become available.

If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any documents available to the public on the MSRB's internet web site or filed with the SEC.

(c) Notice of Certain Events.

The Town shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than ten (10) business days after occurrence of the event:

(1) Principal and interest payment delinquencies;

(2) Non-payment related defaults, if material;

(3) Unscheduled draws on debt service reserves reflecting financial difficulties;

(4) Unscheduled draws on credit enhancements reflecting financial difficulties;

(5) Substitution of credit or liquidity providers, or their failure to perform;

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;

(7) Modifications to rights of holders of the Certificates, if material;

(8) Certificate calls, if material, and tender offers;

(9) Defeasances;

(10) Release, substitution, or sale of property securing repayment of the Certificates, if material;

(11) Rating changes;

(12) Bankruptcy, insolvency, receivership, or similar event of the Town, which shall occur as described below;

(13) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) Incurrence of a Financial Obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Town, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Town, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding subsection (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town and (b) the Town intends the words used in the immediately preceding paragraphs (15) and (16) to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The Town shall notify the MSRB, in a timely manner, of any failure by the Town to provide financial information or operating data in accordance with Subsection (b) of this Section of this Ordinance by the time required by such Section.

(d) Filings with the MSRB.

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments.

The Town shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Town remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Town in any event will give the notice required by Subsection (c) of this Section of any Certificate calls and defeasance that cause the Town to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the Town does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the Town's financial results, condition, or prospects; nor does the Town undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Town in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the Town from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Town (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the Town if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the Town's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the Town so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 33: Municipal Bond Insurance. The Certificates may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Certificates and make the determination of the provisions of any commitment therefor.

SECTION 34: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the Town, the Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the Town, the Paying Agent/Registrar and the Holders.

SECTION 35: Inconsistent Provisions. All ordinances, orders, or resolutions, or parts thereof which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 36: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 37: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 38: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 39: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 40: Incorporation of Findings and Determinations. The findings and determinations of the Town Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 41: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 42: Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[*Remainder of page intentionally left blank*]

DULY PASSED AND APPROVED BY THE TOWN COUNCIL ON JUNE 15, 2020.

TOWN OF FLOWER MOUND, TEXAS

____

Steve Dixon, MAYOR

(Town Seal)

ATTEST:

____

Theresa Scott, TOWN SECRETARY

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of June 15, 2020 (this "Agreement"), by and between The Bank of New York Mellon Trust Company, N.A., a banking association duly organized and existing under the laws of the United States of America (the "Bank") and the Town of Flower Mound, Texas (the "Issuer"),

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "Town of Flower Mound, Texas Certificates of Obligation, Series 2020" (the "Securities"), dated July 1, 2020, such Securities scheduled to be delivered to the initial purchasers thereof on or about July 9, 2020; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE
APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01 **Appointment**. The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

Section 1.02 **Compensation**. As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO
DEFINITIONS

Section 2.01 **Definitions**. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Acceleration Date" on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

"Authorizing Document" means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

"Bank Office" means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Financial Advisor" means Hilltop Securities Inc.

"Holder" and "Security Holder" each means the Person in whose name a Security is registered in the Security Register.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

"Redemption Date", when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

"Responsible Officer", when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security Register" means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

"Stated Maturity" means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

Section 2.02 <u>Other Definitions</u>. The terms "Bank," "Issuer," and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

ARTICLE THREE
PAYING AGENT

Section 3.01 <u>Duties of Paying Agent</u>. As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

<u>First Class/Registered/Certified</u>	<u>Express Delivery/Courier</u>	<u>By Hand Only</u>
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

Section 3.02 <u>Payment Dates</u>. The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

ARTICLE FOUR
REGISTRAR

Section 4.01 <u>Security Register - Transfers and Exchanges</u>. The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register") for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02 **Securities**. The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 4.03 **Form of Security Register**. The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.04 **List of Security Holders**. The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

Section 4.05 Return of Cancelled Securities. The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 4.06 Mutilated, Destroyed, Lost or Stolen Securities. The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

Section 4.07 Transaction Information to Issuer. The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

ARTICLE FIVE
THE BANK

Section 5.01 Duties of Bank. The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 5.02 Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, the Financial Advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

Section 5.03 **<u>Recitals of Issuer</u>**. The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

Section 5.04 **<u>May Hold Securities</u>**. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05 **<u>Moneys Held by Bank - Paying Agent Account/Collateralization</u>**. A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

Section 5.06 Indemnification. To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or willful misconduct on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 5.07 Interpleader. The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

In the event the Bank becomes involved in litigation in connection with this Section, the Issuer, to the extent permitted by law, agrees to indemnify and save the Bank harmless from all loss, cost, damages, expenses, and attorney fees suffered or incurred by the Bank as a result. The obligations of the Bank under this Agreement shall be performable at the principal corporate office of the Bank in the City of Dallas, Texas.

Section 5.08 DTC Services. It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for “Depository Trust Company” services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the “Operational Arrangements”, which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

ARTICLE SIX
MISCELLANEOUS PROVISIONS

Section 6.01 Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03 Notices. Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page(s) hereof.

Section 6.04 **Effect of Headings**. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 6.05 **Successors and Assigns**. All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 6.06 **Severability**. In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07 **Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

Section 6.08 **Benefits of Agreement**. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.09 **Entire Agreement**. This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

Section 6.10 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 6.11 **Termination**. This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.12 <u>Iran, Sudan or Foreign Terrorist Organizations.</u> The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf,
https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Section 6.13 <u>Governing Law</u>. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

By:____________________________________

Title:___________________________________

Address: 2001 Bryan Street, 10th Floor
Dallas, Texas 75201

Attest:

____

Title: ___________________________

TOWN OF FLOWER MOUND, TEXAS

By: ____________________________________
Mayor

Address: 2121 Cross Timbers Road
Flower Mound, Texas 75028

ATTEST:

____
Town Secretary

ANNEX A

FEE SCHEDULE

TOWN COUNCIL AGENDA ITEM NO. 9

REGULAR ITEM

DATE: June 15, 2020

FROM: Debra Wallace, Deputy Town Manager/CFO

ITEM: **Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, General Obligation Refunding Bonds, Series 2020, establishing parameters for the sale and issuance of such bonds, delegating certain matters to an authorized official of the Town and resolving all matters incident and related thereto.**

BACKGROUND INFORMATION: The Financial Services staff and Hilltop Securities Inc., the Town's financial advisor, request the Town Council's approval of an ordinance authorizing the potential issuance of General Obligation Refunding Bonds, Series 2020, ("the Bonds").

A refunding opportunity has been identified which would prepay or refund a portion of the Town's outstanding tax-supported issues, lowering the overall debt service requirements of the Town. In accordance with the Town's Financial Policies, "an advance refunding of outstanding debt shall only be considered when present value savings of at least 3.50% of the principal amount of the refunded bonds is produced." Please note that all debt refunded with the Bonds will be structured to maintain the existing maturity pattern to ensure no debt will be extended as a result of the refunding. Based on volatility in the municipal bond market and the interest rate levels at the time of pricing, the amount of bonds refunded may be decreased.

Refunded Issue	Refunded Bonds	Current Interest Rates	Refunded Years
Certificates of Obligation, Series 2009	$1,740,000	4.00% - 4.50%	2021-2029
Certificates of Obligation, Series 2010	$3,315,000	2.75%-3.875%	2021-2030

In order to efficiently complete the refunding, the attached ordinance establishes the following parameters, giving the Town Manager and Deputy Town Manager/CFO the authority to approve all necessary documents and finalize the sale.

Maximum Principal Amount	$5,200,000
Minimum Present Value Savings	3.50%
Maximum True Interest Cost	2.50%
Final Maturity Date	March 1, 2030

The Town Manager and Deputy Town Manager/CFO's authorization to complete the sale of the Bonds will expire 180 days after passage of the ordinance. The issuance will be conducted as a negotiated sale with the pricing to occur on June 16, 2020. The Bonds will begin accruing interest on July 1, 2020 (the Dated Date), which the Town will receive upon delivery of the funds on July 9, 2020. The Bank of New York Mellon Trust Company, N.A., will serve as the Paying Agent/Registrar for the Bonds. The preliminary official statement, which discloses details related to issuance of the Bonds and the Town, is available in the Financial Services Department for review.

FISCAL IMPACT: Approximate amount of $5,200,000

Proposed Expenditure:	Account Number(s):
A maximum of $5,200,000 in bonds.	Ad valorem taxes and utilities system revenues will fund the bonds, proportionately.

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

LEGAL REVIEW: The Town's Bond Counsel, Norton Rose Fulbright US LLP, prepared the proposed ordinance. No alteration to the legal content of this ordinance, which was originally approved by Taylor, Olson, Adkins, Sralla, & Elam L.L.P, was made.

ATTACHMENTS:

1. Ordinance
2. Paying Agent/Registrar Agreement

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

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. __-20

AN ORDINANCE authorizing the issuance of "TOWN OF FLOWER MOUND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020"; levying a continuing direct annual ad valorem tax for the payment of said Bonds; resolving other matters incident and related to the issuance, sale, payment and delivery of said Bonds; establishing procedures for the sale and delivery of said Bonds; and delegating matters relating to the sale and issuance of said Bonds to an authorized Town official.

WHEREAS, the Town of Flower Mound, Texas (the "Town") currently has outstanding obligations of the Town of the following issues or series: (i) "Town of Flower Mound, Texas, Certificates of Obligation, Series 2009," dated July 15, 2009 and (ii) "Town of Flower Mound, Texas, Certificates of Obligation, Series 2010," dated August 1, 2010 (hereinafter called the "Refunded Obligations"); and

WHEREAS, pursuant to the provisions of Texas Government Code, Chapter 1207, as amended ("Chapter 1207"), the Town Council of the Town (the "Council") is authorized to issue refunding bonds and deposit the proceeds of sale directly with any place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with Chapter 1207 and the ordinances authorizing the issuance of the Refunded Obligations, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the Town shall by this Ordinance, in accordance with the provisions of Section 1207.007, Texas Government Code, as amended, and Chapter 1371, Texas Government Code, as amended, delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount and certain other specified terms of the Bonds to be issued, negotiate the terms of sale thereof and select the specific maturities, in whole or in part, of the Refunded Obligations to be refunded; and

WHEREAS, the Council hereby finds and determines that it is a public purpose and in the best interests of the Town to refund the Refunded Obligations in order to achieve a present value debt service savings, with such savings, among other information and terms, to be included in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer, all in accordance with the provisions of Texas Government Code, Section 1207.007, as amended; now, therefore

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

SECTION 1. Authorization - Series Designation - Principal Amount - Purpose - Bond Date. General obligation refunding bonds of the Town shall be and are hereby authorized to be issued in the maximum aggregate principal amount hereinafter set forth to be designated and bear the title "TOWN OF FLOWER MOUND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020", or such other designation as specified in the Pricing Certificate (herein referred to as the "Bonds"), for the purpose of providing funds for the discharge and final payment of certain obligations of the Town (described in the preamble hereof and finally identified in the Pricing Certificate and referred to herein as the "Refunded Obligations") and to pay the costs and expenses of issuance, in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1207, as amended, and Texas Government Code, Chapter 1371, as amended ("Chapter 1371"). The Bonds shall be dated (the "Bond Date") as provided in the Pricing Certificate.

SECTION 2. Fully Registered Obligations - Terms. The Bonds shall be issued as fully registered obligations, without coupons, and (other than the Initial Bonds referenced in Section 8 hereof) shall be in denominations of $5,000 or any integral multiple (within a Stated Maturity) thereof, shall be lettered "R" and numbered consecutively from one (1) upward and principal shall become due and payable on a date certain in each of the years (the "Stated Maturities") and in amounts and bear interest at the rate(s) per annum in accordance with the details of the Bonds as set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Bonds shall be payable in each year, on the dates, and commencing on the date, set forth in the Pricing Certificate.

SECTION 3. Delegation of Authority to Pricing Officer. (a) As authorized by Texas Government Code, Section 1207.007, as amended, and Chapter 1371, the Town Manager or the Deputy Town Manager/CFO of the Town (either, the "Pricing Officer") is hereby authorized to act on behalf of the Town in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including selection of the specific maturities or series, in whole or in part, of the Refunded Obligations to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Bonds will accrue, the interest payment dates, the record date, the compounding dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Town, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the designation of an escrow agent satisfying the requirements of Chapter 1207, the terms of any bond insurance applicable to the Bonds, any modification of the continuing disclosure undertaking contained in Section 31 hereof as may be required by the purchasers of the Bonds in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed $5,200,000;

(ii) the refunding must produce a net present value debt service savings of at least 3.50%, net of any Town contribution;

(iii) the maximum true interest cost for the Bonds shall not exceed 2.50%; and

(iv) the maximum maturity date of the Bonds shall not exceed March 1, 2030.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the Town to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the Town's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to make the selection of the municipal bond insurance company for the Bonds (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy in support of the Bonds. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to effect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount for the Bonds not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within one (1) year of the date hereof. The Bonds shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of The Bank of New York Mellon Trust Company, N.A., Dallas, Texas, to serve as "Paying Agent/Registrar" for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the Town by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the Town may prescribe. The Mayor or Mayor Pro Tem and Town Secretary are hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The Town covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the Town agrees to promptly cause a written notice thereof to be sent to each Holder by United States mail, first-class, postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The Bonds shall be payable at their Stated Maturities or upon their earlier redemption, only upon the presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices, initially in East Syracuse, New York, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"); provided, however, while a Bond is registered to Cede & Co., the payment thereof upon a partial redemption of the principal amount thereof may be accomplished without presentation and surrender of such Bond. Interest on a Bond shall be paid by the Paying Agent/Registrar to the Holders whose names appears in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and such interest payments shall be made (i) by check sent United States mail, first-class, postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which such banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities of the Bonds on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such past due interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Holder of the Bonds appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 5. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of like maturity and amount and in authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for assignment or transfer of any Bond (other than the Initial Bonds authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, one or more new Bonds, executed on behalf of and furnished by the Town, shall be registered and issued to the assignee or transferee of the previous Holder; such Bonds to be of authorized denominations, of like Stated Maturity, and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bonds authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the

Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of and furnished by the Town, to the Holder requesting the exchange.

All Bonds issued upon any such transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first-class, postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the Town, evidencing the same obligation to pay and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be “Predecessor Bonds,” evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term “Predecessor Bonds” shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 11 hereof, and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the Town nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6. Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 4 and 5 hereof relating to the payment and transfer/exchange of the Bonds, the Town hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement, and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York (“DTC”), in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representations, by and between the Town and DTC, and the Letter of Representations from the Paying Agent/Registrar to DTC (collectively, the “Depository Agreement”) relating to the Bonds.

In the event the Pricing Officer elects to utilize DTC’s “Book-Entry-Only” System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC and who shall hold said Bonds for its participants (the “DTC Participants”). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the Town decides to discontinue the use of the system of book-entry transfers through DTC, the Town covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 4 and 5 hereof.

SECTION 7. Execution - Registration. The Bonds shall be executed on behalf of the Town by the Mayor or Mayor Pro Tem under the Town's seal reproduced or impressed thereon and attested by the Town Secretary. The signature of said officials on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officials of the Town on the date of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the Town, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

SECTION 8. Initial Bonds. The Bonds herein authorized shall be initially issued as fully registered Bonds as specified in the Pricing Certificate, being a single, fully registered Bond in the aggregate principal amount noted and principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1, (hereinafter called the "Initial Bond") and the Initial Bond shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds and of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9. Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and, with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the Town or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bonds.

REGISTERED NO. R-_________	PRINCIPAL AMOUNT $___________

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF FLOWER MOUND
GENERAL OBLIGATION REFUNDING BOND
SERIES 2020

Bond Date:	Interest Rate:	Stated Maturity:	CUSIP No.:
__________, 20__	_________%	__________, 20__	_________

Registered Owner:

Principal Amount: DOLLARS

The Town of Flower Mound (hereinafter referred to as the “Town”), a body corporate and political subdivision in the Counties of Denton and Tarrant, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the “Registration Date” of this Bond appearing below (unless this Bond bears a “Registration Date” as of an interest payment date, in which case it shall bear interest from such date, or unless the “Registration Date” of this Bond is prior to the initial interest payment date in which case it shall bear interest from the _______) at the per annum rate of interest specified above computed on the basis of a 360 day year of twelve 30 day months; such interest being payable on ____________ and _______________ in each year, commencing __________, 20__, until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or upon its prior redemption to the registered owner hereof, upon presentation and surrender, at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, initially in East Syracuse, New York, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the “Designated Payment/Transfer Office”); provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____________ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of $_____________ (herein referred to as the "Bonds") for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the Town and to pay the costs and expenses of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapters 1207 and 1371, as amended, and pursuant to an Ordinance adopted by the Town Council of the Town (herein referred to as the "Ordinance").

[The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds due __________, 20__		Term Bonds due __________, 20__	
Redemption Date	Principal Amount	Redemption Date	Principal Amount
__________, 20__		__________, 20__	
__________, 20__*		__________, 20__*	

* Stated maturity.

The particular Term Bonds of a Stated Maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the Town, by the principal amount of Term Bonds of like Stated Maturity which, at least fifty (50) days prior to a mandatory redemption date, (1) shall have been acquired by the Town at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Bonds maturing on and after __________, 20__, may be redeemed prior to their Stated Maturities, at the option of the Town, in whole or in part in principal amounts of $5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on __________, 20__, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Bonds, the Town shall cause a written notice of such redemption to be sent by United States mail, first-class, postage prepaid, to the registered owners of each Bond to be redeemed, in whole or in part, at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the Town and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the Town shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the Town. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Town and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein.

Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The Town and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal at the Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the Town nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a Bond on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a “Special Record Date”) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each registered owner of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the Town is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the Town have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforestated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Town Council of the Town has caused this Bond to be duly executed under the official seal of the Town.

TOWN OF FLOWER MOUND, TEXAS

____

ATTEST: [Mayor][Mayor Pro Tem]

____

Town Secretary

(Town Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	(	
OF PUBLIC ACCOUNTS	(	REGISTER NO. __________
THE STATE OF TEXAS	(	

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this ________________.

____
Comptroller of Public Accounts
of the State of Texas

(Seal)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in East Syracuse, New York, is the Designated Payment/Transfer Office for this Bond.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., Dallas, Texas

____
as Paying Agent/Registrar

Registration Date:

____

By: ______________________________
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): ___________________________

____

(Social Security or other identifying number: ___________________________________

___________________________________) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints ____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: ____________________________

Signature guaranteed:

____

____

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bond shall be in the form set forth therefor in subsection (b) of this Section, except the heading and paragraph one shall be amended to read as follows:

NO. T-1 $______________

UNITED STATES OF AMERICA
STATE OF TEXAS
TOWN OF FLOWER MOUND
GENERAL OBLIGATION REFUNDING BOND
SERIES 2020

Bond Date: __________, 20__

Registered Owner:

Principal Amount: DOLLARS

The Town of Flower Mound (hereinafter referred to as the "Town"), a body corporate and political subdivision in the Counties of Denton and Tarrant, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on ___________________ in the years and in principal installments in accordance with the following schedule:

STATED MATURITY	PRINCIPAL AMOUNT	INTEREST RATE(S)

(Information to be inserted from Pricing Certificate)

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal installments hereof from the _________ at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on __________, 20__, and each ___________ and ________________ thereafter, until maturity or prior redemption. Principal installments of this

Bond are payable in the year of maturity or on a redemption date to the registered owner hereof by The Bank of New York Mellon Trust Company, N.A., Dallas, Texas (the "Paying Agent/Registrar"), upon presentation and surrender at its designated offices, initially in East Syracuse, New York, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the ________________ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10. Levy of Taxes. To provide for the payment of the "Debt Service Requirements" of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount is the greater) there is hereby levied, and there shall be annually assessed and collected in due time, form, and manner, a tax on all taxable property in the Town, within the limitations by law prescribed, sufficient to pay the Debt Service Requirements on the Bonds as the same becomes due and payable; and such tax hereby levied on each one hundred dollars' valuation of taxable property in the Town for the payment of the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; the taxes levied, assessed, and collected for and on account of the Bonds shall be accounted for separate and apart from all other funds of the Town and shall be deposited in the "SPECIAL SERIES 2020 GENERAL OBLIGATION REFUNDING BOND FUND", or such other fund designation as specified in the Pricing Certificate (the "Interest and Sinking Fund") to be maintained at an official depository of the Town's funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

PROVIDED, however, with regard to any payment to become due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date, if any, sufficient current funds will be available and are hereby appropriated to make such payments; and the Mayor, Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary of the Town, individually or jointly, are hereby authorized and directed to transfer and deposit in the Interest and Sinking Fund such current funds which, together with the accrued interest received from the initial purchasers, will be sufficient to pay the payments due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date.

The Mayor, Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary of the Town, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

SECTION 11. Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost, or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond; and with respect to a lost, destroyed, or stolen Bond, a replacement Bond may be issued only upon the approval of the Town and after (i) the filing by the Holder with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss, or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the Town and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost, or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation of the Town, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds.

SECTION 12. Satisfaction of Obligation of Town. If the Town shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance and the Pricing Certificate, then the pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the Town to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities (as defined below) shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The Town covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the Town or deposited as directed by the Town. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the Town be remitted to the Town against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Town shall be subject to any applicable unclaimed property laws of the State of Texas, including the provisions of Title 6 of the Texas Property Code, as amended.

Unless otherwise modified by the Pricing Officer, the term "Government Securities" shall mean (a) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (b) noncallable obligations of an agency or instrumentality of the United States of America, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the Town, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (c) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the Town, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (d) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

The Town reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Securities for the Government Securities originally deposited, to reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the Town moneys in excess of the amount required for such defeasance.

Upon such deposit as described above, such Bonds shall no longer be regarded to be outstanding or unpaid. Provided, however, the Town has reserved the option, to be exercised at the time of the defeasance of the Bonds, to call for redemption, at an earlier date, those Bonds which have been defeased to their maturity date, if the Town: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Bonds for redemption; (ii) gives notice of the reservation of that right to the Holders of the Bonds immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

SECTION 13. Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance, together with the Pricing Certificate, shall constitute a contract with the Holders from time to time, be binding on the Town, and shall not be amended or repealed by the Town so long as any Bond remains Outstanding except as permitted in this Section and in Section 31 hereof. The Town may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance or any provision in the Pricing Certificate in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Town may, with the consent of Holders who own a majority of the aggregate of the principal amount of the Bonds then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance or any provision in the Pricing Certificate; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term “Outstanding” when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

(1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds deemed to be duly paid by the Town in accordance with the provisions of Section 12 hereof; and

(3) those mutilated, destroyed, lost, or stolen Bonds which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

SECTION 14. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

“*Closing Date*” means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

“*Code*” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“*Computation Date*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Gross Proceeds*” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“*Investment*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"*Rebate Amount*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Regulations*" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"*Yield*" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Town shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction, or improvement of which is to be financed (or refinanced) directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the Town shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall at all times prior to the last Stated Maturity of Bonds:

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department, and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations), other than taxes of general application within the Town or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed, or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Town shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The Town shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The Town shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six (6) years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the Town may commingle Gross Proceeds of the Bonds with other money of the Town, provided that the Town separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the Town shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The Town shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the Holders thereof for federal income tax purposes, the Town shall pay to the United States out of the general fund, other appropriate fund, or, if permitted by applicable Texas statute, regulation, or opinion of the Attorney General of the State of Texas, the Interest and Sinking Fund, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place, and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The Town shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The Town hereby directs and authorizes the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager and Deputy Town Manager/CFO of the Town, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as one or more of such persons deems necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption, or similar or other appropriate certificate, form, or document.

(k) Bonds Not Hedge Bonds. At the time the original obligations refunded by the Bonds were issued, the Town reasonably expected to spend at least 85% of the spendable proceeds of such obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Current Refunding. The Bonds are being issued to pay and discharge in full the Refunded Obligations and such payment of the Refunded Obligations will occur within ninety (90) days after the issuance of the Bonds.

(m) Qualified Tax-Exempt Obligations. The Pricing Officer is hereby authorized to designate in the Pricing Certificate the designation of the Bonds as "qualified tax-exempt obligations" in accordance with the provisions of the paragraph (3) of subsection (b) of Section 265 of the Code in the event the Bonds qualify for such designation and confirm that the Bonds are not "private activity bonds" as defined in the Code and confirm the amount of "tax-exempt obligations" to be issued by the Town (including all subordinate entities of the Town) for the calendar year in which the Bonds are issued will not exceed the applicable limitation.

SECTION 15. Sale of Bonds - Official Statement. The Bonds authorized by this Ordinance are to be sold by the Town to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the Town, as the act and deed of this Council, and to make a determination as to whether the terms are in the Town's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Bonds;
2. The details of any public offering of the Bonds by the Purchasers, if any;
3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the Town's Rule 15c2-12 compliance, if applicable;
4. A security deposit for the Bonds, if any;
5. The representations and warranties of the Town to the Purchasers;
6. The details of the delivery of, and payment for, the Bonds;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the Town under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the Town;
11. The survival of representations made in the Purchase Contract;
12. The payment of any expenses relating to the Purchase Contract;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Mayor or Mayor Pro Tem and Town Secretary of the Town and the Pricing Officer are further authorized and directed to deliver for and on behalf of the Town copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 16. Escrow Agreement. An "Escrow Agreement" or "Special Escrow Agreement" (either, the "Escrow Agreement") by and between the Town and an authorized escrow agent (the "Escrow Agent"), if any such agreement is required in connection with the issuance of the Bonds, shall be attached to and approved in the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the Town and as the act and deed of this Council; and such Escrow Agreement as executed by said Pricing Officer shall be deemed approved by this Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, a Pricing Officer is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

1. The identification of the Refunded Obligations;

2. The creation and funding of the Escrow Fund or Funds; and

3. The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agents' charges relating to the Refunded Obligations.

Furthermore, appropriate officials of the Town in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement, if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchasers for deposit to the credit of the "TOWN OF FLOWER MOUND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2020 ESCROW FUND" (referred to herein as the "Escrow Fund"), or such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, the Ordinance, the Pricing Certificate and the Escrow Agreement.

On or immediately prior to the date of the delivery of the Bonds to the Purchasers, the Pricing Officer, or other authorized Town official listed in Section 33 hereof, shall also cause to be deposited (and is hereby authorized to cause to be deposited) with the Escrow Agent or the paying agent for the Refunded Obligations from moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Obligations an amount which, together with the proceeds of sale of the Bonds, and the investment earnings thereon, will be sufficient to pay in full the Refunded Obligations (or the amount of accrued interest due thereon) scheduled to mature and authorized to be redeemed on the earliest date established in the Pricing Certificate for the redemption of any of the Refunded Obligations (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Pricing Certificate, of the amount of accrued interest due thereon).

SECTION 17. Refunded Obligations. (a) In order to provide for the refunding, discharge, and retirement of the Refunded Obligations as selected by the Pricing Officer, the Refunded Obligations, identified, described, and in the amount set forth in the Pricing Certificate, are called for redemption on the first date such Refunded Obligations are subject to redemption or such other date specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption date, and a notice of such redemption shall be given in accordance with the applicable provisions of the ordinances adopted by this Council, which authorized the issuance of the Refunded Obligations. The Pricing Officer is hereby authorized and directed to issue or cause to be issued a Notice of Redemption for the Refunded Obligations, in substantially the form set forth as an exhibit to the Pricing Certificate, to the paying agent/registrar for the Refunded Obligations, in accordance with the redemption provisions applicable to the Refunded Obligations.

(b) The paying agent/registrar for Refunded Obligations is hereby directed to provide the appropriate notice of redemption as required by the ordinances authorizing the issuance of the Refunded Obligations and is hereby directed to make appropriate arrangements so that the Refunded Obligations may be redeemed on the redemption date specified in the Pricing Certificate.

(c) The source of funds for payment of the principal of and interest on the Refunded Obligations on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent, pursuant to the Escrow Agreement, if any, or with the paying agent/registrar for the Refunded Obligations pursuant the provisions of Chapter 1207, this Ordinance and the Pricing Certificate finalized by the Pricing Officer.

SECTION 18. Control and Custody of Bonds. The Mayor or Mayor Pro Tem of the Town shall be and is hereby authorized to take and have charge of all necessary ordinances, resolutions, orders and records, including the definitive Bonds and the Initial Bonds, pending the investigation and approval of the Initial Bonds by the Attorney General of the State of Texas, and the registration of the Initial Bonds to the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the Town and the issuance of the Bonds, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Bonds as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the Town's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to make the necessary arrangements for the delivery of the Initial Bonds to the initial purchasers.

SECTION 19. Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and any accrued interest received from the Purchasers of the Bonds or additional proceeds being deposited to the Interest and Sinking Fund) shall be deposited with the Escrow Agent for application and disbursement in accordance with the provisions of the Escrow Agreement or deposited with the paying agent/registrar for the Refunded Obligations for the payment and redemption of the Refunded Obligations. The proceeds of sale of the Bonds not so deposited with the Escrow Agent (or the paying agent/registrar for the Refunded Obligations) for the refunding of the Refunded Obligations shall be disbursed for payment of costs of issuance, or deposited in the Interest and Sinking Fund for the Bonds, all in accordance with written instructions from the Town or its financial advisor. Such proceeds of sale may be invested in authorized investments and any investment earnings realized may be (with respect to the accrued interest received from the Purchasers) deposited in the Interest and Sinking Fund as shall be determined by this Council.

Additionally, the Pricing Officer shall determine the amount of any Town contribution to the refunding from moneys on deposit in the interest and sinking fund maintained for the payment of the Refunded Obligations.

SECTION 20. Notices to Holders - Waiver. Wherever this Ordinance or the Pricing Certificate provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class, postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case in which notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance or the Pricing Certificate provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 21. Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the Town, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The Town may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the Town may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the Town.

SECTION 22. Bond Counsel Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, Bond Counsel to the Town, approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the Bonds, or an executed counterpart thereof is hereby authorized to be either printed on definitive printed obligations or deposited with DTC along with the global certificates for the implementation and use of the Book-Entry-Only System used in the settlement and transfer of the Bonds. The Town Council confirms the continuation of the engagement of Norton Rose Fulbright US LLP as the Town's bond counsel.

SECTION 23. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the Town nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 24. Benefits of Ordinance. Nothing in this Ordinance or the Pricing Certificate, expressed or implied, is intended or shall be construed to confer upon any person other than the Town, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof or the Pricing Certificate, this Ordinance and all of its provisions and the Pricing Certificate being intended to be and being for the sole and exclusive benefit of the Town, the Paying Agent/Registrar, and the Holders.

SECTION 25. Inconsistent Provisions. All ordinances or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance or the Pricing Certificate are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 26. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 27. Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 28. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

SECTION 29. Severability. If any provision of this Ordinance or the Pricing Certificate or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the Pricing Certificate and the application thereof to other circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 30. Incorporation of Findings and Determinations. The findings and determinations of this Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 31. Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"*Financial Obligation*" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"*SEC*" means the United States Securities and Exchange Commission.

(b) Annual Reports. The Town shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the Town of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate and (2) if not provided as part of such financial information and operating data, audited financial statements of the Town within twelve months after the end of each fiscal year, when and if available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and audited, if the Town commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the Town will file unaudited financial statements within such twelve-month period and audited financial statements when and if such audited financial statements become available.

If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The Town shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the Town, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. Incurrence of a Financial Obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Town, any of which affect security holders, if material; and

16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Town, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town and (b) the Town intends the words used in the immediately preceding paragraphs (15) and (16) to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The Town shall notify the MSRB, in a timely manner, of any failure by the Town to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers and Amendments. The Town shall be obligated to observe and perform the covenants specified in this Section while, but only while, the Town remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Town in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the Town to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Town’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Town in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the Town from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Town (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the Town if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the Town's right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the Town so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 32. Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

SECTION 33. Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO and Town Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Town all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, Town Manager, Deputy Town Manager/CFO or Bond Counsel to the Town are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance, including the Pricing Certificate: (i) in order to cure any ambiguity, formal defect or omission in this Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of this Ordinance, which determination shall be final. In the event that any officer of the Town whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 34. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 35. Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[Remainder of page left blank intentionally]

DULY PASSED AND APPROVED BY THE TOWN COUNCIL ON JUNE 15, 2020.

TOWN OF FLOWER MOUND, TEXAS

____
Steve Dixon, MAYOR

(Town Seal)

ATTEST:

____
Theresa Scott, TOWN SECRETARY

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

PAYING AGENT/REGISTRAR AGREEMENT

THIS AGREEMENT is entered into as of June 15, 2020 (this "Agreement"), by and between The Bank of New York Mellon Trust Company, N.A., a banking association duly organized and existing under the laws of the United States of America (the "Bank") and the Town of Flower Mound, Texas (the "Issuer"),

RECITALS

WHEREAS, the Issuer has duly authorized and provided for the issuance of its "Town of Flower Mound, Texas General Obligation Refunding Bonds, Series 2020" (the "Securities"), dated July 1, 2020, such Securities scheduled to be delivered to the initial purchasers thereof on or about July 9, 2020; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE
APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR

Section 1.01 **Appointment**. The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Securities.

Section 1.02 **Compensation**. As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code, as amended.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

ARTICLE TWO
DEFINITIONS

Section 2.01 Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Acceleration Date" on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

"Authorizing Document" means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

"Bank Office" means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Financial Advisor" means Hilltop Securities Inc.

"Holder" and "Security Holder" each means the Person in whose name a Security is registered in the Security Register.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Securities" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

"Redemption Date", when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

"Responsible Officer", when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security Register" means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

"Stated Maturity" means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

Section 2.02 Other Definitions. The terms "Bank," "Issuer," and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

ARTICLE THREE
PAYING AGENT

Section 3.01 Duties of Paying Agent. As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

First Class/Registered/Certified	Express Delivery/Courier	By Hand Only
The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust P.O. Box 396 East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust 111 Sanders Creek Pkwy. East Syracuse, NY 13057	The Bank of New York Mellon Trust Company, N.A. Global Corporate Trust Corporate Trust Window 101 Barclay Street, 1st Floor East New York, NY 10286

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

Section 3.02 Payment Dates. The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

ARTICLE FOUR
REGISTRAR

Section 4.01 Security Register - Transfers and Exchanges. The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register") for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

Section 4.02 **Securities**. The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

Section 4.03 **Form of Security Register**. The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.04 **List of Security Holders**. The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

Section 4.05 **Return of Cancelled Securities**. The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

Section 4.06 **Mutilated, Destroyed, Lost or Stolen Securities**. The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

Section 4.07 **Transaction Information to Issuer**. The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

ARTICLE FIVE
THE BANK

Section 5.01 **Duties of Bank**. The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

Section 5.02 **Reliance on Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, the Financial Advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

Section 5.03 **<u>Recitals of Issuer</u>**. The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

Section 5.04 **<u>May Hold Securities</u>**. The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

Section 5.05 **<u>Moneys Held by Bank - Paying Agent Account/Collateralization</u>**. A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

Section 5.06 **Indemnification**. To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or willful misconduct on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

Section 5.07 **Interpleader**. The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

In the event the Bank becomes involved in litigation in connection with this Section, the Issuer, to the extent permitted by law, agrees to indemnify and save the Bank harmless from all loss, cost, damages, expenses, and attorney fees suffered or incurred by the Bank as a result. The obligations of the Bank under this Agreement shall be performable at the principal corporate office of the Bank in the City of Dallas, Texas.

Section 5.08 **DTC Services**. It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements", which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

ARTICLE SIX
MISCELLANEOUS PROVISIONS

Section 6.01 **Amendment**. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 6.02 **Assignment**. This Agreement may not be assigned by either party without the prior written consent of the other.

Section 6.03 **Notices**. Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page(s) hereof.

Section 6.04 **Effect of Headings**. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 6.05 **Successors and Assigns**. All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 6.06 **Severability**. In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 6.07 **Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

Section 6.08 **Benefits of Agreement**. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

Section 6.09 **Entire Agreement**. This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

Section 6.10 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 6.11 **Termination**. This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

Section 6.12 **Iran, Sudan or Foreign Terrorist Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf,
https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

Section 6.13 **Governing Law**. This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

[Remainder of page left blank intentionally.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

By:______________________________________

Title:_____________________________________

Attest:

Address: 2001 Bryan Street, 10th Floor
Dallas, Texas 75201

____

Title: ___________________________

TOWN OF FLOWER MOUND, TEXAS

By: ______________________________
Mayor

Address: 2121 Cross Timbers Road
Flower Mound, Texas 75028

ATTEST:

____
Town Secretary

ANNEX A

FEE SCHEDULE

TOWN COUNCIL AGENDA ITEM NO. 10

REGULAR ITEM

DATE: June 15, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Public Hearing to consider an ordinance amending the Master Plan (MPA19-0005 – Grace Park) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Low Density Residential Uses to Medium Density Residential Uses. The property is generally located south of Cross Timbers Road and east of Regency Park Court. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its June 8, 2020, meeting.)**

SUMMARY DATA:

- Size – 9.796 acres
- MPA Request – Change land use from Low Density Residential to Medium Density Residential
- SMARTGrowth – Passed
- Traffic Analysis – Passed

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item.

ATTACHMENTS:

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

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

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

PLANNING AND ZONING COMMISSION
AGENDA ITEM NO: 5
REGULAR ITEM

DATE: June 8, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Public Hearing to consider a request for a Master Plan Amendment (MPA19-0005 – Grace Park) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Low Density Residential uses to Medium Density Residential uses. The property is generally located south of Cross Timbers Road and east of Regency Park Court.**

I. ITEM SUMMARY

This application has been reviewed by DRC and determined to be ready for consideration by the Planning and Zoning Commission. There are no outstanding issues.

The project has a companion application, Zoning Planned Development (ZPD19-0013), for consideration on the same agenda.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The applicant is requesting a Master Plan Amendment to change the Land Use designation of the subject property from Low Density Residential to Medium Density Residential uses on approximately 9.796 acres of land. The proposed Master Plan Amendment would allow the applicant to proceed with the companion zoning application to develop the property with 27 medium density homes. The accompanying zoning application provides details about the proposed project and specific development standards for the subject site.

The Town's Master Plan defines Low Density Residential as "residential development, typically being single family detached residential development with minimum 15,000 square foot lots (nominally 1/3 acre) or greater". The requested Medium Density Residential designation is defined as "residential development, typically being single family detached residential development with minimum 10,000 square foot lots (nominally 1/4 acre) or greater." The property to the west, south and east is currently designated for Low Density Residential uses. The property to the north across Cross Timbers Road is designated for Medium Density Residential uses.

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all Master Plan Amendment requests. Project No. MPA19-0005 had a total of 49 Property Owner Notifications mailed. At the time this report was written, the Town had received 0 items of correspondence in support and 25 items of correspondence in opposition to the request. All written correspondence was sent directly to the Planning and Zoning Commission according to the new public communication process.

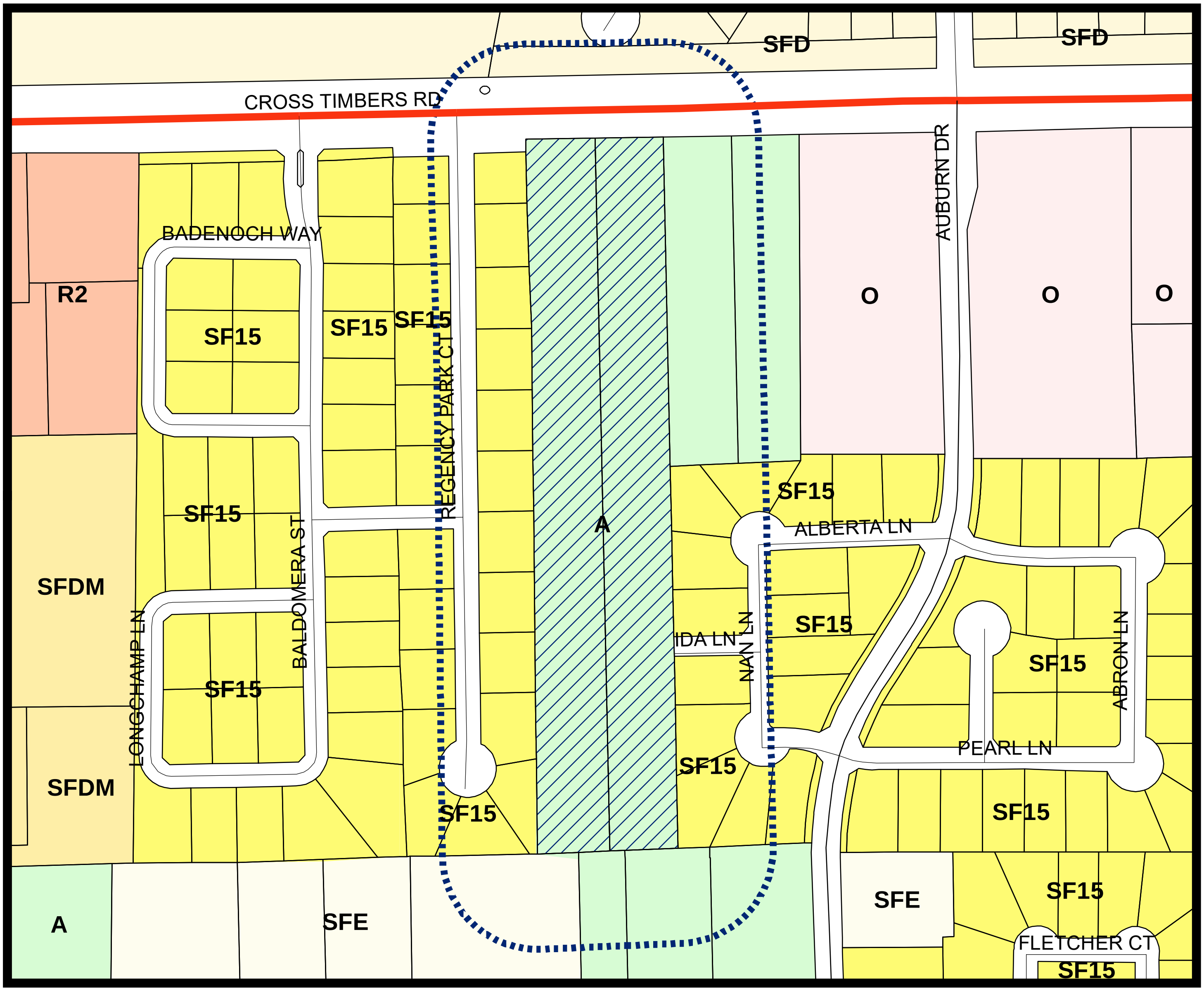
III. ATTACHMENTS

A. Background Information
1. Vicinity Map
2. Letter of Intent

B. Application Details
1. Master Plan Exhibit

Vicinity Map

Reference Project: MPA19-0005 & ZPD19-0013

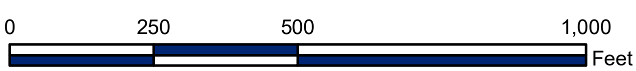


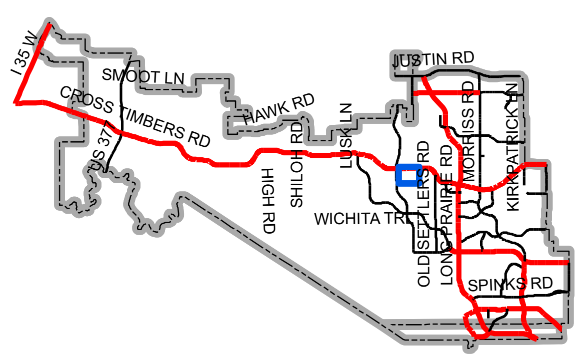
LEGEND

- Agriculture
- Office
- Retail 2
- Single Family 15
- Single Family Density
- Single Family Density Medium
- Single Family Estate

Subject Property

200 ft Notification Buffer around Property





Map Location

Rembert Enterprises, Inc.
3625 Bonanza Lane Flower Mound, TX 75022

February 4, 2020

Planning Division
2121 Cross Timbers Road
Flower Mound, TX 75028

RE: Grace Park (Community)
Flower Mound, Texas

To whom it may concern,

Please accept this as our formal Letter of Intent to describe the requested Master Plan Amendment and Zoning Planned Development.

The landowners purchased this property in 1963. The owners are elderly and have decided to sell and move to be assisted by family.

At our initial submittal in November 2019, the landowners were still residing on the property, but as of this new submittal, they have moved from the property for health reasons and to be assisted by family.

Our initial proposal was for High Density Residential. With our company's recent success with High Density Single Family communities with Open Space (i.e. Woodlake Estates and Tinley Park), we felt this In-fill site would accommodate another High Density Single Family Residential Community which will bring more affordable homes to the area. This decision was made after meeting with the residents of Regency Park I and Flower Mound Woods, where they raised concerns about lot count and lot sizes, we felt it best to forgo the High Density plan.

In October of 2019, we began the process of planning this +/- 9.796 acre tract of land near the Intersection of Regency Park Ct. and FM 1171 (also known as Cross Timbers Road, a public roadway), by meeting with the Town's Development Review Committee (DRC). This tract of land is an In-Fill Site surrounded by two (2) Low-Density Residential communities. This site has limitations, due to its size and shape. The site is approximately 286' wide X 1491' deep, with a 50' R.O.W being needed to access. The site is limited to 118' deep lots for a double loaded street, or 236' deep lots for a single loaded street. The 236' deep lots exceed the Town's ordinance width to depth ratio. Current land use (Low Density) front and rear yard setbacks (25' and 30' respectively), provide additional limitations on the site. Our plan is to utilize the site's abnormal size to develop this community, while providing a strategic plan with 3 large open space lots, along with providing only 13 95' wide lots adjacent to the existing Regency Park 1 community which matches the western lots of 13 in the Regency Park 2 community. We are also providing 95' wide lots adjacent to the Flower Mound Woods community to the east, which have 6 lots in the Flower Mound Woods community adjacent to our site.

We have met with 7 residents of the Regency Park 1 community that are directly adjacent and affected by this community and they are in support of the new 27 lot (Medium Density) plan. We have plans to meet with the additional 3 residents prior to the Planning and Zoning and Town Council meeting to try and gain their support.

We have begun to meet the 6 Flower Mound woods residents to share our new plan, and are hoping to gain their support.

The Regency Park community to the west of this property had the same issue with the lot width. This project was platted in 1999 and the last home was constructed in 2010. This is a 20-lot community that took 11 years to complete. This was due to its abnormal lot sizes. The Flower Mound Woods property to the East consisted of 44 lots and it took only 24 months to sell, during the 2008 recession. The Regency Park 2, a 37-lot community was recently sold out in 24 months. As stated earlier in the LOI, the Regency Park 1 community (10 lots adjacent to us) is in full support of our 27 lot plan. We addressed their lot width concerns.

The tract is currently identified on the Town's Master Land Use Plan as Low-Density Single-Family Residential. The existing zoning is Agricultural.

Our proposed zoning is for Single-Family Residential which will consist of approximately 27 lots, instead of the 43 initially submitted, with three large open spaces, instead of six (6) Open Space X-lots previously proposed. We are proposing to change the Master Plan/Land Use Plan and Zoning to accommodate this unique In-Fill Site to develop a community that is pleasing with the existing adjoining land uses and character of the neighborhoods in which project is located (Regency Park and Flower Mound Woods). Adequate public facilities are already in place to support the proposed development.

We are currently asking for Medium Density Residential, instead of High-Density land use and a base zoning of SF-10 instead of SF-5 previously proposed, which has a minimum lot size of 10,005 sf instead of the 6,000 sf originally proposed, a maximum of 17,924sf instead of 6600sf as originally proposed, with a price point exceeding $600,000. Please note, we are providing approximately .849 (9%) acres of open space/ landscape buffers.

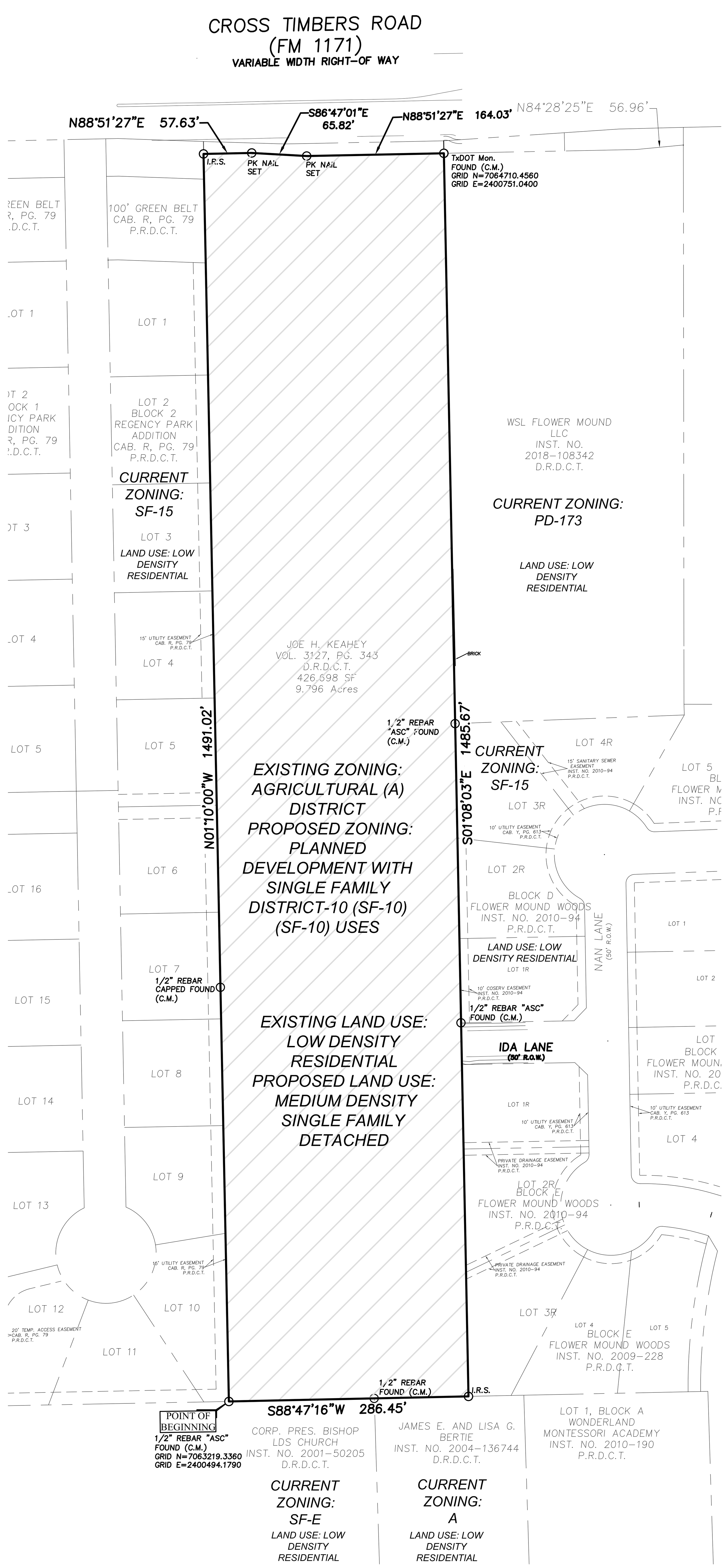
This site would not require a Master Plan amendment and can accommodate 17 SF-15 lots on a single loaded street. The single loaded street is not the desire of the Regency Park 1 community residents that are directly adjacent to our community. And they are the most affected residents. Also, the single loaded street will put the drive spacing to close to Regency Park 1 entrance or newly zone Assisted Living site to the east. This would be a concern for the Town's traffic engineer.

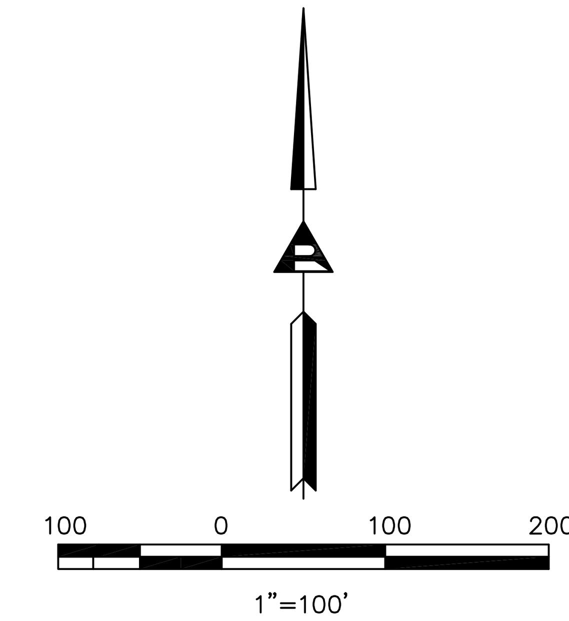
Proposed uses and development standards are consistent with the purposes of the base zoning district.

Should you have any questions, please feel free to contact us.

Sincerely,

Reginald Rembert
Rembert Enterprises, Inc.



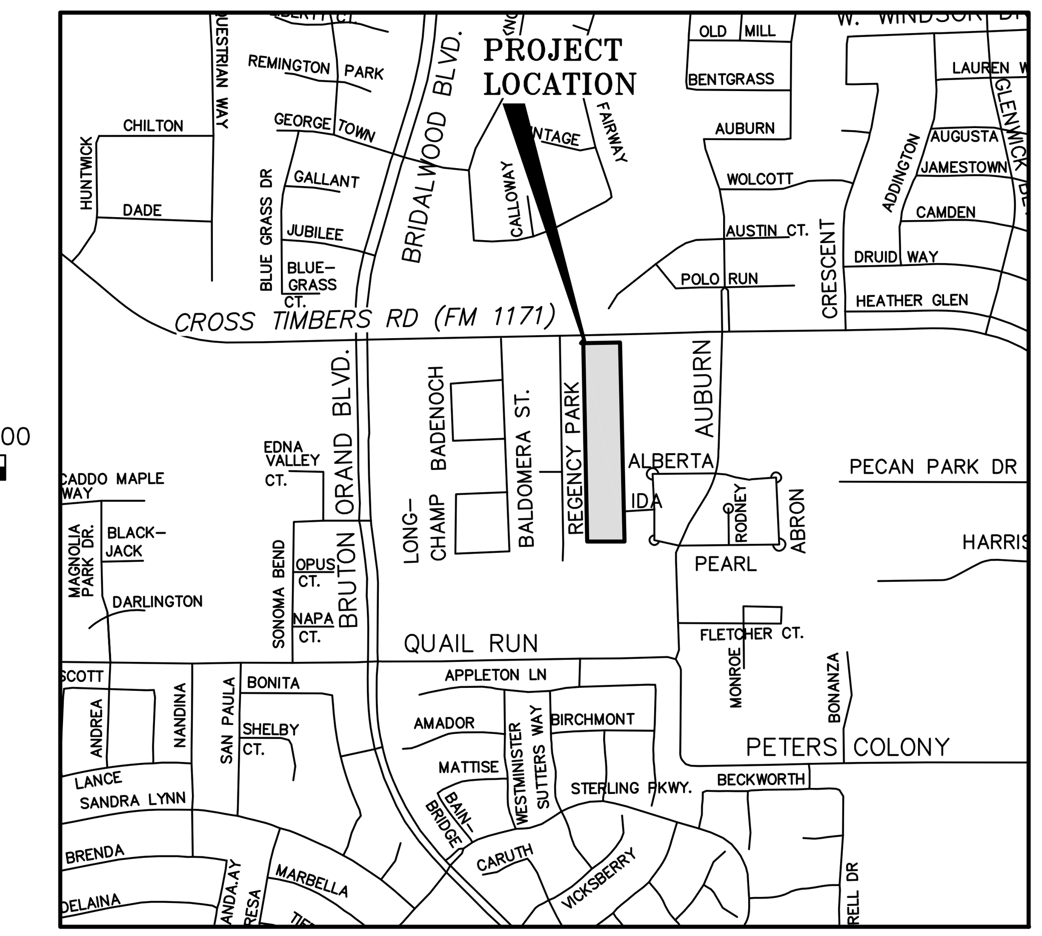


LEGEND

D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
— — —	PROPERTY BOUNDARY
— — —	ADJACENT PROPERTY BOUNDARY

MASTER PLAN FEATURES

Land Use Plan	Existing: Low Density Residential Proposed: Medium Density Single Family Detached
Specific Plans	None
Urban Design Plan	None
Parks and Trails	8' Trail along F.M. 1171
Open Space Plan	N/A
Thoroughfare Plan	Cross Timbers Road – Major Arterial;
Water Plan	Existing 12" WM, S. Side of Cross Timbers Rd.
Wastewater Plan	Connect to existing SS manhole at Ida Lane & to Existing 8" SS stub, at west property line of subject tract. on Cross Timbers Road.



VICINITY MAP
N.T.S.

PROPERTY DESCRIPTION:

BEING a 9.796 acre tract of land situated in the P. Malone Survey, Abstract Number 836, being a tract of land conveyed to Joe H. Keahey by deed recorded in Volume 3127, Page 343, Deed Records, Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch rebar found for the southeast corner of Lot 10, Block 2 of Regency Park Addition, an addition to the Town of Flower Mound, as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas also being a point on the north line of a tract of land conveyed to Corp. Pres. Bishop LDS Church by deed recorded in Instrument Number 2001-50205, Deed Records, Denton County, Texas;

THENCE North 01 degrees 10 minutes 00 seconds West, departing the north line of said Corp. Pres. tract, with the east line of said Lot 10 and continuing with the east lines of Lots 8 and 9, Block 2 of said Regency Park, passing a 1/2 inch rebar capped found for the northeast corner of said Lot 8, same being the southeast corner of Lot 7, Block 2 of said Regency Park, a distance of 457.24 feet and continuing with the east lines of Lots 1, 2, 3, 4, 5, 6 and 7, Block 2, of said Regency Park, and continuing with the east line of a 100 foot green belt dedication as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas and continuing to the south right of way line of Cross Timbers Road (Called 180 foot right of way by Cabinet R, Page 79, P.R.D.C.T.), a total distance of 1,491.02 feet to a 1/2 inch rebar capped "ASC" set for corner;

THENCE the following three calls with the south right of way line of said Cross Timbers Road:

North 88 degrees 51 minutes 27 seconds East, a distance of 57.63 feet to a PK Nail set for corner;

South 86 degrees 47 minutes 01 seconds East, a distance of 65.82 feet to a PK Nail set for corner;

North 88 degrees 51 minutes 27 seconds East, a distance of 164.03 feet to a TXDOT Monument found for the northwest corner of a tract of land conveyed to WSL Flower Mound, LLC by deed recorded in Instrument Number 2018-108342, Deed Records, Denton County, Texas;

THENCE South 01 degrees 08 minutes 03 seconds East, departing the south right of way line of said Cross Timbers Road, with the west line of said WSL tract, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said WSL tract, same being the northwest corner of Lot 3R, Block D, Flower Mound Woods, an addition to the Town of Flower Mound, as recorded in Instrument Number 2010-94, Plat Records, Denton County, Texas, at a distance of 681.54 feet, and continuing with the west line of said Lot 3R, also with Lots 1R and 2R, Block D, of said Flower Mound Woods, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said Lot 1R, same being the northwest corner of Ida Lane (50 foot right of way line), at a distance of 1,039.14 feet and continuing with the west lines of Lots 1R, 2R, and 3R, Block E, of said Flower Mound Woods, a total distance of 1,485.67 feet to a 1/2 inch rebar capped "ASC" set for the southwest corner of said second referenced Lot 3R and lying on the north line of a tract of land conveyed to James E. and Lisa G. Bertie by deed recorded in Instrument Number 2004-136744, Deed Records, Denton County, Texas;

THENCE South 88 degrees 47 minutes 16 seconds West, with the north line of said Bertie tract, passing a 1/2 inch rebar capped "Concmon" found for the northwest corner of said Bertie tract, same being the northeast corner of said Corp. Pres. tract, a distance of 112.65 feet and continuing with the north line of said Corp. Pres. tract, a total distance of 286.45 feet to THE POINT OF BEGINNING and containing 426,698 square feet or 9.796 acres of land, more or less.

OWNER:
Joe H. Keahey
3861 Cross Timbers Rd.
Flower Mound, TX 75028

DEVELOPER/APPLICANT:
Rembert Enterprises, Inc.
3625 Bonanza Lane
Flower Mound, TX 75022
CONTACT: Reginald Rembert
214-213-5982

ENGINEER:
Ridinger Associates, Inc.
550 S. Edmonds Ln. Suite 101
Lewisville, TX 75067
CONTACT: Dale Ridinger
972-353-8000 Office
972-353-8011 Fax

GRACE PARK

RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

MASTER PLAN AMENDMENT EXHIBIT

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: FEBRUARY 4, 2020
Project No. 035-030

SHEET
1

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 1.0, LAND USE PLAN, OF THE <u>MASTER PLAN</u> BY AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE <u>MASTER PLAN</u>, SPECIFICALLY TO CHANGE THE CURRENT LAND USE REFLECTED ON THE LAND USE PLAN MAP FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL ON APPROXIMATELY 9.796 ACRES OF LAND SITUATED IN THE P. MALONE SURVEY, ABSTRACT NUMBER 836; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Land Use Plan Map contained in the Land Use Plan of the Town <u>Master Plan</u> depicts, by distinct colors, the various land uses in the Town; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owner of the property described as approximately 9.796 acres of land situated in the P. Malone Survey, Abstract No. 836, Denton County, Texas, has filed an application for a Master Plan Amendment to change the current land use designation from Low Density Residential to Medium Density Residential; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas, held a public hearing on June 8, 2020, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on June 15, 2020, with respect to the Master Plan Amendment described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 213 of the Local Government Code, Chapter 78, of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Master Plan Amendment on the property;

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

<u>SECTION 1</u>

The <u>Master Plan</u> of the Town of Flower Mound, Texas, as amended, is hereby amended to change the land use designation on the hereinafter described property and area as shown below:

> Approximately 9.796 acres of land situated in the P. Malone Survey, Abstract No. 836, Denton County, Texas, and more fully described in Exhibit “A” hereto.
>
> Section 1.0, Land Use Plan, of the <u>Master Plan</u>, specifically the Land Use Plan Map, is hereby amended to change the current land use designation from Low Density

Residential to Medium Density Residential for the approximately 9.796 acres of the project area depicted on Exhibit "B," attached hereto and incorporated for all purposes.

SECTION 2

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

SECTION 3

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 4

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 5

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF __ TO __, ON THIS THE 15TH DAY OF JUNE, 2020.

APPROVED:

____
Steve Dixon, **MAYOR**

ATTEST:

____
Theresa Scott, **TOWN SECRETARY**

EXHIBIT "A" – PROPERTY DESCRIPTION

BEING a 9.796 acre tract of land situated in the P. Malone Survey, Abstract Number 836, being a tract of land conveyed to Joe H. Keahey by deed recorded in Volume 3127, Page 343, Deed Records, Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch rebar found for the southeast corner of Lot 10, Block 2 of Regency Park Addition, an addition to the Town of Flower Mound, as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas also being a point on the north line of a tract of land conveyed to Corp. Pres. Bishop LDS Church by deed recorded in Instrument Number 2001-50205, Deed Records, Denton County, Texas;

THENCE North 01 degrees 10 minutes 00 seconds West, departing the north line of said Corp. Pres. tract, with the east line of said Lot 10 and continuing with the east lines of Lots 8 and 9, Block 2 of said Regency Park, passing a 1/2 inch rebar capped found for the northeast corner of said Lot 8, same being the southeast corner of Lot 7, Block 2 of said Regency Park, a distance of 457.24 feet and continuing with the east lines of Lots 1, 2, 3, 4, 5, 6 and 7, Block 2, of said Regency Park, and continuing with the east line of a 100 foot green belt dedication as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas and continuing to the south right of way line of Cross Timbers Road (Called 180 foot right of way by Cabinet R, Page 79, P.R.D.C.T.), a total distance of 1,491.02 feet to a 1/2 inch rebar capped "ASC" set for corner;

THENCE the following three calls with the south right of way line of said Cross Timbers Road:

North 88 degrees 51 minutes 27 seconds East, a distance of 57.63 feet to a PK Nail set for corner;

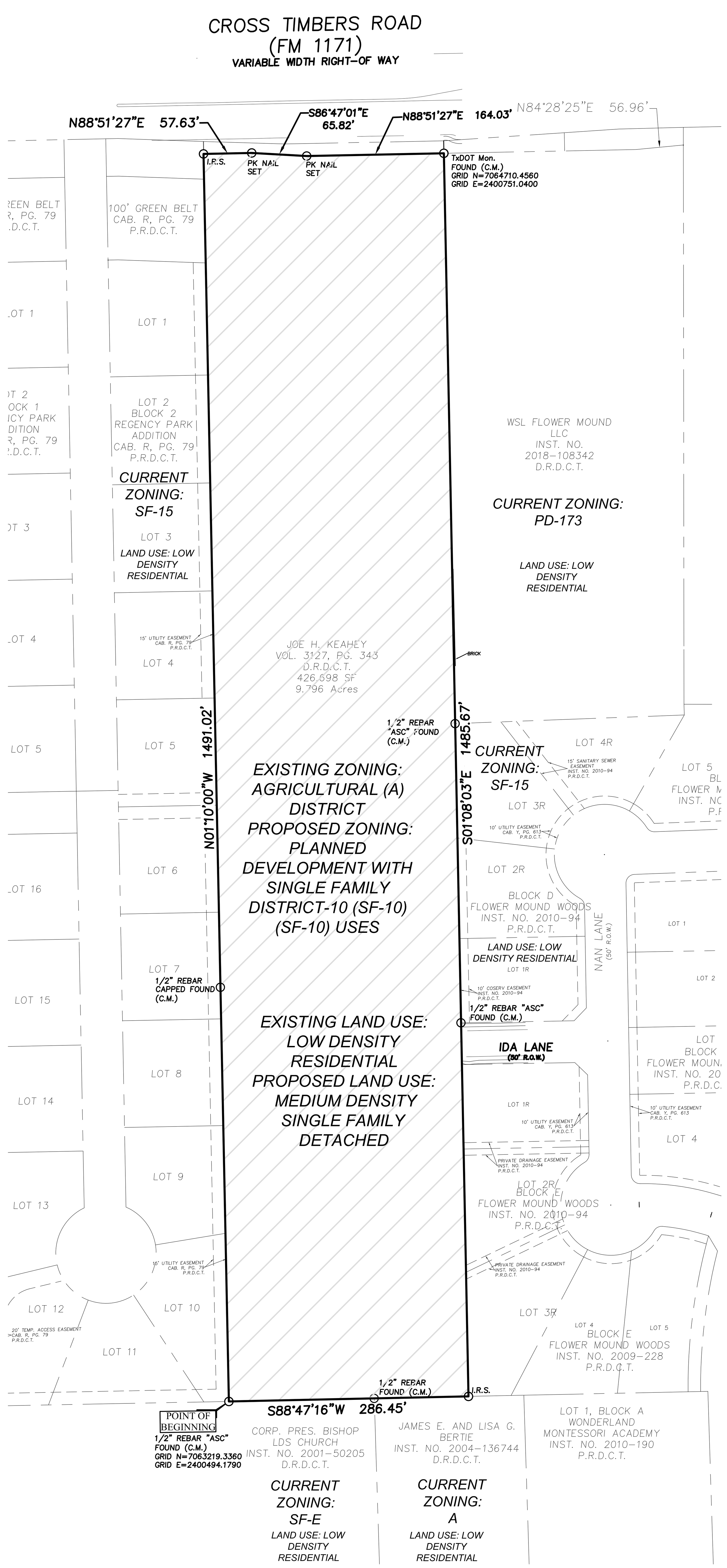
South 86 degrees 47 minutes 01 seconds East, a distance of 65.82 feet to a PK Nail set for corner;

North 88 degrees 51 minutes 27 seconds East, a distance of 164.03 feet to a TXDOT Monument found for the northwest corner of a tract of land conveyed to WSL Flower Mound, LLC by deed recorded in Instrument Number 2018-108342, Deed Records, Denton County, Texas;

THENCE South 01 degrees 08 minutes 03 seconds East, departing the south right of way line of said Cross Timbers Road, with the west line of said WSL tract, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said WSL tract, same being the northwest corner of Lot 3R, Block D, Flower Mound Woods, an addition to the Town of Flower Mound, as recorded in Instrument Number 2010-94, Plat Records, Denton County, Texas, at a distance of 681.54 feet, and continuing with the west line of said Lot 3R, also with Lots 1R and 2R, Block D, of said Flower Mound Woods, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said Lot 1R, same being the northwest corner of Ida Lane (50 foot right of way line), at a distance of 1,039.14 feet and continuing with the west lines of Lots 1R, 2R, and 3R, Block E, of said Flower Mound Woods, a total distance of 1,485.67 feet to a 1/2 inch rebar capped "ASC" set for the southwest corner of said second referenced Lot 3R and lying on the north line of a tract of land conveyed to James E. and Lisa G. Bertie by deed recorded in Instrument Number 2004-136744, Deed Records, Denton County, Texas;

THENCE South 88 degrees 47 minutes 16 seconds West, with the north line of said Bertie tract, passing a 1/2 inch rebar capped "Concmon" found for the northwest corner of said Bertie tract, same being the northeast corner of said Corp. Pres. tract, a distance of 112.65 feet and continuing with the north line of said Corp. Pres. tract, a total distance of 286.45 feet to THE POINT OF BEGINNING and containing 426,698 square feet or 9.796 acres of land, more or less.

Exhibit A



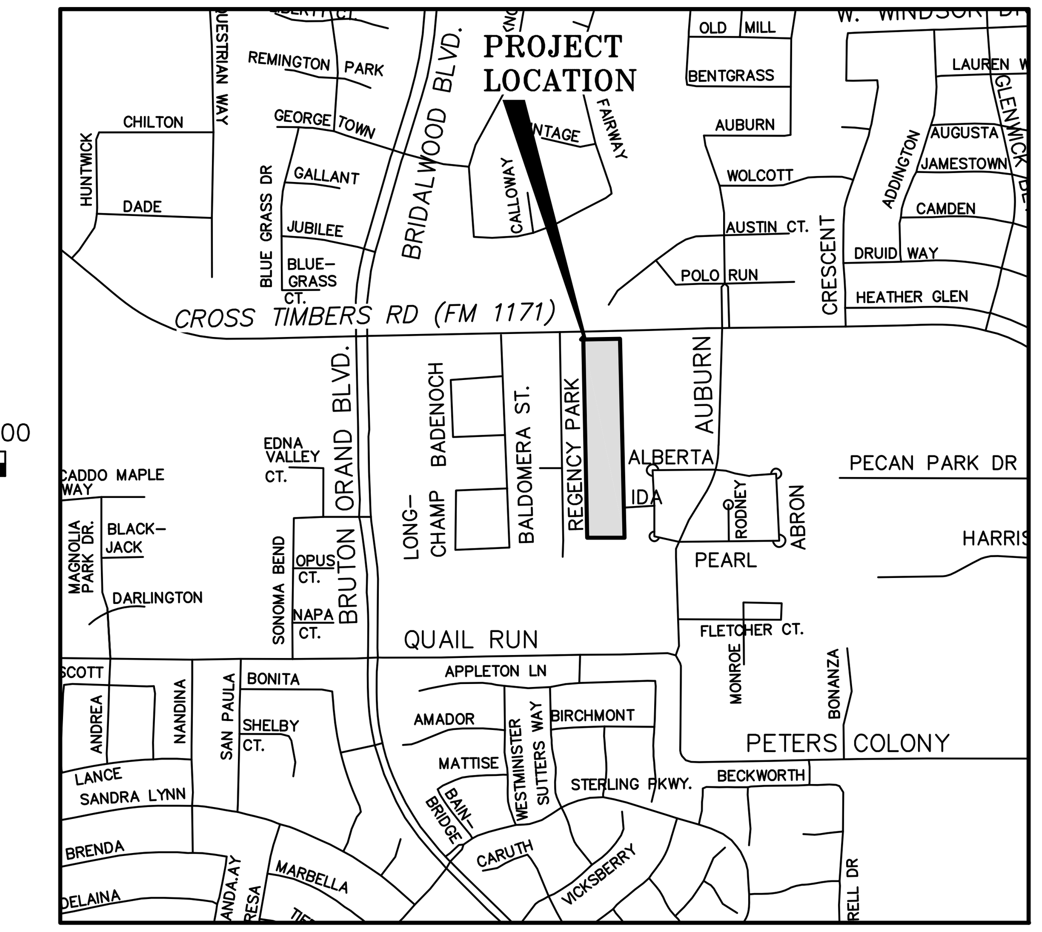
100 0 100 200

1"=100'

LEGEND

D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
———	PROPERTY BOUNDARY
– – –	ADJACENT PROPERTY BOUNDARY

MASTER PLAN FEATURES	
Land Use Plan	Existing: Low Density Residential Proposed: Medium Density Single Family Detached
Specific Plans	None
Urban Design Plan	None
Parks and Trails	8' Trail along F.M. 1171
Open Space Plan	N/A
Thoroughfare Plan	Cross Timbers Road - Major Arterial;
Water Plan	Existing 12" WM, S. Side of Cross Timbers Rd.
Wastewater Plan	Connect to existing SS manhole at Ida Lane & to Existing 8" SS stub, at west property line of subject tract. on Cross Timbers Road.



VICINITY MAP
N.T.S.

PROPERTY DESCRIPTION:

BEING a 9.796 acre tract of land situated in the P. Malone Survey, Abstract Number 836, being a tract of land conveyed to Joe H. Keahey by deed recorded in Volume 3127, Page 343, Deed Records, Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch rebar found for the southeast corner of Lot 10, Block 2 of Regency Park Addition, an addition to the Town of Flower Mound, as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas also being a point on the north line of a tract of land conveyed to Corp. Pres. Bishop LDS Church by deed recorded in Instrument Number 2001-50205, Deed Records, Denton County, Texas;

THENCE North 01 degrees 10 minutes 00 seconds West, departing the north line of said Corp. Pres. tract, with the east line of said Lot 10 and continuing with the east lines of Lots 8 and 9, Block 2 of said Regency Park, passing a 1/2 inch rebar capped found for the northeast corner of said Lot 8, same being the southeast corner of Lot 7, Block 2 of said Regency Park, a distance of 457.24 feet and continuing with the east lines of Lots 1, 2, 3, 4, 5, 6 and 7, Block 2, of said Regency Park, and continuing with the east line of a 100 foot green belt dedication as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas and continuing to the south right of way line of Cross Timbers Road (Called 180 foot right of way by Cabinet R, Page 79, P.R.D.C.T.), a total distance of 1,491.02 feet to a 1/2 inch rebar capped "ASC" set for corner;

THENCE the following three calls with the south right of way line of said Cross Timbers Road:

North 88 degrees 51 minutes 27 seconds East, a distance of 57.63 feet to a PK Nail set for corner;

South 86 degrees 47 minutes 01 seconds East, a distance of 65.82 feet to a PK Nail set for corner;

North 88 degrees 51 minutes 27 seconds East, a distance of 164.03 feet to a TXDOT Monument found for the northwest corner of a tract of land conveyed to WSL Flower Mound, LLC by deed recorded in Instrument Number 2018-108342, Deed Records, Denton County, Texas;

THENCE South 01 degrees 08 minutes 03 seconds East, departing the south right of way line of said Cross Timbers Road, with the west line of said WSL tract, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said WSL tract, same being the northwest corner of Lot 3R, Block D, Flower Mound Woods, an addition to the Town of Flower Mound, as recorded in Instrument Number 2010-94, Plat Records, Denton County, Texas, at a distance of 681.54 feet, and continuing with the west line of said Lot 3R, also with Lots 1R and 2R, Block D, of said Flower Mound Woods, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said Lot 1R, same being the northwest corner of Ida Lane (50 foot right of way line), at a distance of 1,039.14 feet and continuing with the west lines of Lots 1R, 2R, and 3R, Block E, of said Flower Mound Woods, a total distance of 1,485.67 feet to a 1/2 inch rebar capped "ASC" set for the southwest corner of said second referenced Lot 3R and lying on the north line of a tract of land conveyed to James E. and Lisa G. Bertie by deed recorded in Instrument Number 2004-136744, Deed Records, Denton County, Texas;

THENCE South 88 degrees 47 minutes 16 seconds West, with the north line of said Bertie tract, passing a 1/2 inch rebar capped "Concmon" found for the northwest corner of said Bertie tract, same being the northeast corner of said Corp. Pres. tract, a distance of 112.65 feet and continuing with the north line of said Corp. Pres. tract, a total distance of 286.45 feet to THE POINT OF BEGINNING and containing 426,698 square feet or 9.796 acres of land, more or less.

OWNER:
Joe H. Keahey
3861 Cross Timbers Rd.
Flower Mound, TX 75028

DEVELOPER/APPLICANT:
Rembert Enterprises, Inc.
3625 Bonanza Lane
Flower Mound, TX 75022
CONTACT: Reginald Rembert
214-213-5982

ENGINEER:
Ridinger Associates, Inc.
550 S. Edmonds Ln. Suite 101
Lewisville, TX 75067
CONTACT: Dale Ridinger
972-353-8000 Office
972-353-8011 Fax

GRACE PARK

RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

MASTER PLAN AMENDMENT EXHIBIT

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: FEBRUARY 4, 2020
Project No. 035-030

SHEET
1

TOWN COUNCIL AGENDA ITEM NO. 11

REGULAR ITEM

DATE: June 15, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Public Hearing to consider an ordinance amending the zoning (ZPD19-0013 – Grace Park) from Agricultural District (A) to Planned Development District No. 177 (PD-177) with Single-Family District-10 (SF-10) uses, with certain exceptions, waivers and modifications to the Code of Ordinances. The property is generally located south of Cross Timbers Road and east of Regency Park Court. (The Planning and Zoning Commission recommended denial by a vote of 6 to 0 at its June 8, 2020, meeting.)**

SUMMARY DATA:

- Size – 9.796 acres
- Proposed Density – 2.76 units per acre
- Proposed Zoning – PD for SF-10 (min. 10,000 sf lots)
- Proposed Modifications to SF-10 Zoning:
  - Increase min. lot width from 70 to 84.5 feet
  - Increase min. dwelling size from 1,800 to 2,800 sf
  - Reduce min. front setback from 25 to 20 feet
  - Increase min. side setback from 10 to 12 feet
  - Reduce min. rear setback from 25 to 18 feet
  - Increase max. lot coverage from 40 to 55%
- Exceptions – Dry Detention Pond and Driveway Spacing
- SMARTGrowth – Passed
- Traffic Analysis – Passed
- Incentives – N/A

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item. During the P&Z meeting, there were concerns brought up by residents about lack of communication with the applicant and potential impacts to the area from the proposed project relating to increased density, proposed lot size, traffic safety, proposed rear yard setbacks, impact on existing home values, and proposed minimum house size.

The applicant has since removed the request to allow for encroachments of patios and bay windows into the rear yard setback by four feet. The applicant has also increased the minimum floor area per dwelling unit from 2,000 square-feet to 2,800 square feet.

ATTACHMENTS:
1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

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

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

PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 6

REGULAR ITEM

DATE: June 8, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Public Hearing to consider an ordinance for rezoning (ZPD19-0013 – Grace Park) from Agricultural District (A) to Planned Development District No. 177 (PD-177) with Single-Family District-10 (SF-10) uses, with certain exceptions, waivers and modifications to the Code of Ordinances. The property is generally located south of Cross Timbers Road and east of Regency Park Court.**

I. ITEM SUMMARY

This application has been reviewed by DRC and determined to be ready for consideration by the Planning and Zoning Commission. There are no outstanding issues.

The project has a companion application, Master Plan Amendment (MPA19-0005), for consideration on the same agenda.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this request is to rezone approximately 9.796 acres of land in order to develop residential lots in conformance with the proposed Master Plan designation of Medium Density Residential uses. The existing Agricultural zoning permits residential lots containing a minimum of two acres in size.

As part of the request, the applicant has asked for certain exceptions and modifications to the Code of Ordinances, the modifications are listed in Section III of the staff report below:

<u>Exceptions</u>:

- Section IV.C.5. of the Town's Engineering Design Criteria requirement to provide a wet retention pond. A dry detention area is being requested.
- Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances require driveway openings to be spaced a minimum of 360 feet apart on Major Arterials such as Cross Timbers Road. The applicant is proposing a driveway connection on Cross Timbers Road that will be approximately 238 feet from the nearest driveway to the west and approximately 144 feet from the existing driveway to the east.

The accompanying conceptual site plan [Attachment B(1)] provides for a single phase residential development consisting of 27 single-family, detached dwellings and three x-lots (approximately 0.849 acres). The development will provide for two points of ingress/egress; one along the south line of Cross timbers Road and one along the east side of the site connecting to an existing stub out at Ida Lane which will provide connectivity to the Flower Mound Woods subdivision.

The proposed development is in compliance with the Town's landscaping standards. There are three specimen trees located on the site. All three specimen trees are proposed to be saved.

III. REQUESTED MODIFICATIONS

As a component of the request, the applicant is requesting the following modifications to the minimum and maximum dimensional regulations of the SF-10 zoning district:

Town Standard	Existing zoning-Agricultural District	Town's Land Development Regulations for an SF-10 District	Proposed PD-177 based on the SF-10 District
Minimum Lot Area	Two acres	10,000 SF	10,000 SF
Minimum Lot Width	200 feet	70 feet	84.5 feet for Lots 2-9, Block B 95 feet for all other Lots
Minimum Floor Area/Dwelling Unit	1,800 SF	1,800 SF	2,000 SF
Minimum Front Yard	40 feet	25 feet	20 feet 15 feet for J-swing garages
Minimum Side Yard	25 feet	10 feet	12 feet
Minimum Rear Yard	20 feet	25 feet	18 feet except for rear patios and bay windows may project 4 feet
Maximum Lot Coverage	25 percent	40 percent	55 percent
Maximum Stories/ Structure Height	3 stories/ 35 feet	3 stories/ 35 feet	3 stories/ 35 feet

IV. PARKS BOARD

On March 5, 2020, the Parks Board voted to recommend acceptance of cash, in the amount of $101,422.00, in lieu of the otherwise required Park Land Dedication, and Park Development Fees in the amount of $37,476.00. The March 5, 2020 Parks Board meeting can be viewed here:

https://flowermoundtx.swagit.com/play/03052020-969/22/

V. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all Zoning Amendment requests. Project No. ZPD19-0013 had a total of 49 Property Owner Notifications mailed. At the time this report was written, the Town had received 0 items of correspondence in support and 25 items of correspondence in opposition to the request. All written correspondence was sent directly to the Planning and Zoning Commission according to the new public communication process.

VI. ATTACHMENTS

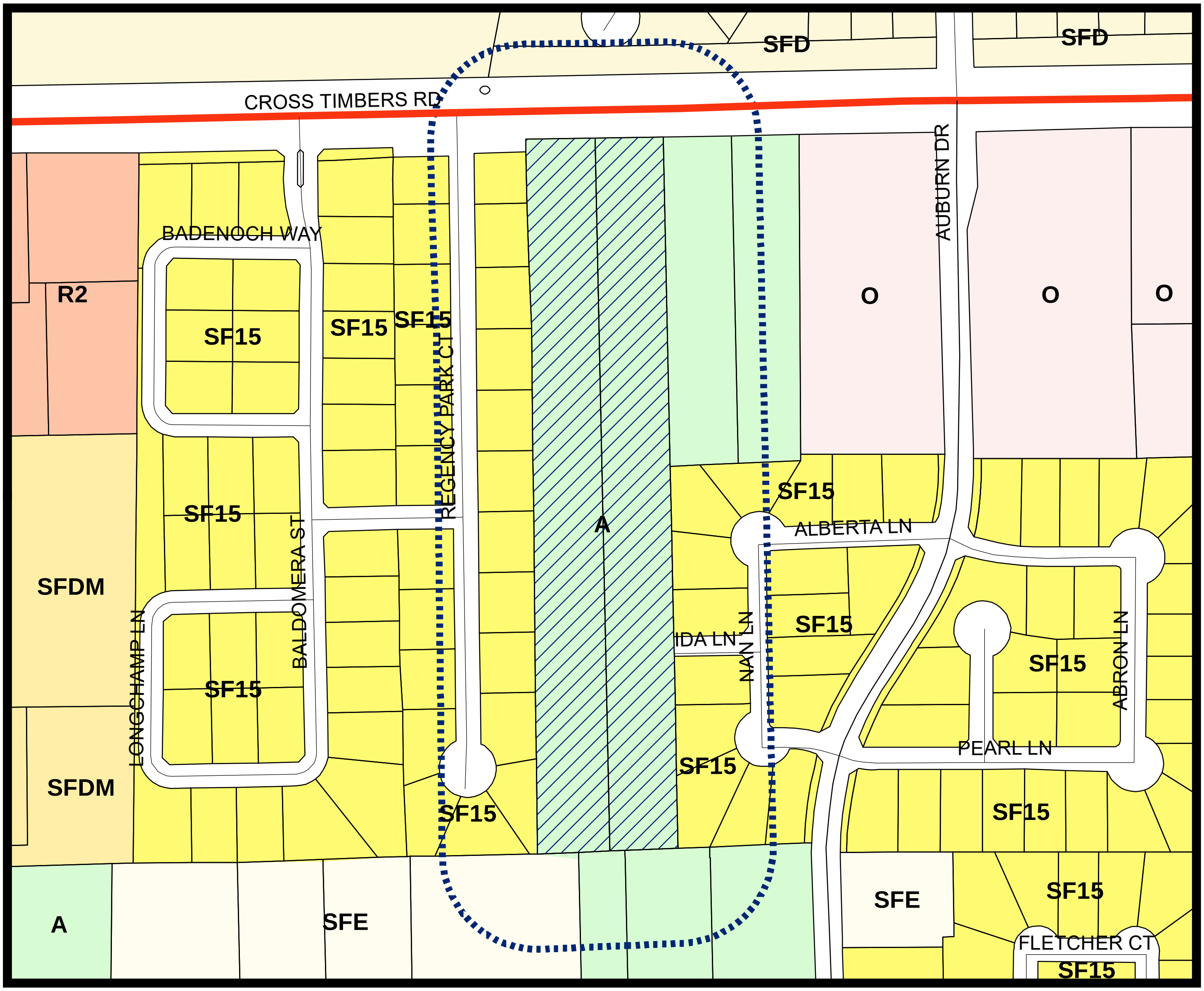
A. Background Information
1. Vicinity Map
2. Letter of Intent

B. Application Details
1. Planned Development Zoning Package
2. Draft Planned Development (PD) Standards

THE TOWN OF FLOWER MOUND TEXAS

Vicinity Map

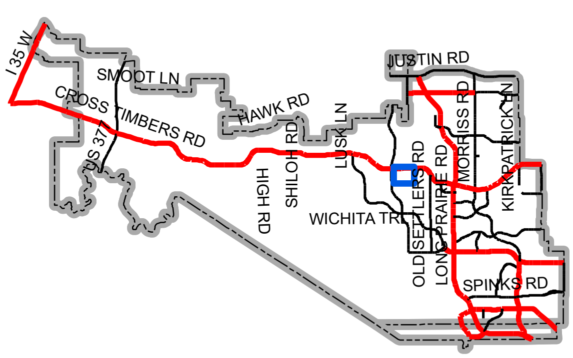
Reference Project: MPA19-0005 & ZPD19-0013



LEGEND

- Agriculture
- Office
- Retail 2
- Single Family 15
- Single Family Density
- Single Family Density Medium
- Single Family Estate

Subject Property
200 ft Notification Buffer around Property



Map Location

0 250 500 1,000 Feet

Rembert Enterprises, Inc.
3625 Bonanza Lane Flower Mound, TX 75022

February 4, 2020

Planning Division
2121 Cross Timbers Road
Flower Mound, TX 75028

RE: Grace Park (Community)
Flower Mound, Texas

To whom it may concern,

Please accept this as our formal Letter of Intent to describe the requested Master Plan Amendment and Zoning Planned Development.

The landowners purchased this property in 1963. The owners are elderly and have decided to sell and move to be assisted by family.

At our initial submittal in November 2019, the landowners were still residing on the property, but as of this new submittal, they have moved from the property for health reasons and to be assisted by family.

Our initial proposal was for High Density Residential. With our company's recent success with High Density Single Family communities with Open Space (i.e. Woodlake Estates and Tinley Park), we felt this In-fill site would accommodate another High Density Single Family Residential Community which will bring more affordable homes to the area. This decision was made after meeting with the residents of Regency Park I and Flower Mound Woods, where they raised concerns about lot count and lot sizes, we felt it best to forgo the High Density plan.

In October of 2019, we began the process of planning this +/- 9.796 acre tract of land near the Intersection of Regency Park Ct. and FM 1171 (also known as Cross Timbers Road, a public roadway), by meeting with the Town's Development Review Committee (DRC). This tract of land is an In-Fill Site surrounded by two (2) Low-Density Residential communities. This site has limitations, due to its size and shape. The site is approximately 286' wide X 1491' deep, with a 50' R.O.W being needed to access. The site is limited to 118' deep lots for a double loaded street, or 236' deep lots for a single loaded street. The 236' deep lots exceed the Town's ordinance width to depth ratio. Current land use (Low Density) front and rear yard setbacks (25' and 30' respectively), provide additional limitations on the site. Our plan is to utilize the site's abnormal size to develop this community, while providing a strategic plan with 3 large open space lots, along with providing only 13 95' wide lots adjacent to the existing Regency Park 1 community which matches the western lots of 13 in the Regency Park 2 community. We are also providing 95' wide lots adjacent to the Flower Mound Woods community to the east, which have 6 lots in the Flower Mound Woods community adjacent to our site.

We have met with 7 residents of the Regency Park 1 community that are directly adjacent and affected by this community and they are in support of the new 27 lot (Medium Density) plan. We have plans to meet with the additional 3 residents prior to the Planning and Zoning and Town Council meeting to try and gain their support.

We have begun to meet the 6 Flower Mound woods residents to share our new plan, and are hoping to gain their support.

The Regency Park community to the west of this property had the same issue with the lot width. This project was platted in 1999 and the last home was constructed in 2010. This is a 20-lot community that took 11 years to complete. This was due to its abnormal lot sizes. The Flower Mound Woods property to the East consisted of 44 lots and it took only 24 months to sell, during the 2008 recession. The Regency Park 2, a 37-lot community was recently sold out in 24 months. As stated earlier in the LOI, the Regency Park 1 community (10 lots adjacent to us) is in full support of our 27 lot plan. We addressed their lot width concerns.

The tract is currently identified on the Town's Master Land Use Plan as Low-Density Single-Family Residential. The existing zoning is Agricultural.

Our proposed zoning is for Single-Family Residential which will consist of approximately 27 lots, instead of the 43 initially submitted, with three large open spaces, instead of six (6) Open Space X-lots previously proposed. We are proposing to change the Master Plan/Land Use Plan and Zoning to accommodate this unique In-Fill Site to develop a community that is pleasing with the existing adjoining land uses and character of the neighborhoods in which project is located (Regency Park and Flower Mound Woods). Adequate public facilities are already in place to support the proposed development.

We are currently asking for Medium Density Residential, instead of High-Density land use and a base zoning of SF-10 instead of SF-5 previously proposed, which has a minimum lot size of 10,005 sf instead of the 6,000 sf originally proposed, a maximum of 17,924sf instead of 6600sf as originally proposed, with a price point exceeding $600,000. Please note, we are providing approximately .849 (9%) acres of open space/ landscape buffers.

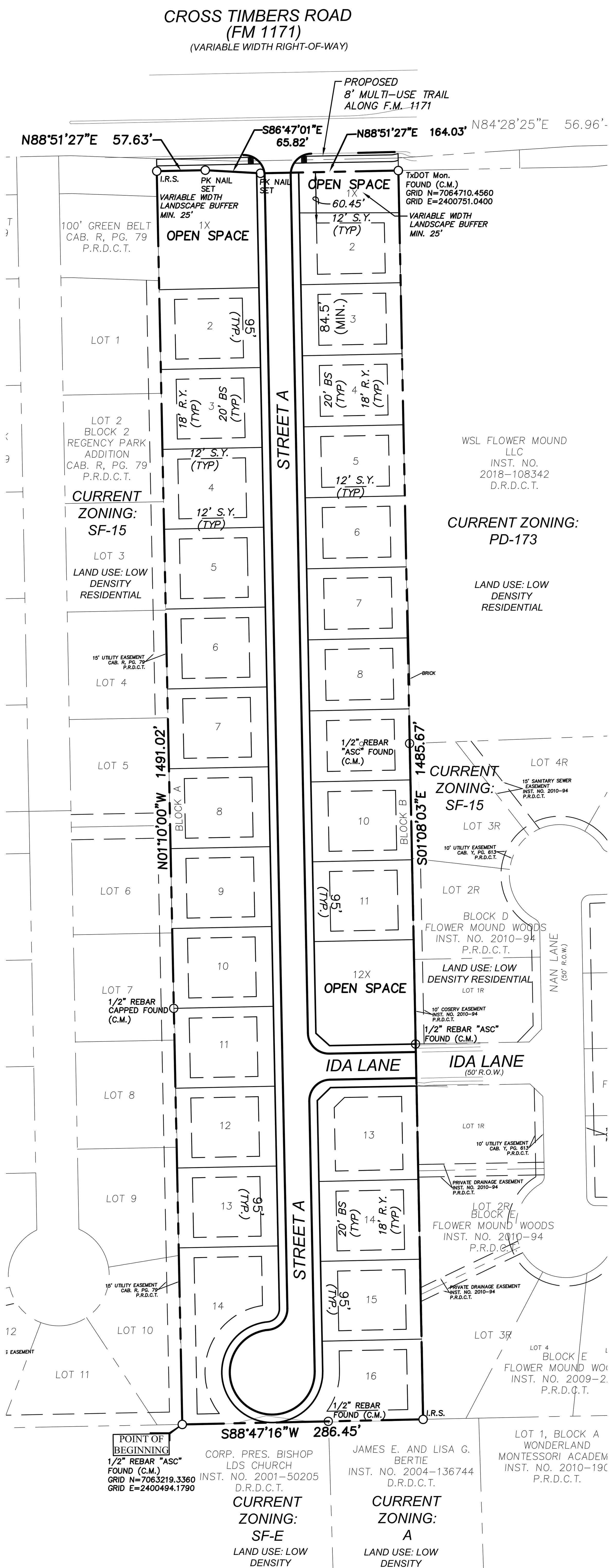
This site would not require a Master Plan amendment and can accommodate 17 SF-15 lots on a single loaded street. The single loaded street is not the desire of the Regency Park 1 community residents that are directly adjacent to our community. And they are the most affected residents. Also, the single loaded street will put the drive spacing to close to Regency Park 1 entrance or newly zone Assisted Living site to the east. This would be a concern for the Town's traffic engineer.

Proposed uses and development standards are consistent with the purposes of the base zoning district.

Should you have any questions, please feel free to contact us.

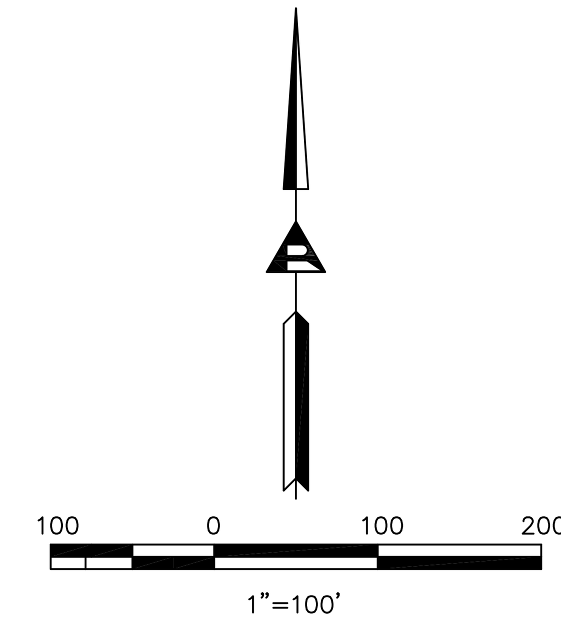
Sincerely,

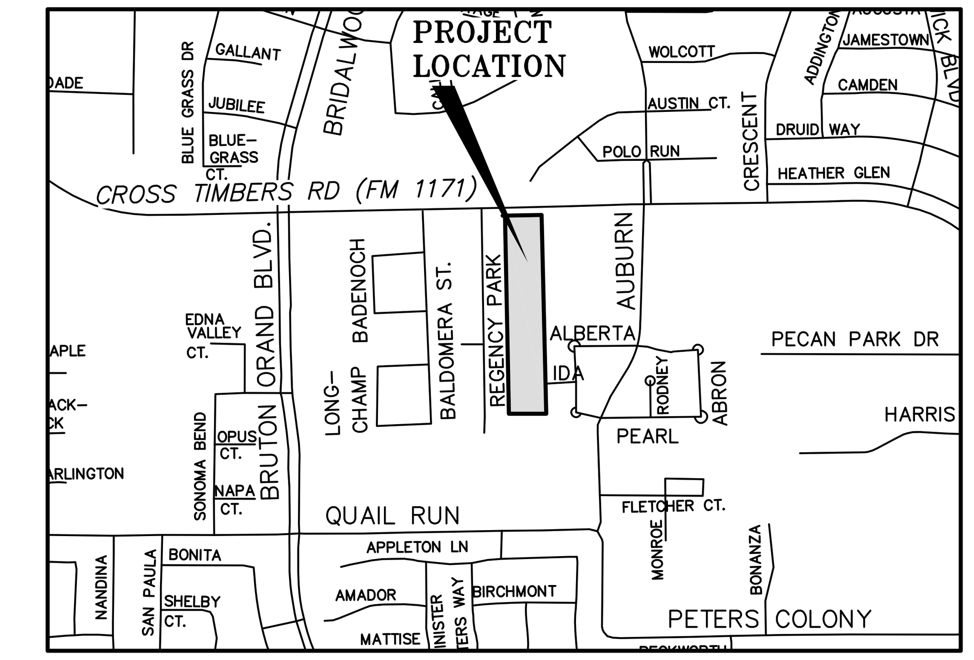
Reginald Rembert
Rembert Enterprises, Inc.



LEGEND

———	LOT LINE
D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
— — —	PROPERTY BOUNDARY
— — —	ADJACENT PROPERTY BOUNDARY
———	PROPOSED R.O.W.
———	PROPOSED EDGE OF PAVEMENT





PROJECT DATA TABLE

GROSS SITE AREA	9.796 ACRES
PROPOSED USE	PD FOR SINGLE FAMILY DISTRICT-10 (SF-10) USES
CURRENT ZONING	AGRICULTURAL
OPEN SPACE	
PRIVATE OPEN SPACE LOTS	0.849 ACRES
TOTAL OPEN SPACE	0.849 ACRES
PROPOSED LOTS	
RESIDENTIAL	27 LOTS
RESIDENTIAL LOTS AREA	6.959 ACRES
MIN. RESIDENTIAL LOT SIZE	10,000 S.F.
MAX. RESIDENTIAL LOT SIZE	17,924 S.F.
AVG. RESIDENTIAL LOTS SIZE	11,227 S.F.
PRIVATE OPEN SPACE X-LOTS	3 LOTS
TOTAL ALL LOTS	30 LOTS

DEVELOPMENT DATA

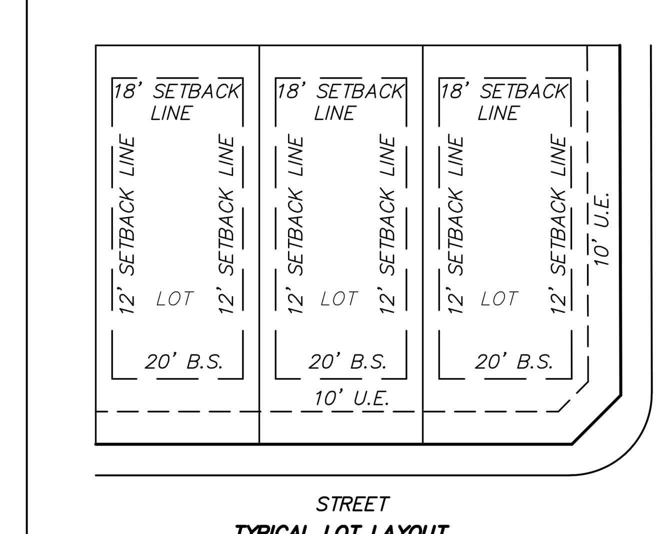
PROPOSED USE: PD FOR SINGLE FAMILY DISTRICT-10 (SF-10) USES
CURRENT ZONING: AGRICULTURAL

TOTAL GROSS LAND AREA:	±9.796 ACRES	
TOTAL AREA OF LOTS =	6.959 AC.	71.04%
MINIMUM LOT AREA:	10,000 S.F	
MINIMUM LOT WIDTH:	84.5 FT.	
MINIMUM FLOOR AREA:	2,000 S.F	
MINIMUM FRONT YARD:	20 FT.	
MINIMUM SIDE YARD:	12 FT.	
MINIMUM REAR YARD:	18 FT.	
MAXIMUM LOT COVERAGE:	55%	
MAXIMUM HEIGHT:	3/35 FT.	

MASTER PLAN FEATURES

Land Use Plan	Existing: Low Density Residential Proposed: Medium Density Single Family Detached
Specific Plans	None
Urban Design Plan	None
Parks and Trails	8' Trail along F.M. 1171
Open Space Plan	N/A
Thoroughfare Plan	Cross Timbers Road – Major Arterial;
Water Plan	Existing 12" WM, S. Side of Cross Timbers Rd.
Wastewater Plan	Connect to existing SS manhole at Ida Lane & to Existing 8" SS stub, at west property line of subject tract. on Cross Timbers Road.

BLOCK	LOT	LOT SQ.FT.	LOT ACRES
A	1X	16,584	0.381
A	2	11,266	
A	3	11,264	
A	4	11,261	
A	5	11,259	
A	6	11,256	
A	7	11,253	
A	8	11,251	
A	9	11,248	
A	10	11,246	
A	11	11,243	
A	12	11,241	
A	13	11,238	
A	14	17,924	
B	1X	5,829	0.134
B	2	10,005	
B	3	10,021	
B	4	10,019	
B	5	10,017	
B	6	10,015	
B	7	10,013	
B	8	10,011	
B	9	10,009	
B	10	11,250	
B	11	11,248	
B	12X	14,570	0.334
B	13	13,034	
B	14	11,238	
B	15	11,235	
B	16	12,062	



TYPICAL LOT LAYOUT

OWNER:
Joe H. Keahey
3861 Cross Timbers Rd.
Flower Mound, TX 75028

DEVELOPER/APPLICANT:
Rembert Enterprises, Inc.
3625 Bonanza Lane
Flower Mound, TX 75022
CONTACT: Reginald Rembert
214-213-5982

ENGINEER:
Ridinger Associates, Inc.
550 S. Edmonds Ln. Suite 101
Lewisville, TX 75067
CONTACT: Jason Kilpatrick
972-353-8000 Office
972-353-8011 Fax

GRACE PARK

RESIDENTIAL SUBDIVISION
Being 27 Buildable Lots & 3 X-Lots
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL SITE PLAN

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: MARCH 9, 2020
Project No. 035-030

SHEET
1

GENERAL LANDSCAPE NOTES

1. All landscape areas are to be received within .1' of proposed finish grade and free from all trash and debris.
2. All trees are to be planted in pits twice the diameter of the tree ball and no deeper than the depth of the ball. Scarify all tree pit sides prior to planting. All trees are to be planted plumb and at or slightly above finish grade. All tree pits are to have a 3" watering saucer formed around the perimeter of the pit. All tree pits are to be top dressed with a 2" layer of shredded hardwood mulch. Stake and / or guy trees only at the direction of the landscape architect.
3. Rotovate the existing soil of all planting beds to a minimum depth of 6". Add a 3" layer of premium compost as supplied by Living Earth Technology and till into the top 3" of the existing soil. Install all shrubs 1" above finish grade and fertilize with Agri-form slow release fertilizer tablets at the manufacturer's recommended rates of application. Top dress all planting beds with a 2" layer of shredded hardwood mulch.
4. All planting beds not formed by a concrete curb or sidewalk are to edged with Steel Edging (1/8"x4" painted green) or an approved equal. All edging stakes are to be placed to the inside of the bed and the top of the edging is to be no less than 1" and no more than 1.5" above proposed finish grade.
5. All turf areas are to be hydromulch Bermudagrass, unless otherwise noted on the plan.
6. Hydromulch with Bermudagrass seed at a rate of two (2) pounds per one thousand (1,000) square feet. If installation occurs between September 1 and April 1, all hydromulch areas to be Winter Ryegrass at a rate of four (4) pounds per thousand square feet. Contractor shall be required to re-hydromulch with Bermudagrass the following growing season.
7. All sodded areas are to receive common bermuda sod laid parallel to the contour of the land. All sod on slopes greater than 1:4 is to be pinned with 1"x1"x12" wooden stakes. All sod is to be laid with tight joints and with all joints staggerd. Roll all sod with a water ballast lawn roller upon installation and fertilize with a complete fertilizer (13-13-13) at the rate of 1.5# actual nitrogen per 1000 square feet. Water all sod thoroughly.
8. All irrigation meter(s) are to be by utility contractors as per local codes. Irrigation sleeves to be installed by licensed irrigation contractor as per the plan.
9. All irrigation controllers are to have mini-click freeze and rain stats installed as per manufacturer's recommendations.
10. All irrigation sleeves to be by licensed irrigation contractor. All sleeves to be PVC schedule 40 with 90 degree elbows on both ends with extensions protruding 18" above proposed finish grade.
11. All turf and planting beds to be zoned separately. All planting bed heads to be on 12" pop-up risers. All turf heads to be on 4" pop-up risers. All valves to be plastic valves. All equipment to be Rainbird or approved equal.
12. All mainline and lateral line to have a minimum of 12" of cover and to be SDR (class 200) pipe.
13. Quantities shown on plant list are landscape architect's estimate only and should be verified prior to bidding. Contractor shall be responsible for bidding and providing quantity of plants required at spacing designated for bed sizes and configurations shown on the plans regardless of quantities designated on plant list.

IRRIGATION NOTES:

1. All landscaped areas shall be irrigated with an irrigation system capable of providing the proper amount of water for the particular for the particular type of plant material used. Irrigation will be provided by an underground sprinkler system, or a subterranean drip drip system as approved by the City Arborist.
2. Automatic underground irrigation system shall be equipped with freeze guard set at 38 degrees F.
3. Areas of open space which contain preserved trees need not be irrigated if the City Arborist determines irrigation would be harmful to the preserved trees.

MAINTENANCE NOTES:

1. All plant material shall be maintained in a healthy and growing condition, and must be replaced with plant material of similar variety and size if damaged, destroyed or removed.
2. Landscaped areas shall be kept free of trash, litter, weeds and other such materials or plants not part of the landscaping.
3. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other maintenance of all plantings, including parkways, as needed.
4. Undisturbed, naturalized area, shown on this plan is to be maintained by periodic field mowing as required by Town of Floer Mound standards.

TREE PRESERVATION AND MITIGATION NOTES:

1. Developer / Contractor to install tree preservation fencing as shown by Limits of Construction as shown on this plan and Per Sheet LP-1. Fencing installation and proper location to be verified by Town of Flower Mound prior to construction. Refer to tree protection notes on Tree Survey and Tree Preservation Plan.

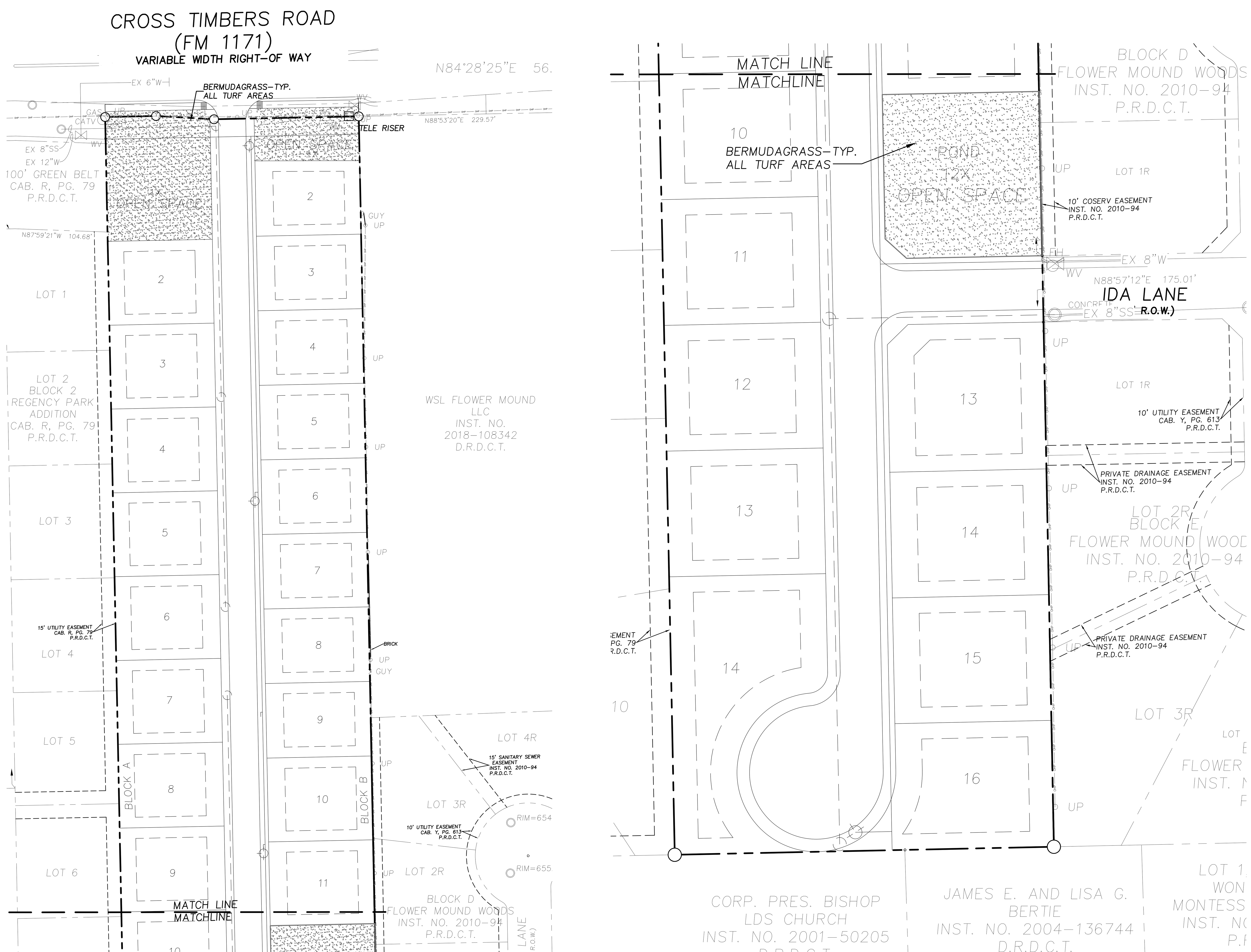
No Amenities are to be provided per this plan.

PLANT LIST

Bermudagrass / Cynodon dactylon / Hydromulch

50 0 50 100

SCALE: 1" = 50'-0"



ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-454-9934

REGISTERED LANDSCAPE ARCHITECT JOHN B. ST. CLAIR 2210 STATE OF TEXAS

DATE SEALED: 03-06-20

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: FEBRUARY 23, 2012

LANDSCAPE PLAN
GRACE PARK
RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

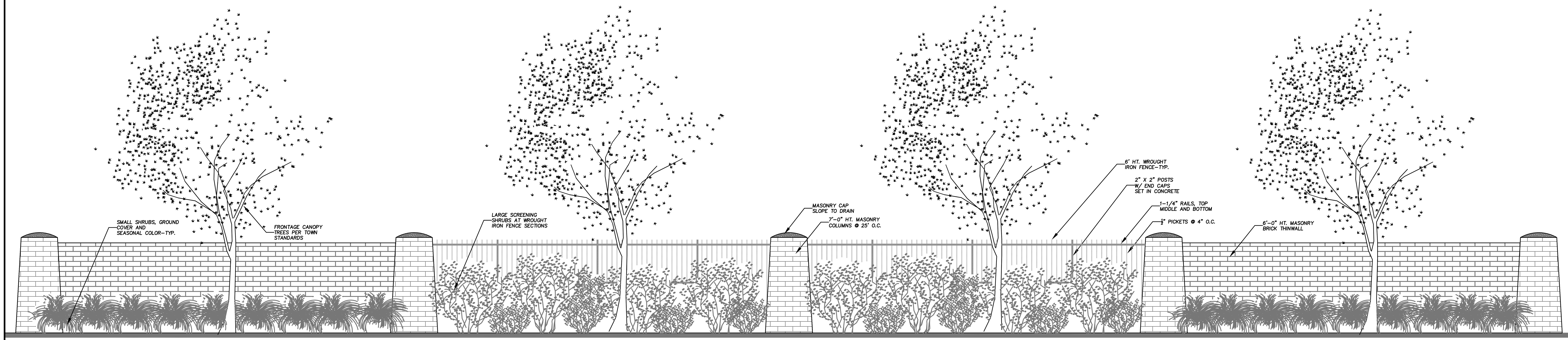
No.	Date	Revisions	App.

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

LANDSCAPE PLAN

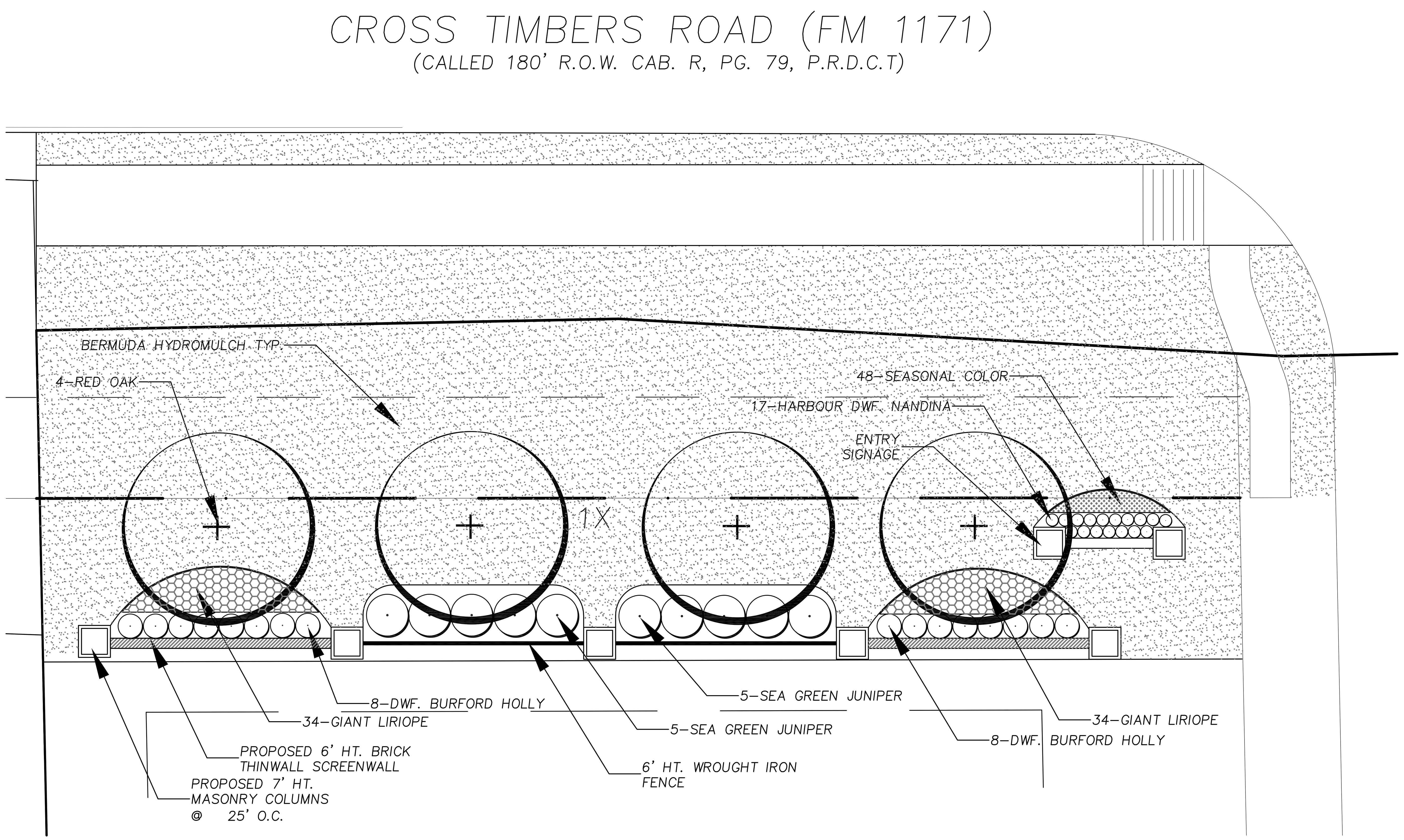
Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: MARCH 6, 2020
Project No. 035-030

SHEET
LP-1



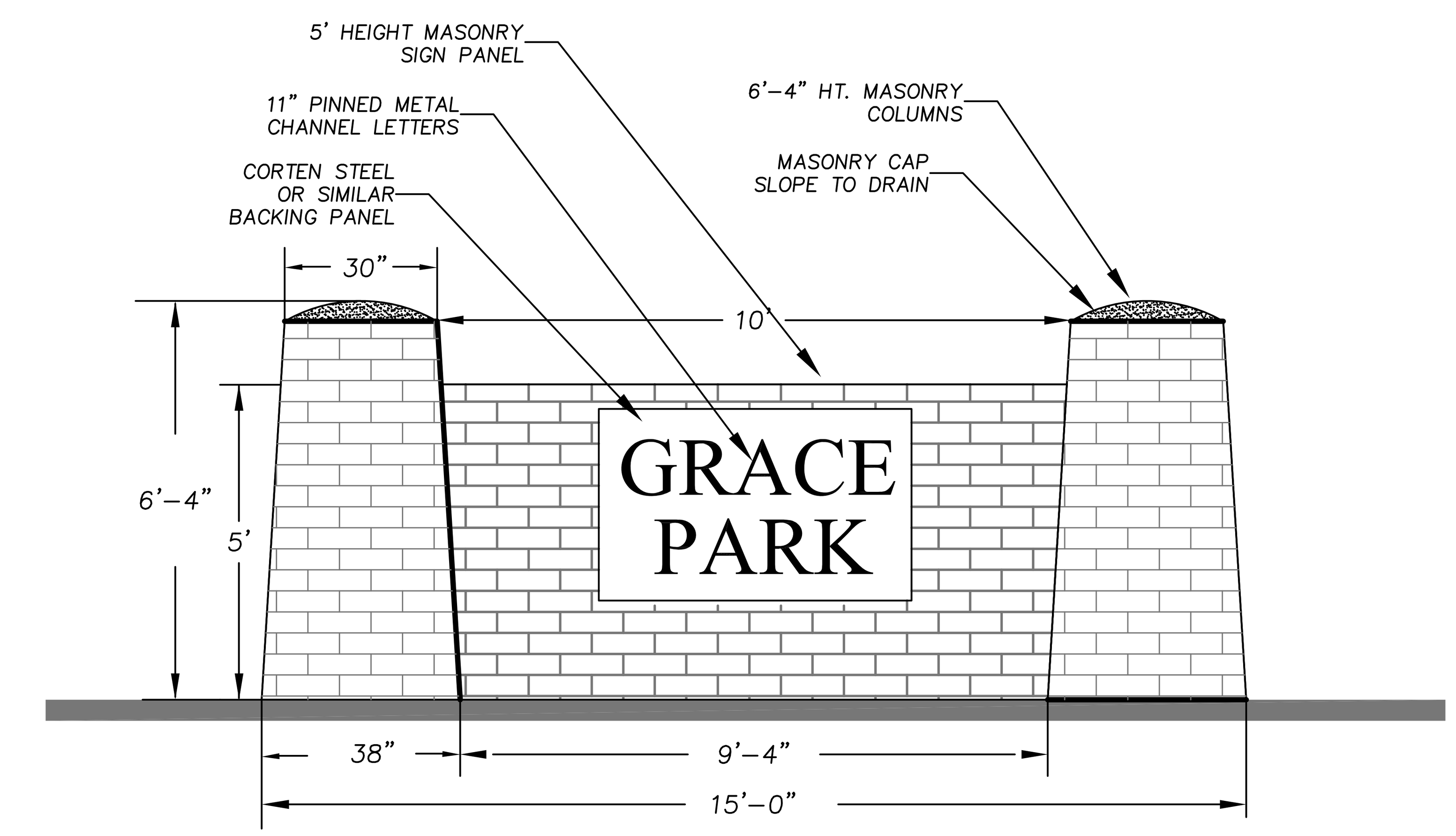
WALL AND FENCE ELEVATION (EACH SIDE OF ENTRY DRIVE)

NOT TO SCALE



ENTRY SIGNAGE AND PLANTING PLAN (EACH SIDE OF ENTRY DRIVE)

NOT TO SCALE



ENTRY SIGNAGE

NOT TO SCALE

ST. CLAIR DESIGN GROUP, INC
Landscape Architecture
P. O. Box 12519
Dallas, Texas 75225
T. 214-454-9934

REGISTERED LANDSCAPE ARCHITECT
JOHN B. ST. CLAIR
2210
STATE OF TEXAS

DATE SEALED: MARCH 6, 2020
DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: NOVEMBER 7, 2019

CONCEPTUAL LANDSCAPE PLAN GRACE PARK

RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

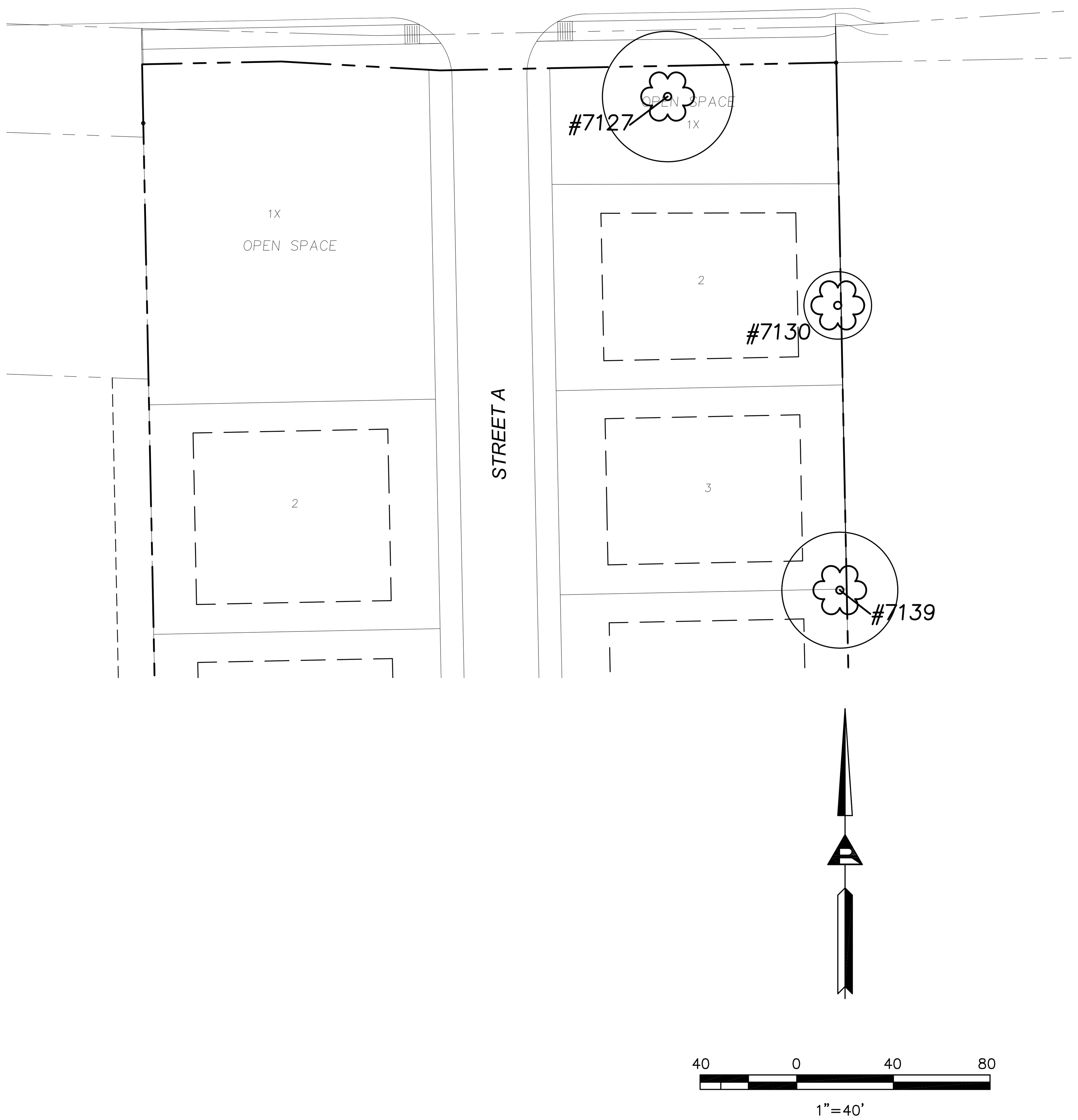
GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

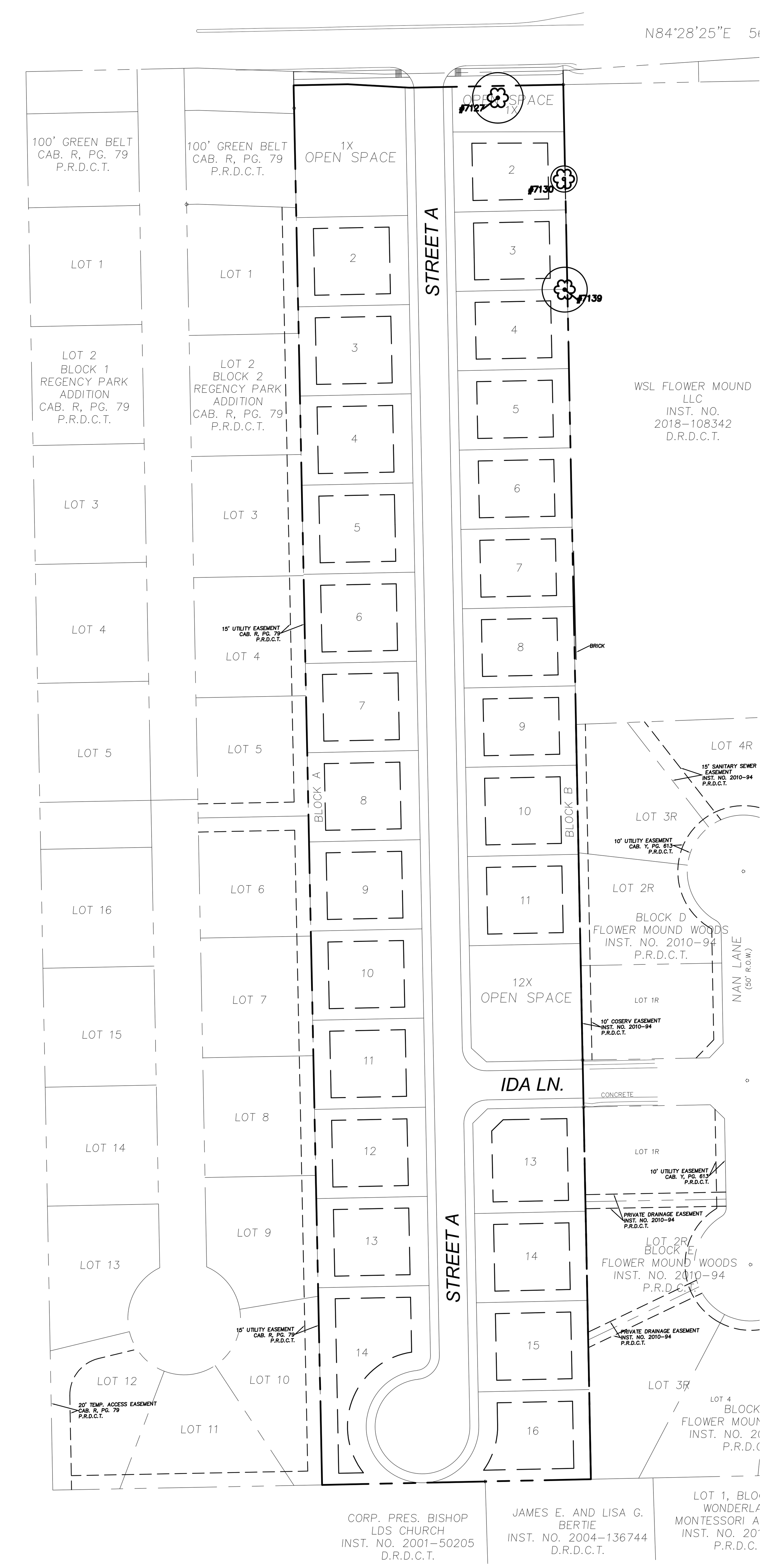
LANDSCAPE PLAN

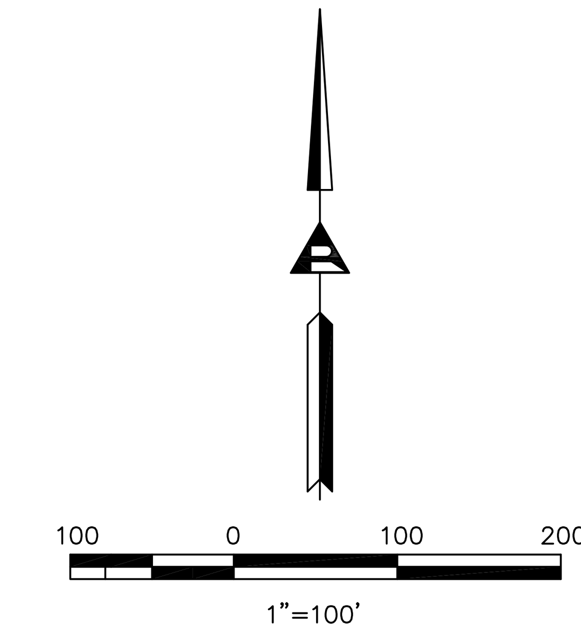
Scale: NOT TO SCALE
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: NOVEMBER 7, 2019
Project No. 035-030

SHEET
LP-2

F.M. 1171
(CROSS TIMBERS ROAD)
(VARIABLE WIDTH RIGHT-OF-WAY)







TREE LEGEND

- SPECIMEN TREE
- SPECIMEN TREE CANOPY

TAG#	COMMON NAME	BOTANICAL NAME	DBH	CNPY RADIUS	CNPY SQFT	CONDITION	NOTES	SPECIMEN	REMAIN/REMOVE
7127	PINE	PINUS ELLIOTII	34	27	2289	GOOD		YES	REMAIN
7130	PINE	PINUS ELLIOTII	26	14	615	FAIR	POWER LINES	YES	REMAIN
7139	PINE	PINUS ELLIOTII	27	24	1809	FAIR	DECLINE	YES	REMAIN

GRACE PARK
RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

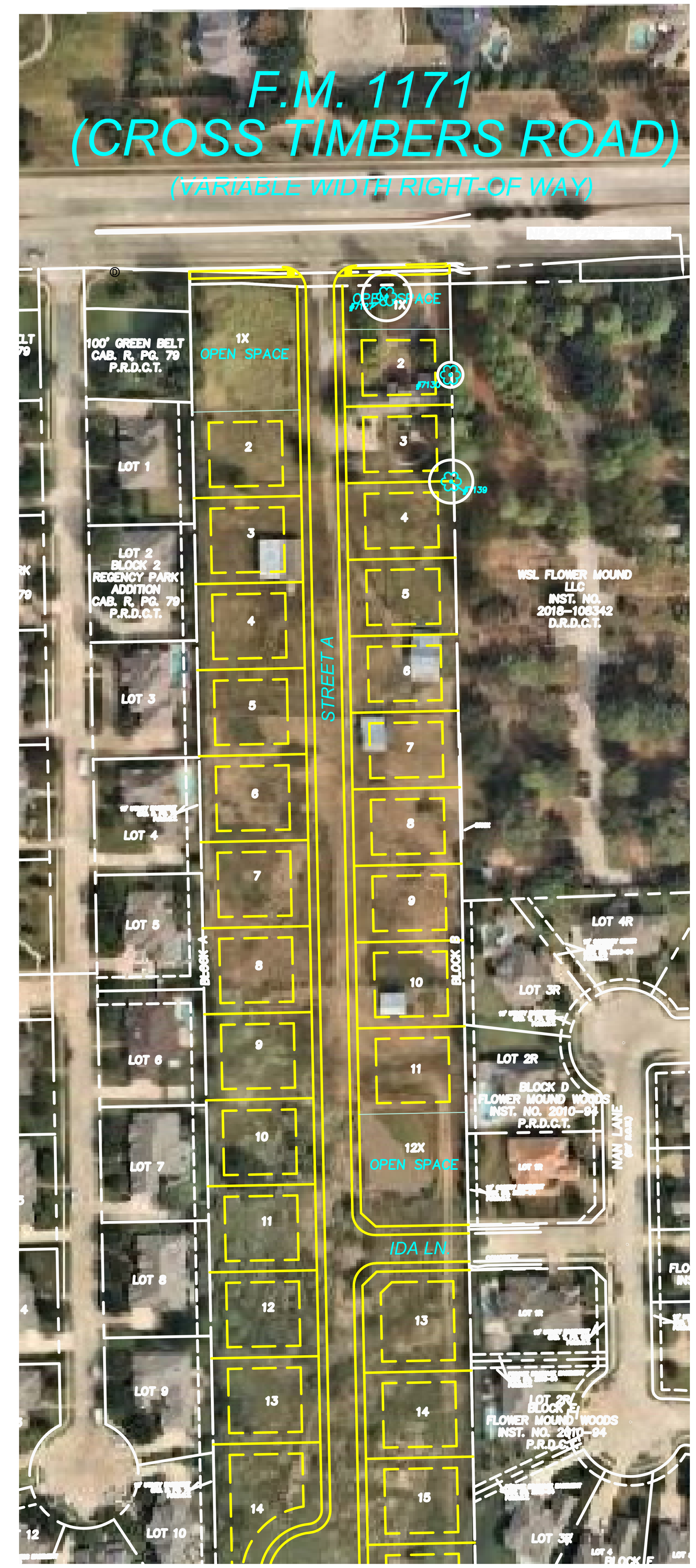
No.	Date	Revisions	App.

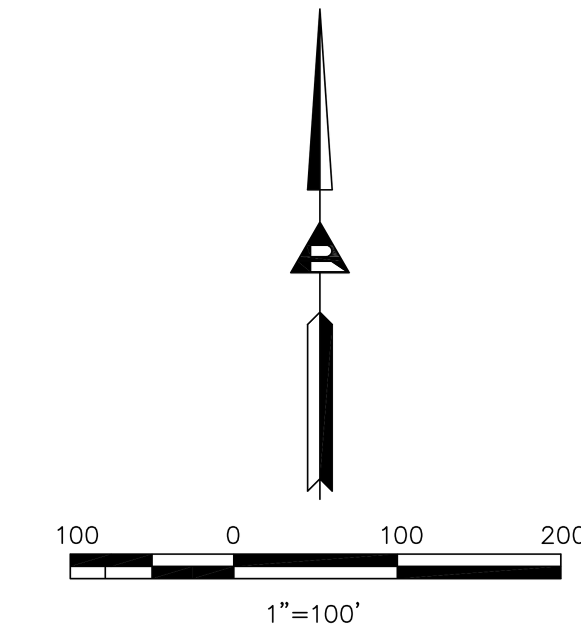
GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

TREE SURVEY

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: FEBRUARY 27, 2020
Project No. 035-030

SHEET
TS-1





TREE LEGEND

SPECIMEN TREE

SPECIMEN TREE CANOPY

02/27/2020

TAG#	COMMON NAME	BOTANICAL NAME	DBH	CNPY RADIUS	CNPY SQFT	CONDITION	NOTES	SPECIMEN	REMAIN/REMOVE
7127	PINE	PINUS ELLIOTII	34	27	2289	GOOD		YES	REMAIN
7130	PINE	PINUS ELLIOTII	26	14	615	FAIR	POWER LINES	YES	REMAIN
7139	PINE	PINUS ELLIOTII	27	24	1809	FAIR	DECLINE	YES	REMAIN

GRACE PARK

RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

TREE SURVEY

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: FEBRUARY 27, 2020
Project No. 035-030

SHEET
TS-1

Exhibit "B"

Development Standards

Planned Development District No. 177 (PD-177) Grace Park

The development on the property comprising approximately 9.796 acres of land within the corporate limits of the Town of Flower Mound ("Town") and as described on Exhibit "A" to this Zoning Ordinance adopting PD-177 shall be in accordance with the Town of Flower Mound *Master Plan* and the Land Development Regulations of the Town of Flower Mound, Texas, as amended, and shall be subject to the following conditions and requirements.

A. Exhibits.

The following exhibits are incorporated into this Planned Development District:

1. Exhibit C: Conceptual Site Plan.

2. Exhibit D: Conceptual Landscape Plan.

B. Uses.

Development of Grace Park, comprising approximately 9.796 acres of land, shall comply with all regulations applicable to the Single-Family Residential District-10 (SF-10) contained in the Town's Land Development Regulations, as amended, except as otherwise provided and/or limited herein.

C. Minimum and maximum dimensions.

1. Minimum lot width. The minimum lot width for lots 2 thru 9, Block B shall be 84.5 feet subject to section 98-1024. The minimum lot width for all other buildable lots shall be 95 feet subject to section 98-1024.

2. Minimum floor area per unit. The minimum floor area per dwelling unit shall be 2,000 square feet, subject to section 98-1025.

3. Minimum front yard.

   a. Except as provided in this paragraph, the minimum front yard setback shall be 20 feet, subject to section 98-1026.

   b. A "j-swing" garage shall be set back a minimum of 15 feet from the front property line.

4. Minimum side yard. The minimum side yard shall be 12 feet, subject to section 98-1028.

5. Minimum rear yard. The minimum rear yard shall be 18 feet, subject to section 98-

1028, except that rear patios and/or rear bay windows may encroach into the rear yard setback up to 4 feet.

6. Maximum lot coverage. The maximum lot coverage shall be 55 percent, subject to section 98-1029.

D. Landscape Standards.

Landscaping shall be in accordance with the Town's landscape ordinance as amended as shown on Exhibit "D".

E. Trail Requirements.

1. Cross Timbers Road Trail. There shall be a minimum eight-foot-wide multi-purpose trail along the Cross Timbers Road frontage as required by the *Parks & Trails Master Plan*.

F. Supplemental Standards.

1. Maximum number of buildable lots shall be 27.

2. Windows and balconies located on the rear façade of a residential dwelling above a first floor are prohibited.

3. Development shall include all of the improvements as depicted on Exhibit "C". Such improvements together with all other improvements necessary to serve the development shall be installed prior to the Town's acceptance of the subdivision.

G. Exceptions. The following exceptions to the Town's Ordinances shall apply to this Planned Development.

1. An exception to Section IV.C.5. of the Town's Engineering Design Criteria requirement to provide a wet retention pond. A temporary dry detention area is provided as shown on Exhibit "D".

2. An exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances.

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. ____

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 9.796 ACRES OF LAND SITUATED IN THE P. MALONE SURVEY, ABSTRACT NUMBER 836, FROM AN AGRICULTURAL DISTRCT (A) TO PLANNED DEVELOPMENT DISTRICT-177 (PD-177) WITH SINGLE-FAMILY DISTRICT-10 (SF-10) 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.

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

WHEREAS, the Town Council of the Town of Flower Mound heretofore adopted the Land Development Regulations of the Town of Flower Mound, as amended, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as 9.796 acres of land situated in the P. Malone Survey, Abstract No. 836, Denton County, Texas, have filed an application to change the zoning from Agricultural District (A) to Planned Development District No. 177 (PD-177) with Single-Family District-10 (SF-10) uses; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on June 8, 2020, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on June 15, 2020, with respect to the proposed rezoning as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a rezoning on the property; and

WHEREAS, the Town Council finds that amendment of the Zoning map as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public.

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

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area to establish a planned development district as shown below:

Approximately 9.796 acres of land situated in the P. Malone Survey, Abstract No. 836, Denton County, Texas, and more fully described in Exhibit "A" hereto.

Planned Development District No. 177 (PD-177) with Single-Family District-10 (SF-10) uses

SECTION 2

The development standards, conceptual site plan, and conceptual landscape plan of the proposed Planned Development District No. 177 (PD-177), attached hereto as Exhibits "B," "C," and "D," each incorporated herein for all purposes allowed by law, are hereby approved as the development standards, conceptual site plan and conceptual landscape plan for this Planned Development District No. 176 (PD-177).

SECTION 3

The official map of the Town of Flower Mound is hereby amended and the Director of Planning Services is directed to revise the official zoning map to reflect the approved Planned Development District No. 177 (PD-177), as set forth above.

SECTION 4

The use of the property described above shall be subject to all restrictions, terms and conditions contained in Exhibits "B," "C," and "D," attached hereto, as well as the applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 5

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

SECTION 6

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 9

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 10

This Ordinance shall take effect and be in full force from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 15TH DAY OF JUNE, 2020.

APPROVED:

____
Steve Dixon, **MAYOR**

ATTEST:

____
Theresa Scott, **TOWN SECRETARY**

EXHIBIT "A" – PROPERTY DESCRIPTION

BEING a 9.796 acre tract of land situated in the P. Malone Survey, Abstract Number 836, being a tract of land conveyed to Joe H. Keahey by deed recorded in Volume 3127, Page 343, Deed Records, Denton County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch rebar found for the southeast corner of Lot 10, Block 2 of Regency Park Addition, an addition to the Town of Flower Mound, as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas also being a point on the north line of a tract of land conveyed to Corp. Pres. Bishop LDS Church by deed recorded in Instrument Number 2001-50205, Deed Records, Denton County, Texas;

THENCE North 01 degrees 10 minutes 00 seconds West, departing the north line of said Corp. Pres. tract, with the east line of said Lot 10 and continuing with the east lines of Lots 8 and 9, Block 2 of said Regency Park, passing a 1/2 inch rebar capped found for the northeast corner of said Lot 8, same being the southeast corner of Lot 7, Block 2 of said Regency Park, a distance of 457.24 feet and continuing with the east lines of Lots 1, 2, 3, 4, 5, 6 and 7, Block 2, of said Regency Park, and continuing with the east line of a 100 foot green belt dedication as recorded in Cabinet R, Page 79, Plat Records, Denton County, Texas and continuing to the south right of way line of Cross Timbers Road (Called 180 foot right of way by Cabinet R, Page 79, P.R.D.C.T.), a total distance of 1,491.02 feet to a 1/2 inch rebar capped "ASC" set for corner;

THENCE the following three calls with the south right of way line of said Cross Timbers Road:

North 88 degrees 51 minutes 27 seconds East, a distance of 57.63 feet to a PK Nail set for corner;

South 86 degrees 47 minutes 01 seconds East, a distance of 65.82 feet to a PK Nail set for corner;

North 88 degrees 51 minutes 27 seconds East, a distance of 164.03 feet to a TXDOT Monument found for the northwest corner of a tract of land conveyed to WSL Flower Mound, LLC by deed recorded in Instrument Number 2018-108342, Deed Records, Denton County, Texas;

THENCE South 01 degrees 08 minutes 03 seconds East, departing the south right of way line of said Cross Timbers Road, with the west line of said WSL tract, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said WSL tract, same being the northwest corner of Lot 3R, Block D, Flower Mound Woods, an addition to the Town of Flower Mound, as recorded in Instrument Number 2010-94, Plat Records, Denton County, Texas, at a distance of 681.54 feet, and continuing with the west line of said Lot 3R, also with Lots 1R and 2R, Block D, of said Flower Mound Woods, passing a 1/2 inch rebar capped "ASC" found for the southwest corner of said Lot 1R, same being the northwest corner of Ida Lane (50 foot right of way line), at a distance of 1,039.14 feet and continuing with the west lines of Lots 1R, 2R, and 3R, Block E, of said Flower Mound Woods, a total distance of 1,485.67 feet to a 1/2 inch rebar capped "ASC" set for the southwest corner of said second referenced Lot 3R and lying on the north line of a tract of land conveyed to James E. and Lisa G. Bertie by deed recorded in Instrument Number 2004-136744, Deed Records, Denton County, Texas;

THENCE South 88 degrees 47 minutes 16 seconds West, with the north line of said Bertie tract, passing a 1/2 inch rebar capped "Concmon" found for the northwest corner of said Bertie tract, same being the northeast corner of said Corp. Pres. tract, a distance of 112.65 feet and continuing with the north line of said Corp. Pres. tract, a total distance of 286.45 feet to THE POINT OF BEGINNING and containing 426,698 square feet or 9.796 acres of land, more or less.

Exhibit "B"

Development Standards

Planned Development District No. 177 (PD-177) Grace Park

The development on the property comprising approximately 9.796 acres of land within the corporate limits of the Town of Flower Mound ("Town") and as described on Exhibit "A" to this Zoning Ordinance adopting PD-177 shall be in accordance with the Town of Flower Mound *Master Plan* and the Land Development Regulations of the Town of Flower Mound, Texas, as amended, and shall be subject to the following conditions and requirements.

A. Exhibits.

The following exhibits are incorporated into this Planned Development District:

1. Exhibit C: Conceptual Site Plan.

2. Exhibit D: Conceptual Landscape Plan.

B. Uses.

Development of Grace Park, comprising approximately 9.796 acres of land, shall comply with all regulations applicable to the Single-Family Residential District-10 (SF-10) contained in the Town's Land Development Regulations, as amended, except as otherwise provided and/or limited herein.

C. Minimum and maximum dimensions.

1. Minimum lot width. The minimum lot width for lots 2 thru 9, Block B shall be 84.5 feet subject to section 98-1024. The minimum lot width for all other buildable lots shall be 95 feet subject to section 98-1024.

2. Minimum floor area per unit. The minimum floor area per dwelling unit shall be 2,800 square feet, subject to section 98-1025.

3. Minimum front yard.

   a. Except as provided in this paragraph, the minimum front yard setback shall be 20 feet, subject to section 98-1026.

   b. A "j-swing" garage shall be set back a minimum of 15 feet from the front property line.

4. Minimum side yard. The minimum side yard shall be 12 feet, subject to section 98-1028.

5. Minimum rear yard. The minimum rear yard shall be 18 feet, subject to section 98-

1028.

6. Maximum lot coverage. The maximum lot coverage shall be 55 percent, subject to section 98-1029.

D. Landscape Standards.

Landscaping shall be in accordance with the Town's landscape ordinance as amended as shown on Exhibit "D".

E. Trail Requirements.

1. <u>Cross Timbers Road Trail</u>. There shall be a minimum eight-foot-wide multi-purpose trail along the Cross Timbers Road frontage as required by the *Parks & Trails Master Plan*.

F. Supplemental Standards.

1. Maximum number of buildable lots shall be 27.

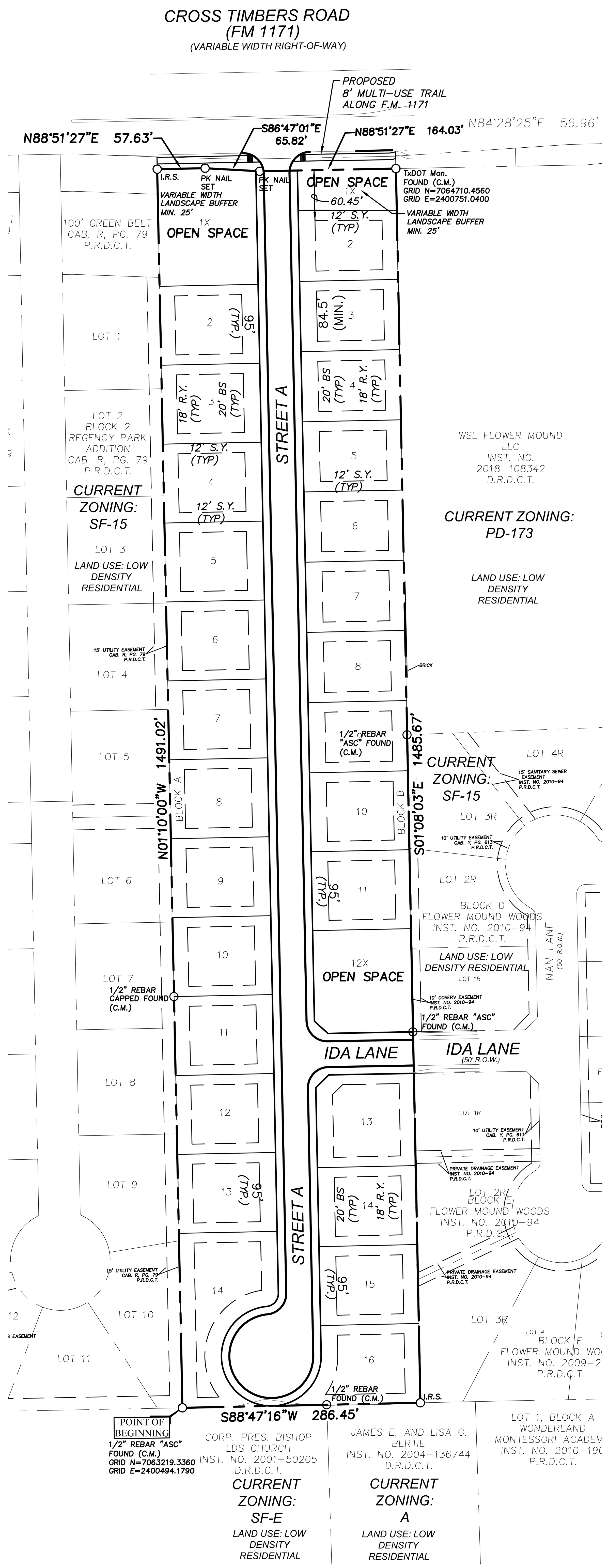
2. Windows and balconies located on the rear façade of a residential dwelling above a first floor are prohibited.

3. Development shall include all of the improvements as depicted on Exhibit "C". Such improvements together with all other improvements necessary to serve the development shall be installed prior to the Town's acceptance of the subdivision.

G. Exceptions. The following exceptions to the Town's Ordinances shall apply to this Planned Development.

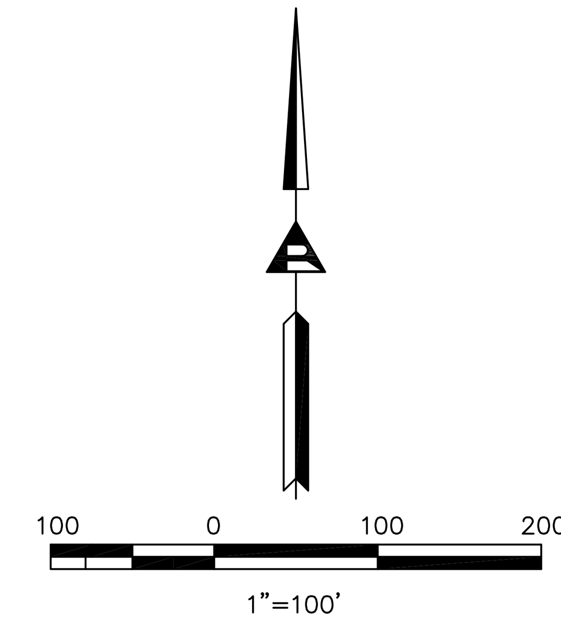
1. An exception to Section IV.C.5. of the Town's Engineering Design Criteria requirement to provide a wet retention pond. A temporary dry detention area is provided as shown on Exhibit "D".

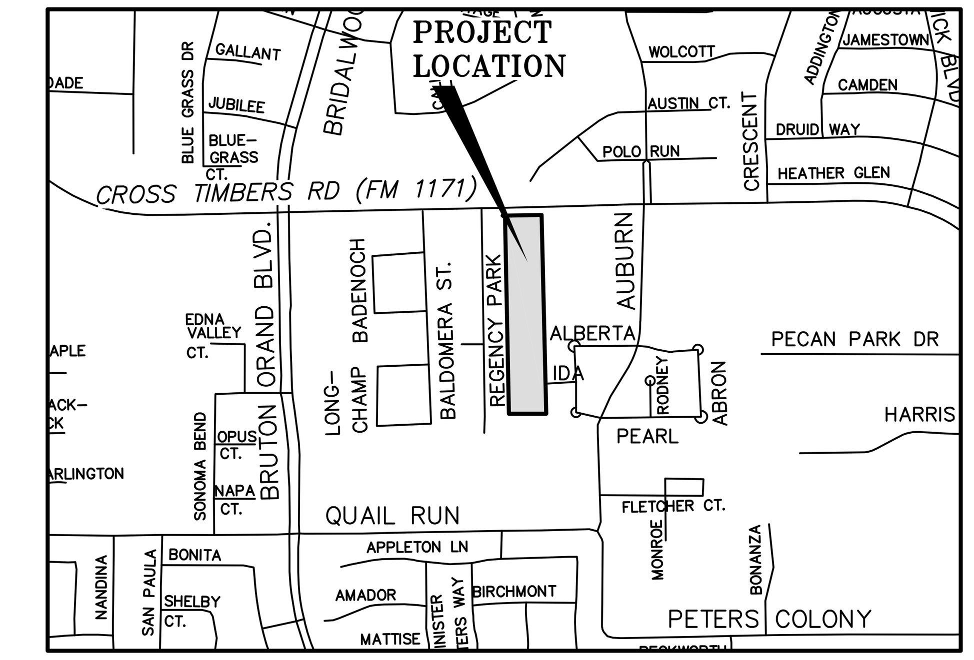
2. An exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances.



LEGEND

(line)	LOT LINE
D.R.D.C.T.	DEED RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T.	PLAT RECORDS, DENTON COUNTY, TEXAS
R.P.R.D.C.T.	REPLAT RECORD DENTON COUNTY, TEXAS
(dashed line)	PROPERTY BOUNDARY
(dashed line)	ADJACENT PROPERTY BOUNDARY
(line)	PROPOSED R.O.W.
(line)	PROPOSED EDGE OF PAVEMENT





PROJECT DATA TABLE

GROSS SITE AREA	9.796 ACRES
PROPOSED USE	PD FOR SINGLE FAMILY DISTRICT–10 (SF–10) USES
CURRENT ZONING	AGRICULTURAL
OPEN SPACE	
PRIVATE OPEN SPACE LOTS	0.849 ACRES
TOTAL OPEN SPACE	0.849 ACRES
PROPOSED LOTS	
RESIDENTIAL	27 LOTS
RESIDENTIAL LOTS AREA	6.959 ACRES
MIN. RESIDENTIAL LOT SIZE	10,000 S.F.
MAX. RESIDENTIAL LOT SIZE	17,924 S.F.
AVG. RESIDENTIAL LOTS SIZE	11,227 S.F.
PRIVATE OPEN SPACE X–LOTS	3 LOTS
TOTAL ALL LOTS	30 LOTS

DEVELOPMENT DATA

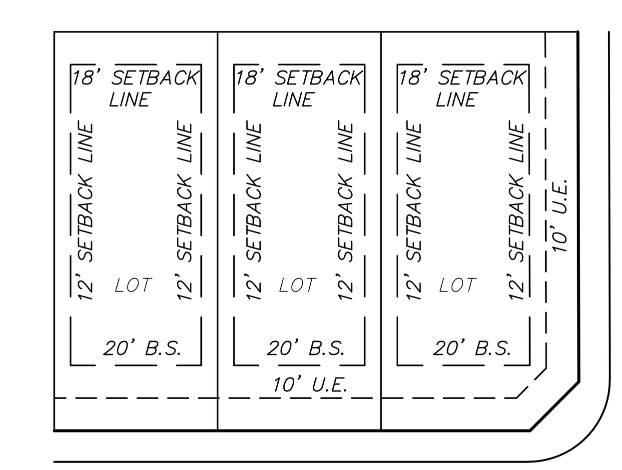
PROPOSED USE: PD FOR SINGLE FAMILY DISTRICT–10 (SF–10) USES
CURRENT ZONING: AGRICULTURAL

TOTAL GROSS LAND AREA:	±9.796 ACRES
TOTAL AREA OF LOTS =	6.959 AC. 71.04%
MINIMUM LOT AREA:	10,000 S.F
MINIMUM LOT WIDTH:	84.5 FT.
MINIMUM FLOOR AREA:	2,800 S.F
MINIMUM FRONT YARD:	20 FT.
MINIMUM SIDE YARD:	12 FT.
MINIMUM REAR YARD:	18 FT.
MAXIMUM LOT COVERAGE:	55%
MAXIMUM HEIGHT:	3/35 FT.

MASTER PLAN FEATURES

Land Use Plan	Existing: Low Density Residential Proposed: Medium Density Single Family Detached
Specific Plans	None
Urban Design Plan	None
Parks and Trails	8' Trail along F.M. 1171
Open Space Plan	N/A
Thoroughfare Plan	Cross Timbers Road – Major Arterial;
Water Plan	Existing 12" WM, S. Side of Cross Timbers Rd.
Wastewater Plan	Connect to existing SS manhole at Ida Lane & to Existing 8" SS stub, at west property line of subject tract. on Cross Timbers Road.

BLOCK	LOT	LOT SQ.FT.	LOT ACRES
A	1X	16,584	0.381
A	2	11,266	
A	3	11,264	
A	4	11,261	
A	5	11,259	
A	6	11,256	
A	7	11,253	
A	8	11,251	
A	9	11,248	
A	10	11,246	
A	11	11,243	
A	12	11,241	
A	13	11,238	
A	14	17,924	
B	1X	5,829	0.134
B	2	10,005	
B	3	10,021	
B	4	10,019	
B	5	10,017	
B	6	10,015	
B	7	10,013	
B	8	10,011	
B	9	10,009	
B	10	11,250	
B	11	11,248	
B	12X	14,570	0.334
B	13	13,034	
B	14	11,238	
B	15	11,235	
B	16	12,062	



STREET
TYPICAL LOT LAYOUT

OWNER:

Joe H. Keahey
3861 Cross Timbers Rd.
Flower Mound, TX 75028

DEVELOPER/APPLICANT:

Rembert Enterprises, Inc.
3625 Bonanza Lane
Flower Mound, TX 75022
CONTACT: Reginald Rembert
214–213–5982

ENGINEER:

Ridinger Associates, Inc.
550 S. Edmonds Ln. Suite 101
Lewisville, TX 75067
CONTACT: Jason Kilpatrick
972–353–8000 Office
972–353–8011 Fax

GRACE PARK

RESIDENTIAL SUBDIVISION
Being 27 Buildable Lots & 3 X-Lots
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

CONCEPTUAL SITE PLAN

Scale: 1" = 100'
Designed by: LDR
Drawn by: JWH
Checked by: LDR
Date: MARCH 9, 2020
Project No. 035–030

SHEET
1

Exhibit D

GENERAL LANDSCAPE NOTES

1. All landscape areas are to be received within .1' of proposed finish grade and free from all trash and debris.
2. All trees are to be planted in pits twice the diameter of the tree ball and no deeper than the depth of the ball. Scarify all tree pit sides prior to planting. All trees are to be planted plumb and at or slightly above finish grade. All tree pits are to have a 3" watering saucer formed around the perimeter of the pit. All tree pits are to be top dressed with a 2" layer of shredded hardwood mulch. Stake and / or guy trees only at the direction of the landscape architect.
3. Rotovate the existing soil of all planting beds to a minimum depth of 6". Add a 3" layer of premium compost as supplied by Living Earth Technology and till into the top 3" of the existing soil. Install all shrubs 1" above finish grade and fertilize with Agri-form slow release fertilizer tablets at the manufacturer's recommended rates of application. Top dress all planting beds with a 2" layer of shredded hardwood mulch.
4. All planting beds not formed by a concrete curb or sidewalk are to edged with Steel Edging (1/8"x4" painted green) or an approved equal. All edging stakes are to be placed to the inside of the bed and the top of the edging is to be no less than 1" and no more than 1.5" above proposed finish grade.
5. All turf areas are to be hydromulch Bermudagrass, unless otherwise noted on the plan.
6. Hydromulch with Bermudagrass seed at a rate of two (2) pounds per one thousand (1,000) square feet. If installation occurs between September 1 and April 1, all hydromulch areas to be Winter Ryegrass at a rate of four (4) pounds per thousand square feet. Contractor shall be required to re-hydromulch with Bermudagrass the following growing season.
7. All sodded areas are to receive common bermuda sod laid parallel to the contour of the land. All sod on slopes greater than 1:4 is to be pinned with 1"x1"x12" wooden stakes. All sod is to be laid with tight joints and with all joints staggerd. Roll all sod with a water ballast lawn roller upon installation and fertilize with a complete fertilizer (13-13-13) at the rate of 1.5# actual nitrogen per 1000 square feet. Water all sod thoroughly.
8. All irrigation meter(s) are to be by utility contractors as per local codes. Irrigation sleeves to be installed by licensed irrigation contractor as per the plan.
9. All irrigation controllers are to have mini-click freeze and rain stats installed as per manufacturer's recommendations.
10. All irrigation sleeves to be by licensed irrigation contractor. All sleeves to be PVC schedule 40 with 90 degree elbows on both ends with extensions protruding 18" above proposed finish grade.
11. All turf and planting beds to be zoned separately. All planting bed heads to be on 12" pop-up risers. All turf heads to be on 4" pop-up risers. All valves to be plastic valves. All equipment to be Rainbird or approved equal.
12. All mainline and lateral line to have a minimum of 12" of cover and to be SDR (class 200) pipe.
13. Quantities shown on plant list are landscape architect's estimate only and should be verified prior to bidding. Contractor shall be responsible for bidding and providing quantity of plants required at spacing designated for bed sizes and configurations shown on the plans regardless of quantities designated on plant list.

IRRIGATION NOTES:

1. All landscaped areas shall be irrigated with an irrigation system capable of providing the proper amount of water for the particular for the particular type of plant material used. Irrigation will be provided by an underground sprinkler system, or a subterranean drip drip system as approved by the City Arborist.
2. Automatic underground irrigation system shall be equipped with freeze guard set at 38 degrees F.
3. Areas of open space which contain preserved trees need not be irrigated if the City Arborist determines irrigation would be harmful to the preserved trees.

MAINTENANCE NOTES:

1. All plant material shall be maintained in a healthy and growing condition, and must be replaced with plant material of similar variety and size if damaged, destroyed or removed.
2. Landscaped areas shall be kept free of trash, litter, weeds and other such materials or plants not part of the landscaping.
3. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other maintenance of all plantings, including parkways, as needed.
4. Undisturbed, naturalized area, shown on this plan is to be maintained by periodic field mowing as required by Town of Floer Mound standards.

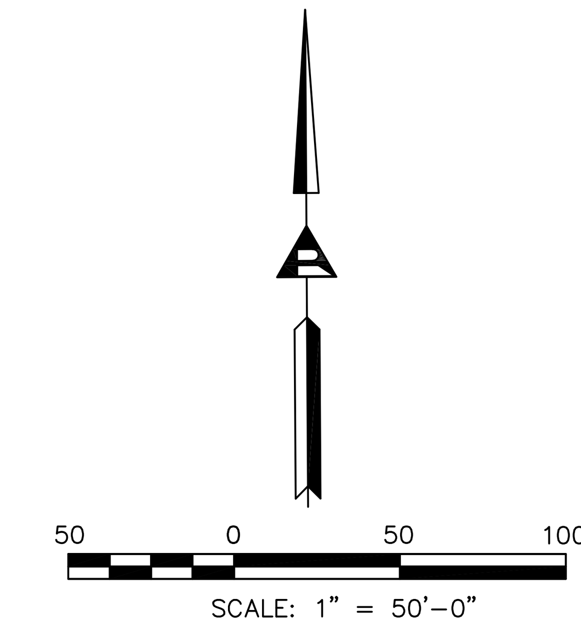
TREE PRESERVATION AND MITIGATION NOTES:

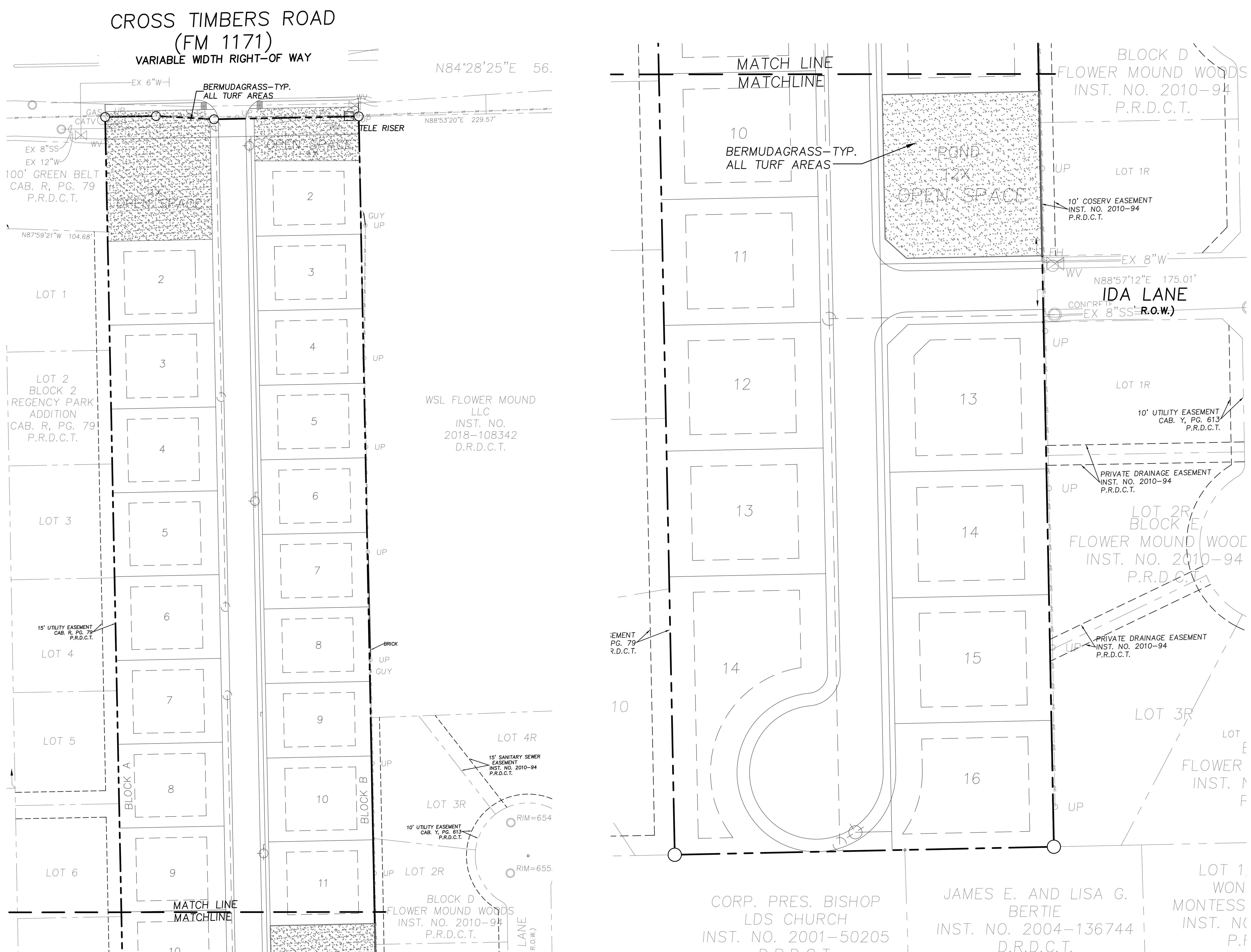
1. Developer / Contractor to install tree preservation fencing as shown by Limits of Construction as shown on this plan and Per Sheet LP-1. Fencing installation and proper location to be verified by Town of Flower Mound prior to construction. Refer to tree protection notes on Tree Survey and Tree Preservation Plan.

No Amenities are to be provided per this plan.

PLANT LIST

Bermudagrass / Cynodon dactylon / Hydromulch





ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-454-9934

REGISTERED LANDSCAPE ARCHITECT
JOHN B. ST. CLAIR
2210
STATE OF TEXAS

DATE SEALED: 03-06-20

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: FEBRUARY 23, 2012

LANDSCAPE PLAN
GRACE PARK
RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

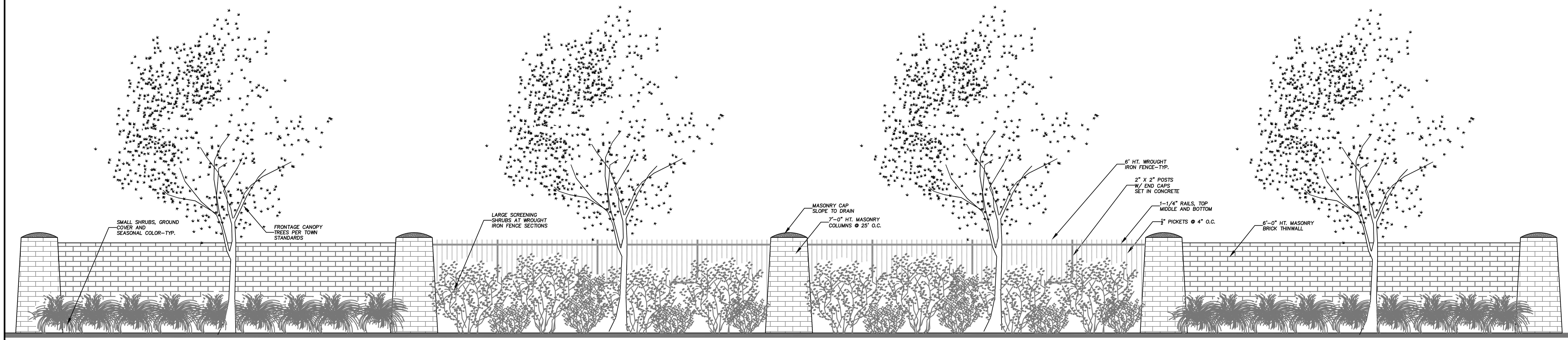
LANDSCAPE PLAN

Scale: 1"=50'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: MARCH 6, 2020
Project No. 035-030

SHEET

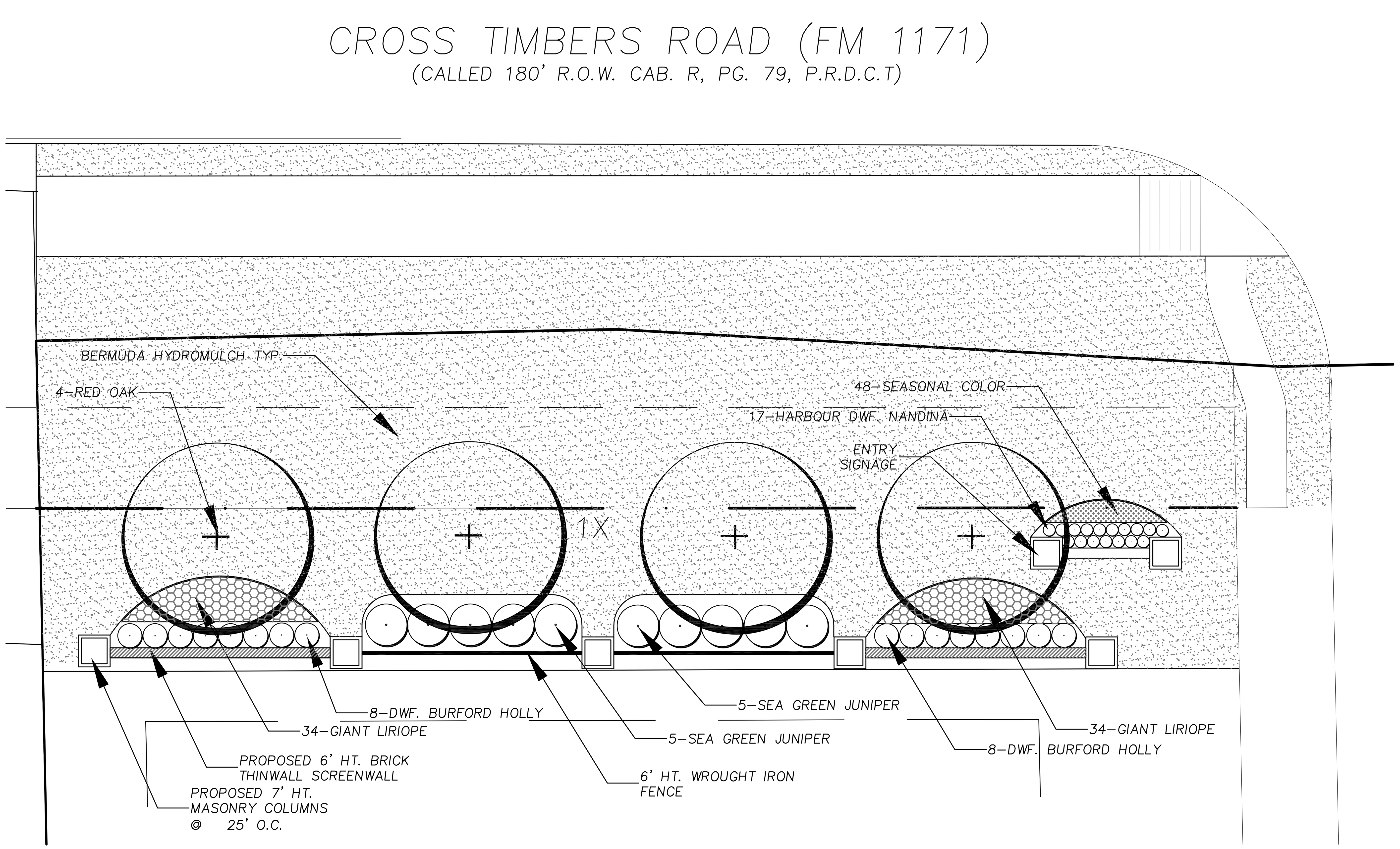
LP-1

Exhibit D
Attachment 2: Draft Ordinance



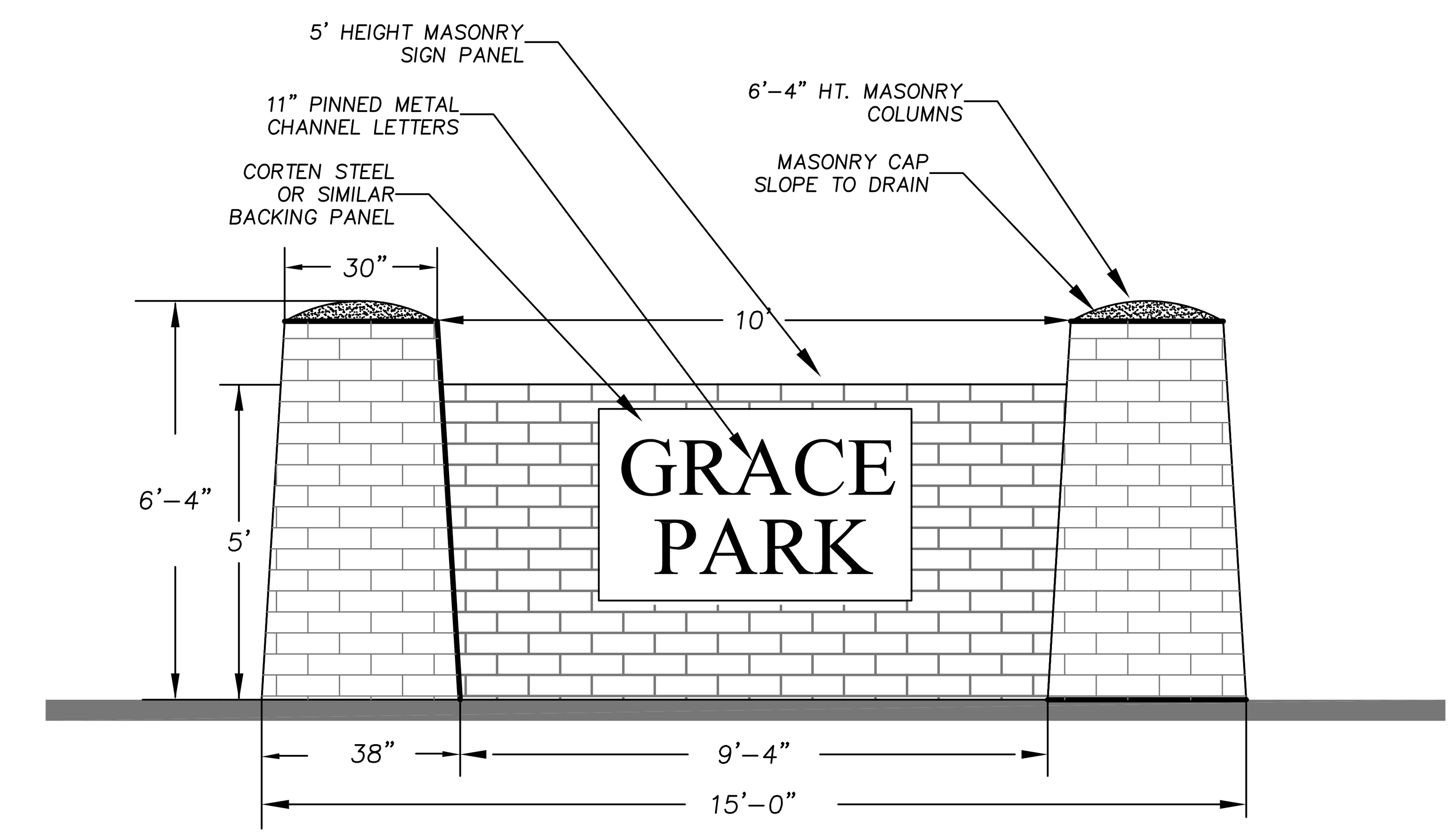
WALL AND FENCE ELEVATION (EACH SIDE OF ENTRY DRIVE)

NOT TO SCALE



ENTRY SIGNAGE AND PLANTING PLAN (EACH SIDE OF ENTRY DRIVE)

NOT TO SCALE



ENTRY SIGNAGE

NOT TO SCALE

ST. CLAIR DESIGN GROUP, INC
Landscape Architecture
P. O. Box 12519
Dallas, Texas 75225
T. 214-454-9934

REGISTERED LANDSCAPE ARCHITECT
JOHN B. ST. CLAIR
2210
STATE OF TEXAS

DATE SEALED: MARCH 6, 2020

DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: NOVEMBER 7, 2019

CONCEPTUAL LANDSCAPE PLAN GRACE PARK

RESIDENTIAL SUBDIVISION
9.796 acres Situated in the
P. Malone Survey, Abstract No. 836
in the
Town of Flower Mound
Denton County, Texas

No.	Date	Revisions	App.

Ridinger Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax No. (972) 353-8011

GRACE PARK
RESIDENTIAL SUBDIVISION
FLOWER MOUND, TEXAS

LANDSCAPE PLAN

Scale: NOT TO SCALE
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: NOVEMBER 7, 2019
Project No. 035-030

SHEET
LP-2

TOWN COUNCIL AGENDA ITEM NO. 12

REGULAR ITEM

DATE: June 15, 2020

FROM: Claire Barnes, Planner

ITEM: **Public Hearing to consider an ordinance granting Specific Use Permit No. 462 (SUP20-0004– Mueller Accessory Dwelling) to permit an accessory dwelling. The property is generally located south of Bay Park Court and east of Bayshore Drive. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)**

SUMMARY DATA:
- Lot Size – approx. 2.09 acres
- Zoning – Agricultural
- Existing residence – 5,998 sf
- Proposed Accessory Dwelling – 1,930 sf
- Lot coverage – approximately 9-10%
- SMARTGrowth – N/A, review not triggered
- Traffic Analysis – N/A, review not triggered
- Exceptions – N/A

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item.

ATTACHMENTS:
1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

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

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

PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 7

REGULAR ITEM

DATE: June 8, 2020

FROM: Claire Barnes, Planner

ITEM: **Public Hearing to consider an ordinance granting Specific Use Permit No. 462 (SUP20-0004– Mueller Accessory Dwelling) to permit an accessory dwelling. The property is generally located south of Bay Park Court and east of Bayshore Drive.**

I. ITEM SUMMARY

This application has been reviewed by DRC and determined to be ready for consideration by the Planning and Zoning Commission.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this application is to request approval of a Specific Use Permit (SUP-462) to allow for a 1,930-square-foot accessory dwelling on a 2.09-acre lot currently zoned Agricultural District (A) and located within the Cross Timbers Conservation Development District. Section 98-273 of the Land Development Regulations requires Town Council approval of a Specific Use Permit for an accessory dwelling within the A zoning district. The existing lot is currently developed with a 5,998-square-foot main dwelling. The accessory dwelling will be roughly 1,930 square feet of habitable floor area, which is approximately 32 percent of the main structure, and the lot coverage for the property is approximately 9-10%. Colors used will match and/or complement the main dwelling. In addition, the accessory dwelling will be located at least 25 feet from all property lines and at least 10 feet back from the rear wall of the main dwelling, in compliance with setback requirements. Overall, the proposed site plan meets the minimum requirements of the existing zoning district.

Section 98-983 of the Code of Ordinances contains additional provisions for the construction and occupancy of accessory dwellings (see below). Seven of the nine regulations are addressed with this proposal. The remaining two provisions prohibit the accessory dwelling from being used as a rental property and require the accessory building to be served by the same utility meters as the existing primary dwelling; these will be addressed during the building permit review phase.

Sec. 98-983. - Accessory dwelling.

The issuance of permits for construction and occupancy of an accessory dwelling shall be subject to compliance with the following conditions:

(1) The accessory dwelling shall be located on the same lot/tract as the existing primary dwelling and located in a separate structure.

(2) An accessory dwelling shall not be located on any lot/tract of less than two acres.

(3) No more than one accessory dwelling per tract or lot shall be allowed.

(4) Accessory dwellings shall not be used as rental units.

(5) The accessory dwelling shall be serviced by the same utility meter as the primary dwelling, and the building materials and architecture will be similar to or in concert with the primary dwelling.

(6) The habitable floor area of the accessory dwelling shall not exceed 50 percent of the habitable floor area of the primary dwelling. The maximum habitable floor area shall not exceed 2,000 square feet.

(7) An accessory dwelling shall conform to the same side and rear yard setbacks as provided for the primary dwelling in the zoning district in which it is located.

(8) The front building line for an accessory dwelling shall be behind the primary structure at a point not closer than ten feet from the rear wall line of the primary dwelling.

(9) In no case shall the combined area of the primary dwelling, accessory dwelling and/or other accessory buildings exceed the maximum percentage of lot coverage allowed for the zoning district in which the structures are located.

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all zoning application requests. SUP20-0004 had a total of 12 Property Owner Notifications mailed. At the time this report was written, staff had received one item of correspondence in support and zero items of correspondence in opposition to the request. All written correspondence was sent directly to the Planning and Zoning Commission according to the new public communication process.

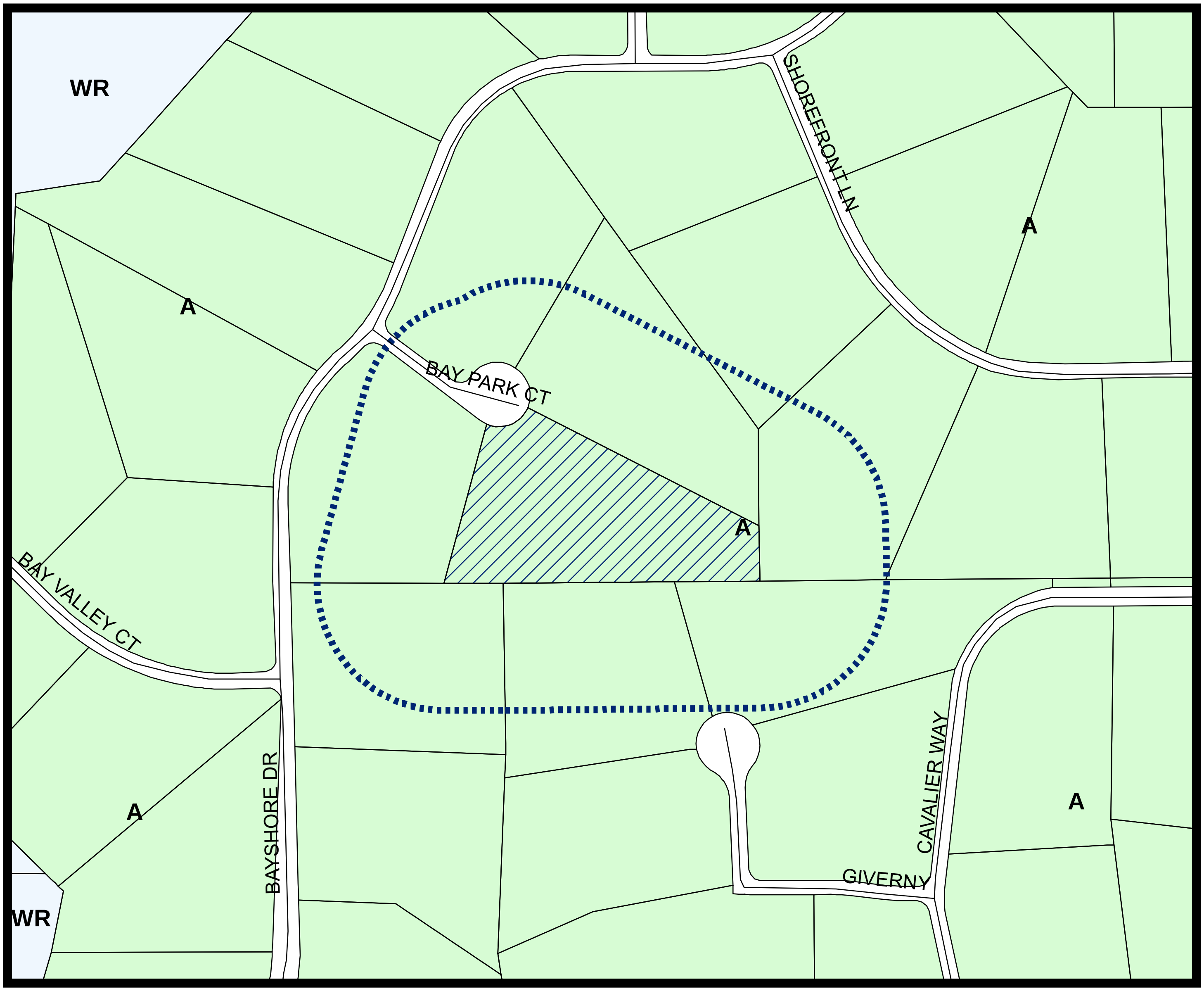
IV. ATTACHMENTS

A. Background Information
1. Vicinity Map
2. Letter of Intent
3. Letter of Support

B. Application Details
1. Accessory Dwelling Package

Vicinity Map

Reference Project: SUP20-0004



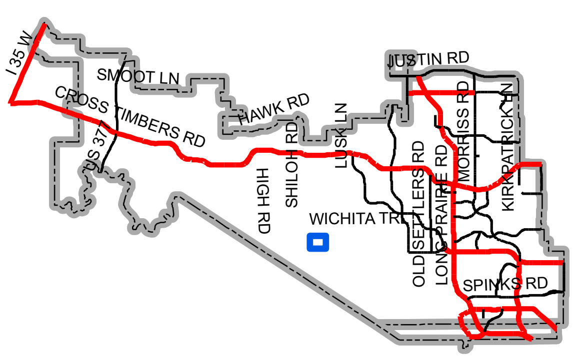
LEGEND

Agriculture **Water Recreation**

Subject Property

200 ft Notification Buffer around Property

0 187.5 375 750 Feet



Map Location

April 15, 2020

Town of Flower Mound
Planning Services Division
2121 Cross Timbers Road
Flower Mound TX 75028

RE: Application for a Specific Use Permit
6005 Bay Park Ct
Flower Mound TX 75022

Dear Sir or Madam,

Please be advised that I, Rachelle Mueller residing at the above address (legal description The Landing BLK C Lot 9- Zoned Agricultural) is requesting an application for a Specific Use Permit (SUP) to build an accessory dwelling on my property.
.
The purpose of this dwelling is to provide a place for my daughter and her fiancé (they will be married on 6/20/20) to raise their family and have them be close to my home. We want to keep the property in the family for many years. My current residence is 5998 square feet and is located on 2.094 acres in The Landing subdivision in Flower Mound. The nearest major intersections are Wichita and Bay Shore. The home is in a cul-de-sac.

I would like to build this 1,930 square foot Accessory guest dwelling to have my immediate family close to me. I became a widow in 2016 and my daughter is the only family I have locally. We also wish to keep the house and dwelling in the family. When I'm not able to manage the larger home on my own, my daughter and I will trade homes and I will live in the dwelling. Having my family close allows me to have a caregiver nearby at all times.

The dwelling will meet all of the guidelines for the town of Flower Mound and will not be visible from the front of the house. The structure will be built behind our pool and within the zoning requirements for the Town of Flower Mound. The building materials and architecture will be similar to or in concert with the primary dwelling.

The home will be for family and guest use only. We are aware of the Town rental guidelines, and will not be renting this property out at any point in time. This restriction would be passed on to any subsequent owners.

This project means a great deal to me and my family. I have been a resident of Flower Mound since 1991. Having my family close to me, watching my grandchildren grow up in Flower Mound and the security of having a caregiver is extremely important.

Accessory dwellings are permitted with a Specific Use Permit in Agricultural Zoning and are common in The Landing neighborhood. We respectfully ask that you approve a Specific Use Permit for this project.

Thank you for your consideration in this matter.

Sincerely,

Rachelle Mueller 04/20/2020

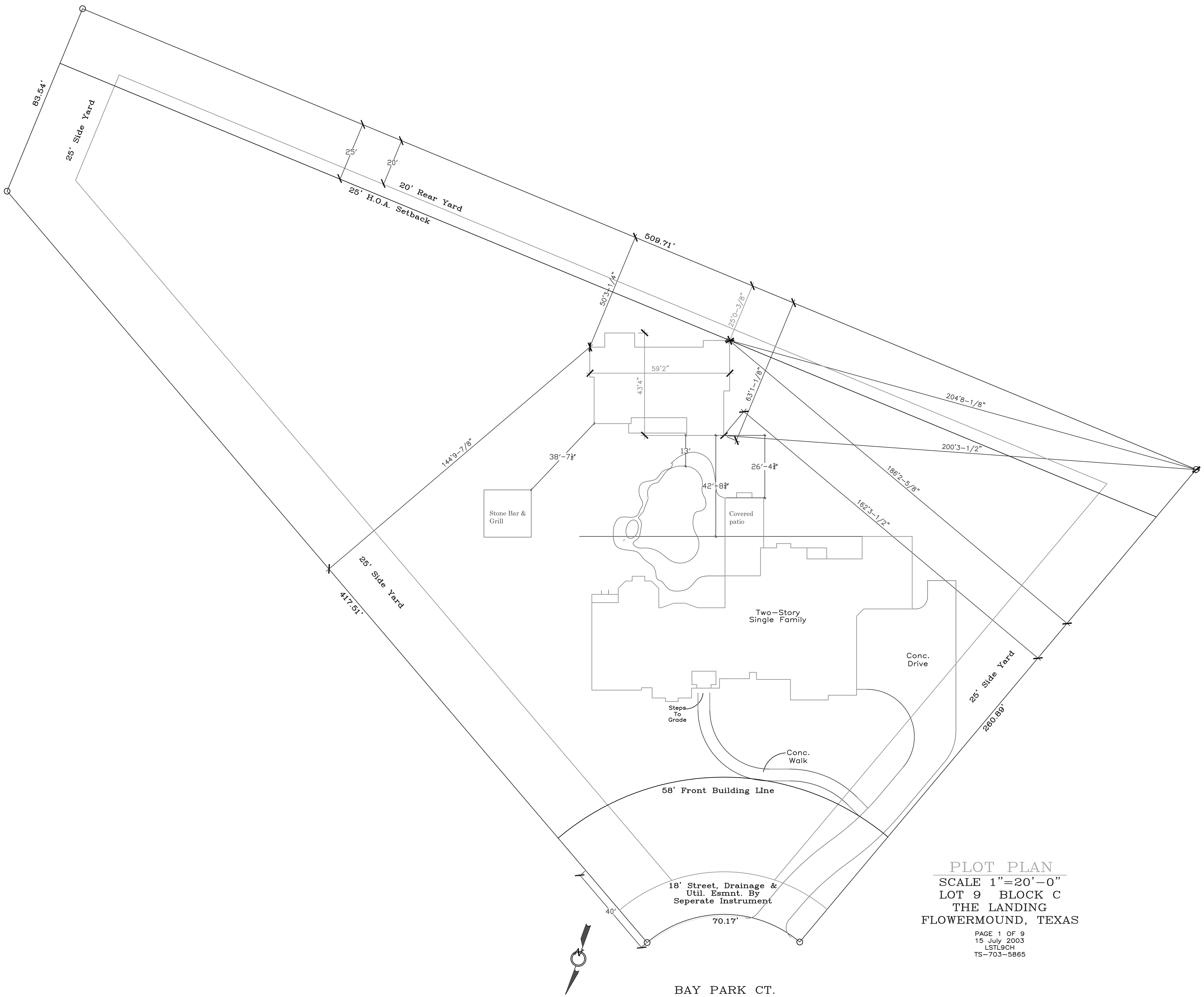
Rachelle Mueller Date

From: Eric Bennos [redacted]
Sent: Thursday, February 27, 2020 3:00 PM
To: Poornima Kashyap [redacted]
Subject: Neighbor building plan

Good afternoon,

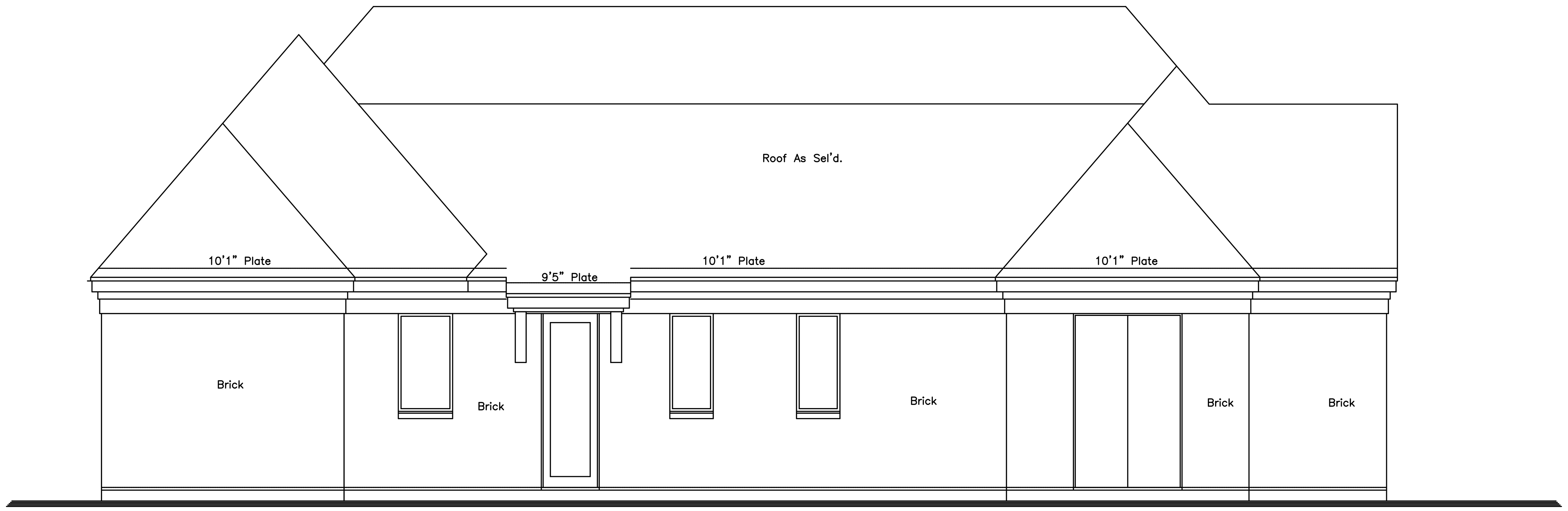
I am sending this letter in response to our neighbors the Muellers. We have been notified by them on their plans to add a guest house on their property at 6006 Bay Park Court Flower Mound, TX 75022. We reside at 6000 Bay Park Ct. We are in agreement with them for their addition, not a problem for us. They are great neighbors!

Sincerely,
Eric and Debbie Bennos

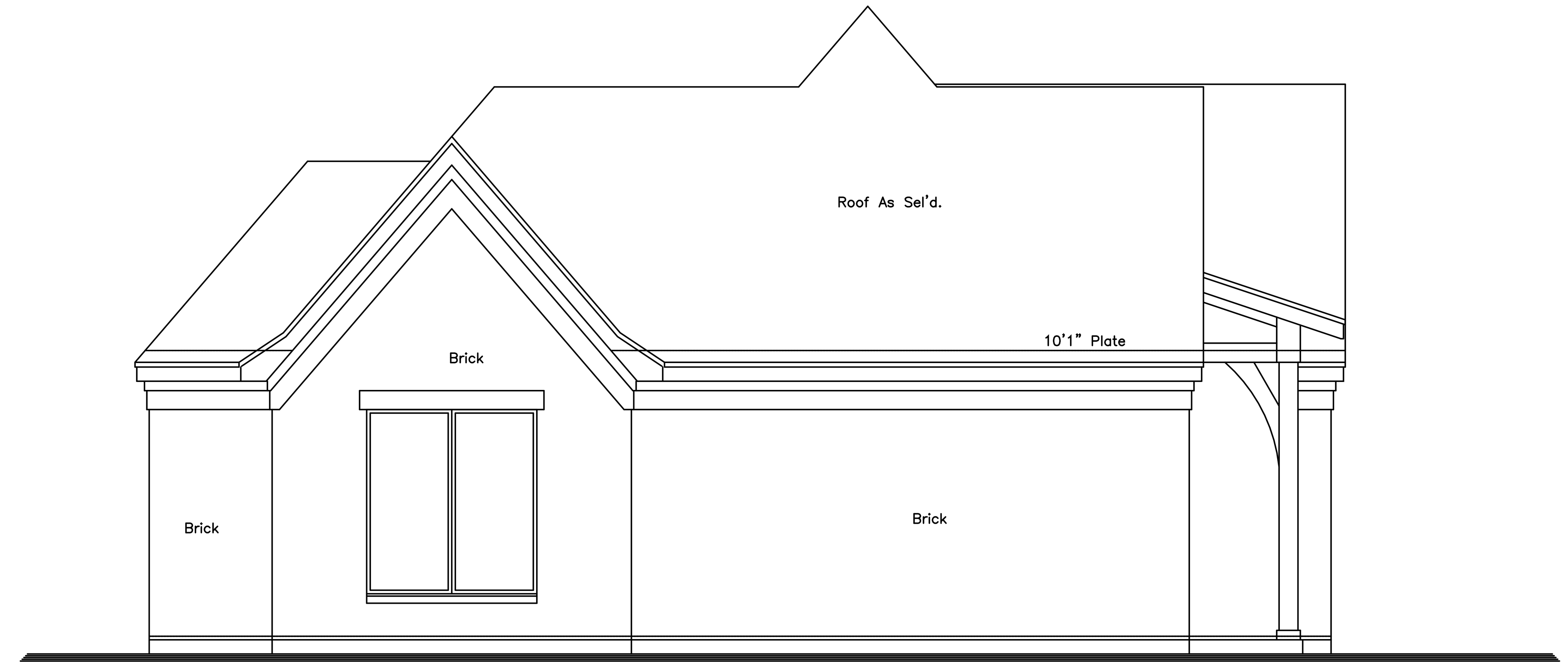


PLOT PLAN
SCALE 1"=20'-0"
LOT 9 BLOCK C
THE LANDING
FLOWERMOUND, TEXAS

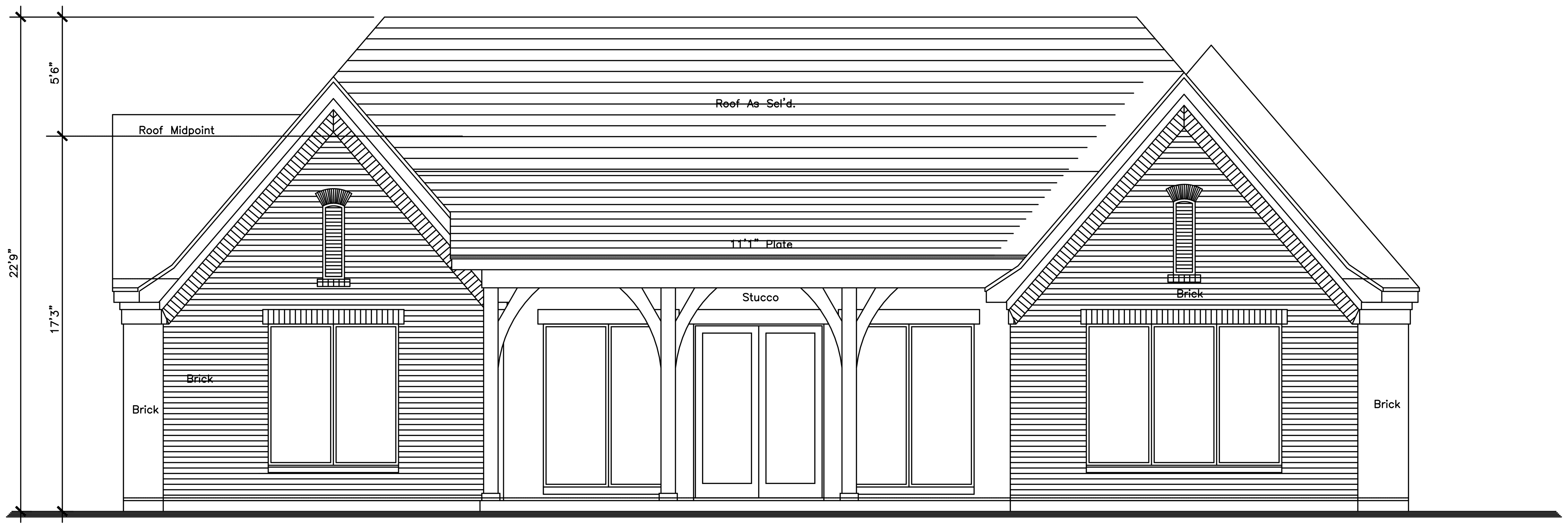
PAGE 1 OF 9
15 July 2003
LSTL9CH
TS-703-5865



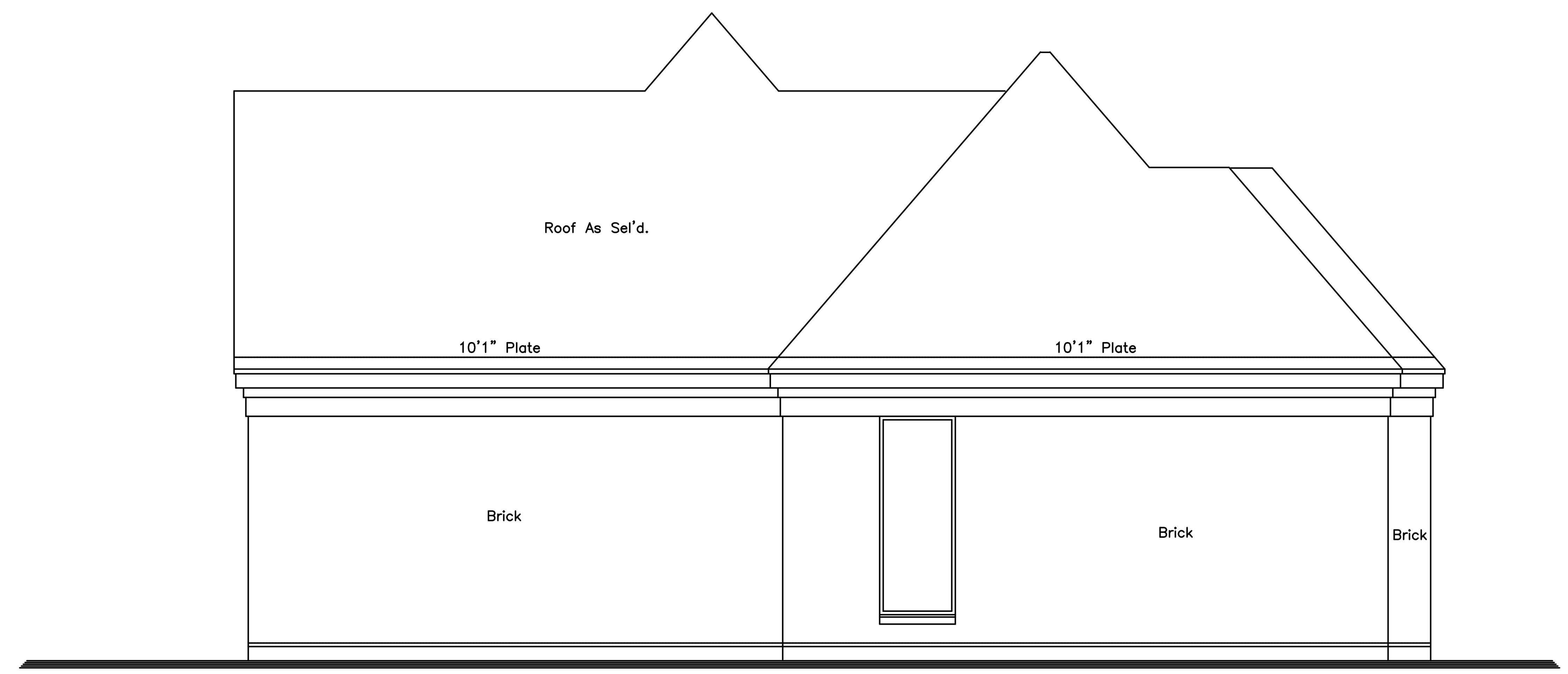
Rear Elevation
SCALE: 1/4"=1'0"



Left Elevation
SCALE: 1/4"=1'0"



Front Elevation
SCALE: 1/4"=1'0"



Right Elevation
SCALE: 1/4"=1'0"

COLOR ELEVATION

COLORS ON THE ACCESSORY DWELLING WILL BE MATCHED TO EXISITNG DWELLING. BELOW ARE PICTURES FROM EXISTING HOME.

ROOF COLOR

DOOR TRIM

BRICK

WINDOW TRIM

SOFFIT TRIM

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO.__________

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 462 (SUP-462) FOR AN ACCESSORY DWELLING ON CERTAIN PROPERTY DESCRIBED AS LOT 9, BLOCK C OF THE LANDING, AND ZONED AGRICULTURAL DISTRICT (A); PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF IN ACCORDANCE WITH SECTION 1-13 OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town of Flower Mound heretofore adopted the Land Development Regulations of the Town of Flower Mound, as amended, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owner of the property described as 2.0935 acres of land and being all of Lot 9, Block C of The Landing has filed an application for a Specific Use Permit for an accessory dwelling; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on June 8, 2020, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on June 15, 2020, with respect to the Specific Use Permit described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Specific Use Permit on the property; and,

WHEREAS, the Town Council finds that the Specific Use Permit should be granted as outlined herein as it is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public.

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

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area as shown below:

> 2.0935 acres of land being all of Lot 9, Block C of The Landing, Denton County, Texas.
>
> Specific Use Permit No. 462 is hereby approved for an accessory dwelling, as more fully described in the exhibits attached hereto and incorporated herein.

SECTION 2

The conceptual plan and conceptual elevations of the proposed accessory dwelling, attached hereto as Exhibits "A" and "B," each incorporated herein for all purposes allowed by law, are hereby approved as the conceptual plan and conceptual elevations for this Specific Use Permit.

SECTION 3

The official map of the Town of Flower Mound is amended and the Director of Planning Services is directed to revise the official zoning map to reflect the approved Specific Use Permit, as set forth above.

SECTION 4

The use of the property described above shall be subject to all applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 5

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

SECTION 6

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 9

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 10

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

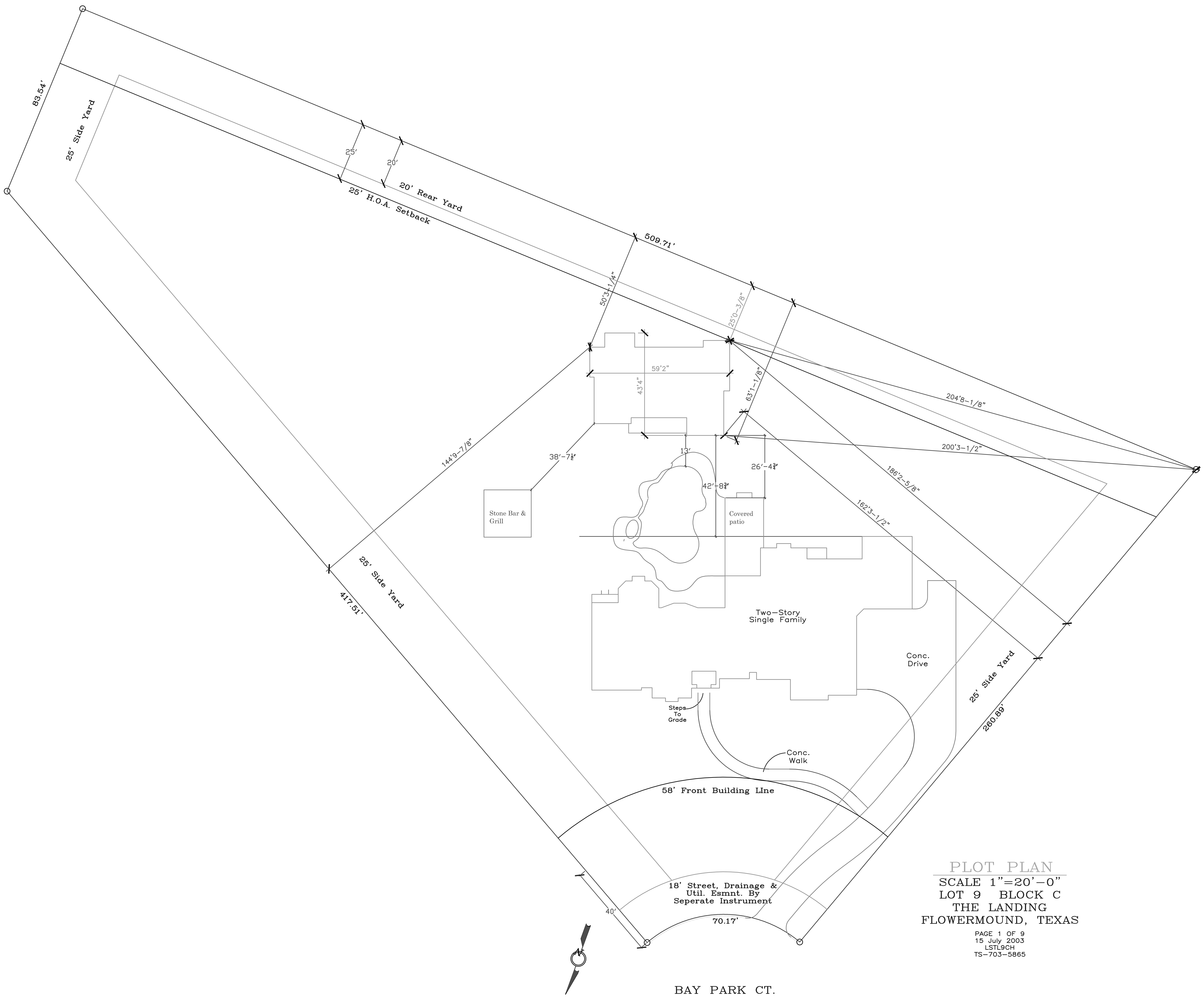
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 15 DAY OF JUNE, 2020.

APPROVED:

____
Steve Dixon, MAYOR

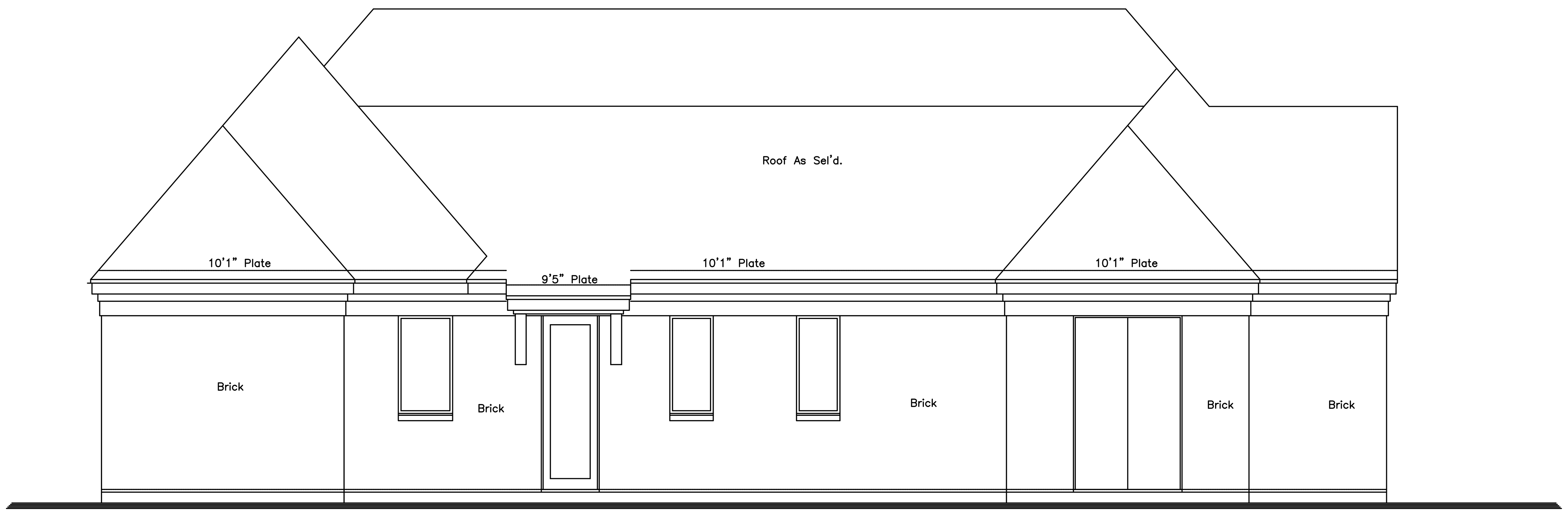
ATTEST:

____
Theresa Scott, TOWN SECRETARY

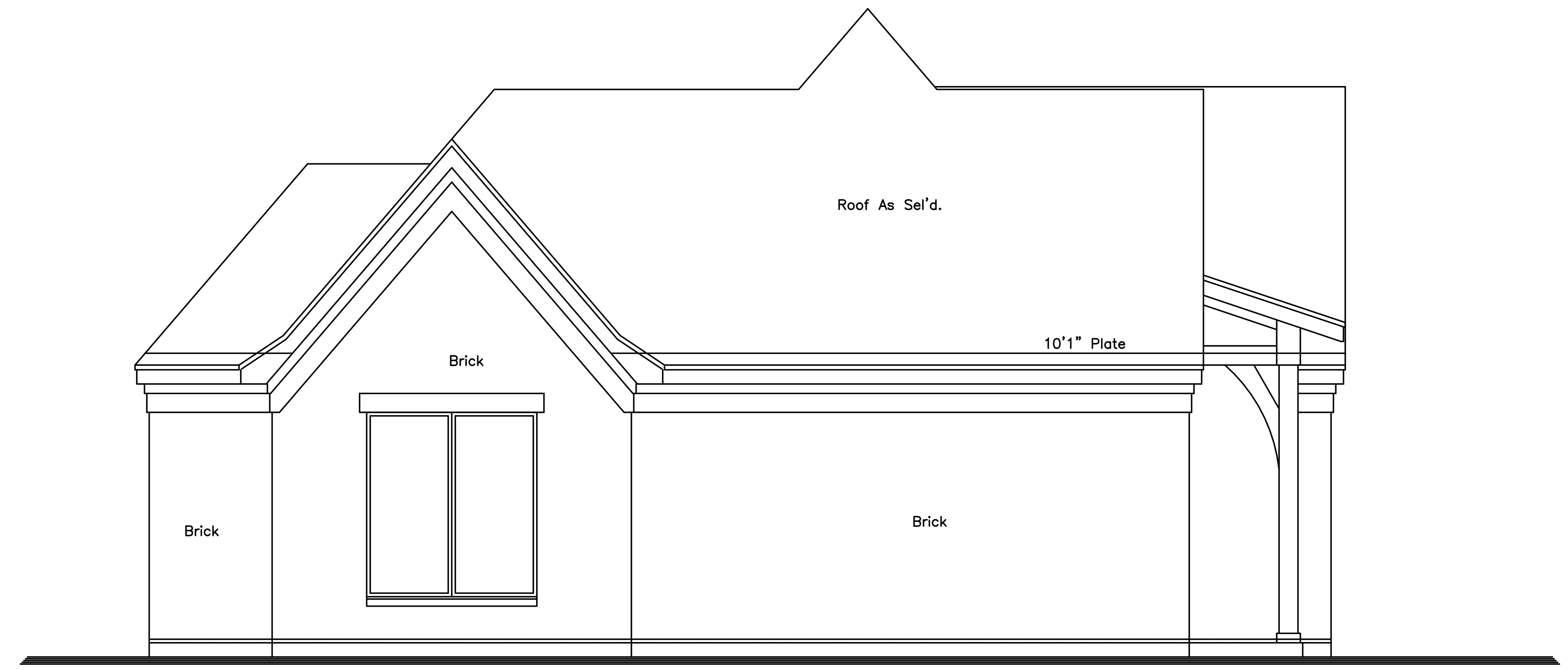


PLOT PLAN
SCALE 1"=20'-0"
LOT 9 BLOCK C
THE LANDING
FLOWERMOUND, TEXAS

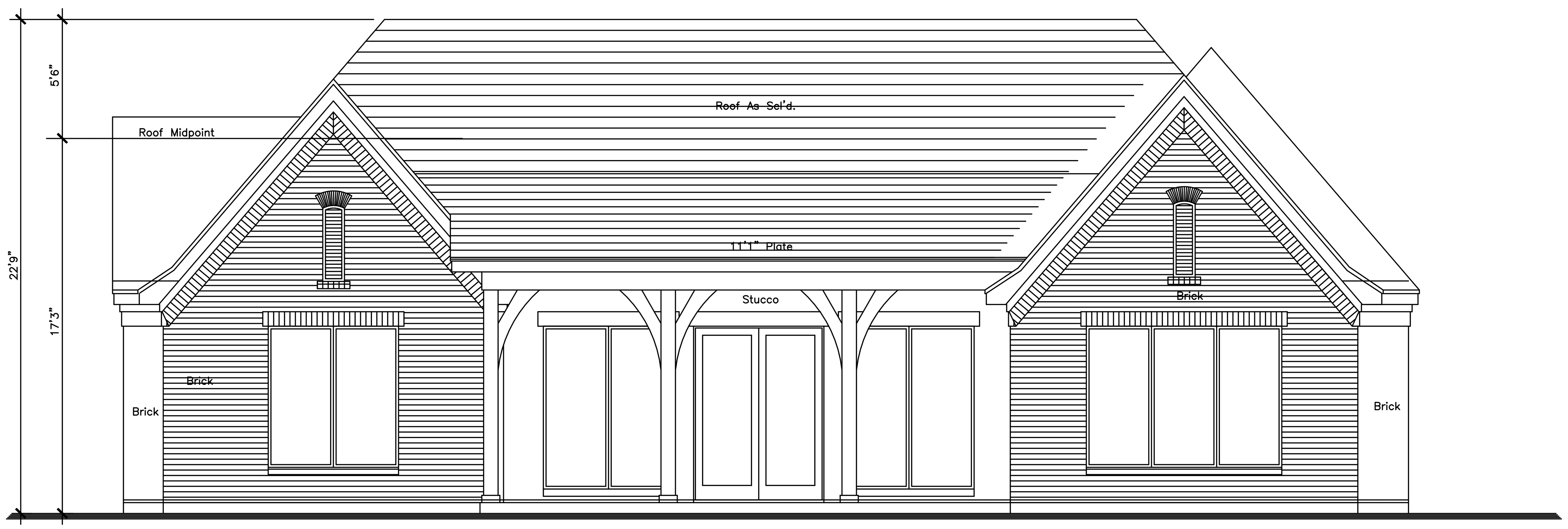
PAGE 1 OF 9
15 July 2003
LSTL9CH
TS-703-5865



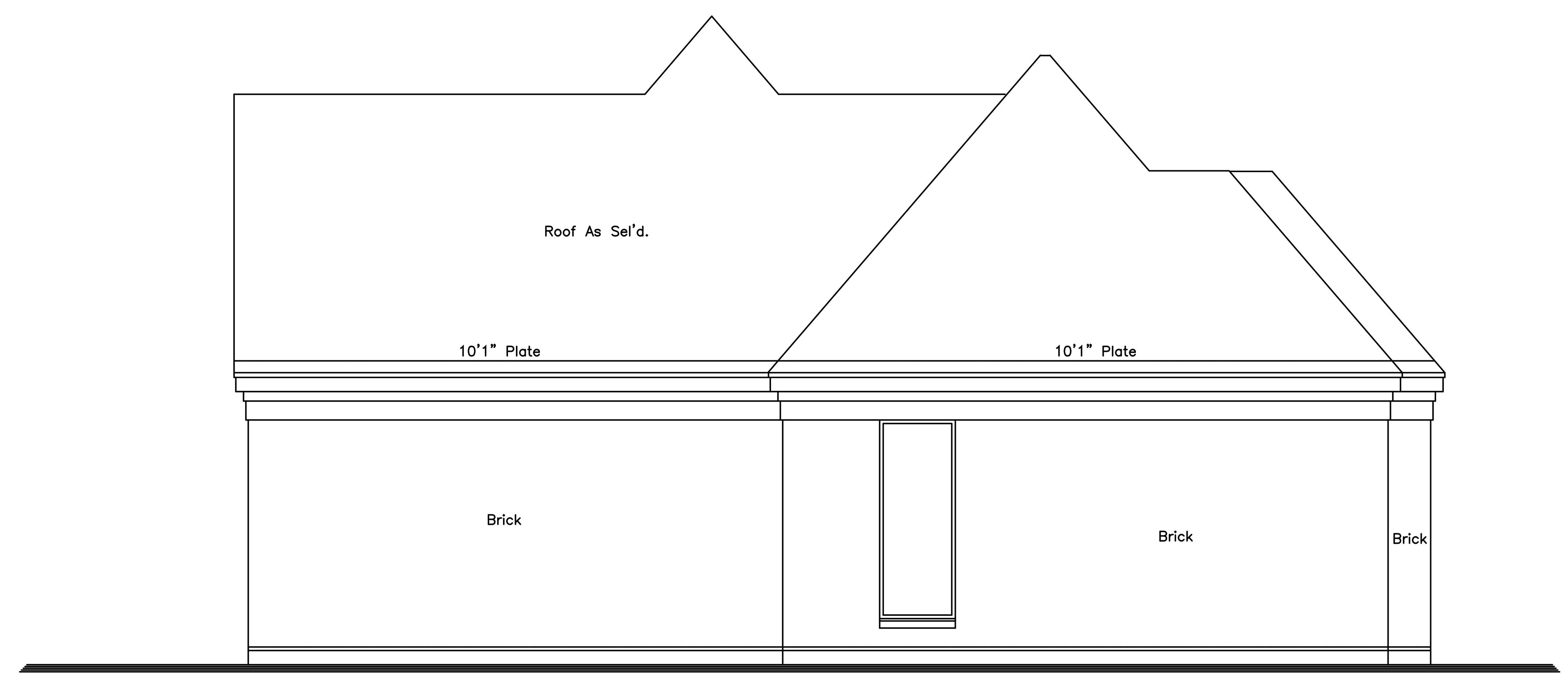
Rear Elevation
SCALE: 1/4"=1'0"



Left Elevation
SCALE: 1/4"=1'0"



Front Elevation
SCALE: 1/4"=1'0"



Right Elevation
SCALE: 1/4"=1'0"

Exhibit B

COLOR ELEVATION

COLORS ON THE ACCESSORY DWELLING WILL BE MATCHED TO EXISITNG DWELLING. BELOW ARE PICTURES FROM EXISTING HOME.

ROOF COLOR

DOOR TRIM

BRICK

Exhibit B

WINDOW TRIM

SOFFIT TRIM

TOWN COUNCIL AGENDA ITEM NO. 13

REGULAR ITEM

DATE: June 15, 2020

FROM: Poornima Kashyap, Principal Planner

ITEM: **Public Hearing to consider an ordinance for rezoning (Z20-0002 - The River Walk at Central Park) to amend the River Walk at Central Park Zoning Ordinance No. 05-15, by adding a new concept plan depicting Presbyterian Hospital's proposed expansion. The property is generally located north of Central Park Avenue and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)**

SUMMARY DATA:
- Lot Size – 11.89 acres
- Zoning – Central Business District with Concept Plan
- Existing Hospital Footprint – 81,530 sf
- Proposed Expansion – 14,250 sf
- SMARTGrowth – Passed
- Traffic Analysis – N/A, 2499 is a state road
- Exceptions – N/A
- Incentives – N/A

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item.

ATTACHMENTS:
1. Planning and Zoning Commission Staff Report
2. Draft Ordinance

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

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

PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 8

REGULAR ITEM

DATE: June 8, 2020

FROM: Poornima Kashyap, Principal Planner

ITEM: **Public Hearing to consider an ordinance for rezoning (Z20-0002 - The River Walk at Central Park) to amend the River Walk at Central Park Zoning Ordinance No. 05-15, by adding a new concept plan depicting Presbyterian Hospital's proposed expansion. The property is generally located north of Central Park Avenue and east of Long Prairie Road.**

I. ITEM SUMMARY

This application has been reviewed by DRC and determined to be ready for consideration by the Planning and Zoning Commission.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this zoning amendment application is to supplement the existing concept Land Use Plan exhibit for The River Walk with an updated concept Land Use Plan depicting the proposed expansion for Presbyterian Hospital. Exhibit C, Article III, Subsection 3.2 of The River Walk at Central Park Ordinance No. 05-15 outlines conditions for administrative approval of minor changes to the approved concept plan (see Attachment A(3)). Per these conditions, an increase in more than 10 percent in ground coverage by any structure is not considered as a minor change that can be approved administratively but requires approval of a concept plan amendment through the Town Council upon recommendation from the Planning and Zoning Commission.

The existing hospital has a footprint of 81,530 square feet. The proposed expansion consists of an approximately 14,250 square-foot single story building, which accounts to a 17.5 percent increase in the ground coverage, necessitating this zoning amendment.

Per the applicant's letter of intent, the primary purpose of this expansion is to build an Observation Unit with 18 beds, which will serve patients that require 24-48 hour observation but do not need to be admitted into a hospital inpatient unit. The expansion sits to the north of the existing hospital closer to the emergency entrance. The extent of this expansion, remodel and other details have been explained in the applicant's letter of intent.

On January 15, 2015, the Town Council approved Ordinance No. 05-15 that amended previously approved River Walk ordinance. The subject site is approximately 11.89 acres and located within the Town Center sub-district. Staff is currently reviewing a site plan for the proposed expansion which is planned to be scheduled for an upcoming Planning and Zoning Commission meeting. Elevations, landscape plan, and tree survey are being reviewed as a part of the site plan application.

Parking for the hospital is calculated at the ratio of one space per day shift employee plus one space per bed. The hospital has 97 beds, 18 observation beds, and 270 day shift employees, requiring a total of 385 parking spaces. Upon approval of the expansion, the hospital will have 382 on-site parking spaces. On January 22, 2018, the Planning and Zoning Commission approved a commercial parking lot for the hospital consisting of 160 parking spaces to be located on a 3.96 acre lot owned by the hospital. This commercial parking lot is located to the north of the hospital site (and to the east of the Taco Bueno) within Planned Development District-114 (PD-114). Complying with the parking section of the River Walk ordinance (see excerpt below), approximately 142 off-site parking spaces out of the 160 spaces are available within 500 feet from the north emergency entrance to the hospital.

> 7.5 Aggregation. It shall not be required in The River Walk CBD that required off-street parking is located on the same site or lot as the principal use or on a site or lot that is immediately adjacent to and contiguous with the site or lot on which is located the principal use. The amount of provided parking shall be considered in aggregate, provided that no considered parking space is located more than 500 feet from the entrance to the use to which the space is counted in each of the TC Town Center, CR Community Residential and CMU Community Mixed Use subdistricts or more than 300 feet from the entrance to the use to which the space is counted in the CRC Community Retail Center subdistrict.

Primary access to this development will continue to be from Long Prairie Road and Central Park Avenue with secondary access available from the north through mutual access easements within PD-114.

III. CORRESPONDENCE

The Town Code requires both public notice in a newspaper of general circulation (Denton Record Chronicle) and notification of the property owners within 200 feet of the subject property for all zoning application requests. Z20-0002 had a total of 53 Property Owner Notifications mailed. At the time this report was written, staff had not received any correspondence regarding this item.

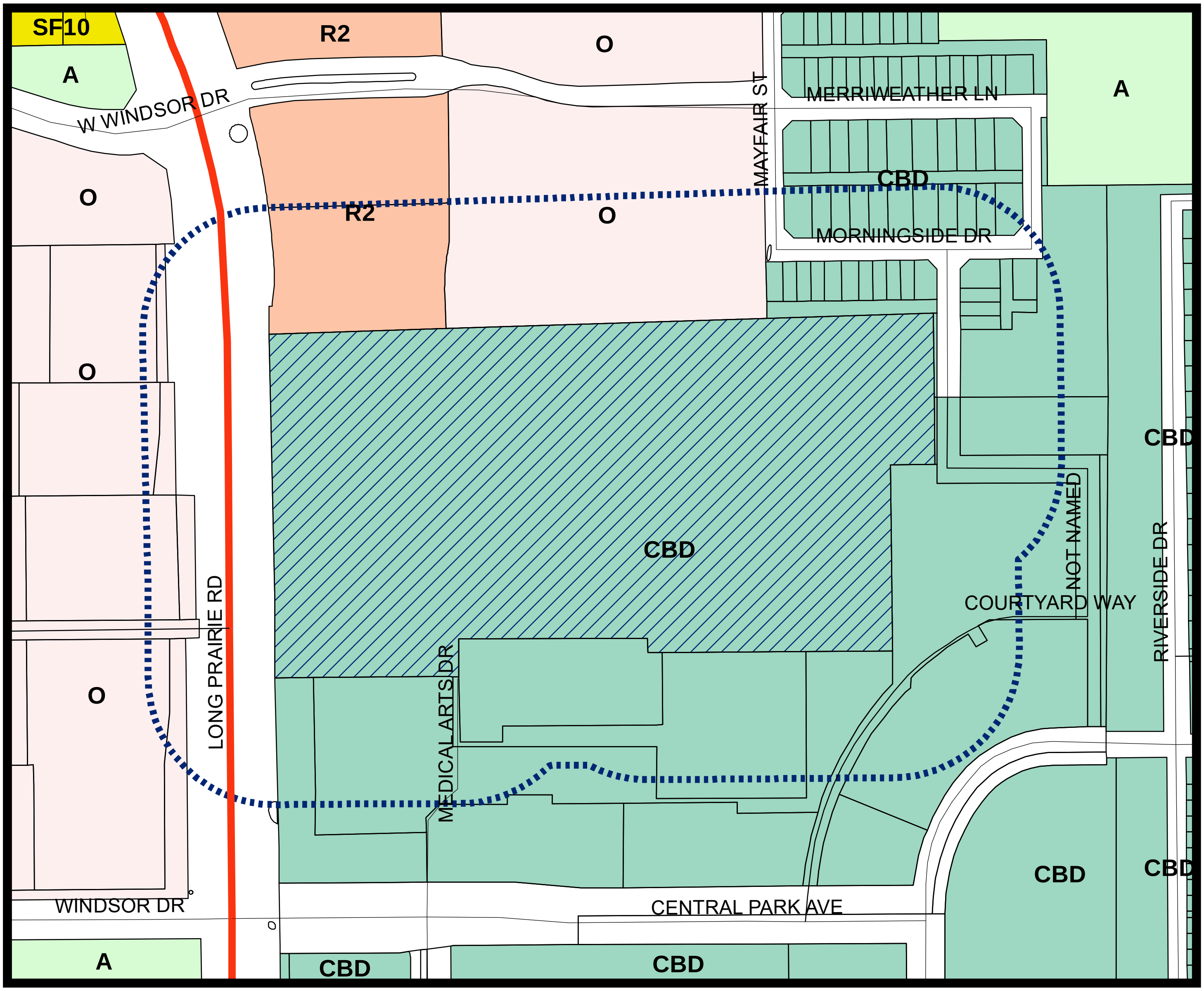
IV. ATTACHMENTS

A. Background Information
1. Vicinity Map
2. Letter of Intent
3. Exhibit C, Article III, Subsection 3.2 of Ordinance No. 05-15

B. Application Details
1. Zoning Exhibit

Vicinity Map

Reference Project: Z20-0002



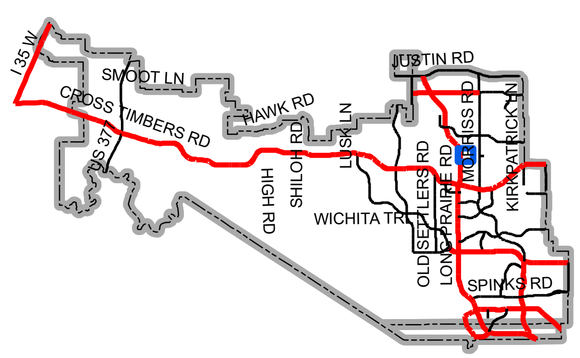
LEGEND

Agriculture | Central Business District | Office | Retail 2 | Single Family 10

Subject Property

200 ft Notification Buffer around Property

0 187.5 375 750 Feet



Map Location

HKS

April 28, 2020

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Re: THPH Observation Expansion
Letter of Intent
HKS Project No. 22004.000

To whom it may concern:

This project planned for Flower Mound Hospital will expand the hospitals services in the River Walk at Central Park Zoning District. The primary purpose is to build an Observation Unit with 18 beds which will serve patients that require 24-48 hour observation but do not need to be admitted into a hospital inpatient unit. The new observation unit expansion sits due north of the hospitals dining and kitchen area, and it will have a public access connection from that lobby space. A small addition to the dining area is also part of the project in that area. The observation unit will also be connected to the existing emergency department from the east side by a new corridor. This will serve as a staff-only access corridor and the means of transferring patients from emergency and to hospital inpatient units. Along that corridor, outside there will be a new drop-off canopy for the Emergency department, and the work in this area will require regrading and minor changes to parking along the drop-off drive.

In addition to the observation unit expansion, the emergency department entry will be slightly expanded to the north to increase the waiting room size and provide better visibility for staff to those waiting for treatment. Also, there are minor renovations to the entry area clinical support rooms of the emergency department including the addition of sub-wait bays which will help patients receive treatment in a timely fashion.

The total expansion area for this project is approximately 14,250sf. It will be constructed in one phase, maintaining access to the existing emergency department throughout.

Sincerely,

Clint Pickett
AIA
Principal

HKS, Inc.
350 N Saint Paul St #100
Dallas, TX 75201

ARTICLE III
COMPLIANCE WITH CONCEPT PLANS; AMENDMENTS TO THE CONCEPT PLANS

3.1 General. The standard of review for approval of a plat, re-plat, amendment to a plat, Site Plan or amendment to a Site Plan as being in compliance with any Concept Plan in these Development Standards shall be the general and overall consistency of the material matters in such plat, re-plat, amendment to a plat, Site Plan or amendment to a Site Plan with the principles of the Concept Plan.

3.2 Minor Changes. Subsequent to approval of any Concept Plan, minor changes may be authorized by the Town Manager or Executive Director of Development Services when such minor changes will not cause any of the following circumstances to occur:

(i) A change in the character of The River Walk CBD;

(ii) A change in the internal boundary of the district or a subdistrict;

(iii) A change in permitted uses in the district or a subdistrict;

(iv) An increase in the intensity of use;

(v) An increase in approved building heights;

(vi) A reduction in the approved buffers separating the development within The River Walk CBD from any existing developed properties or roadways;

(vii) An increase in the problems of circulation, safety and utilities;

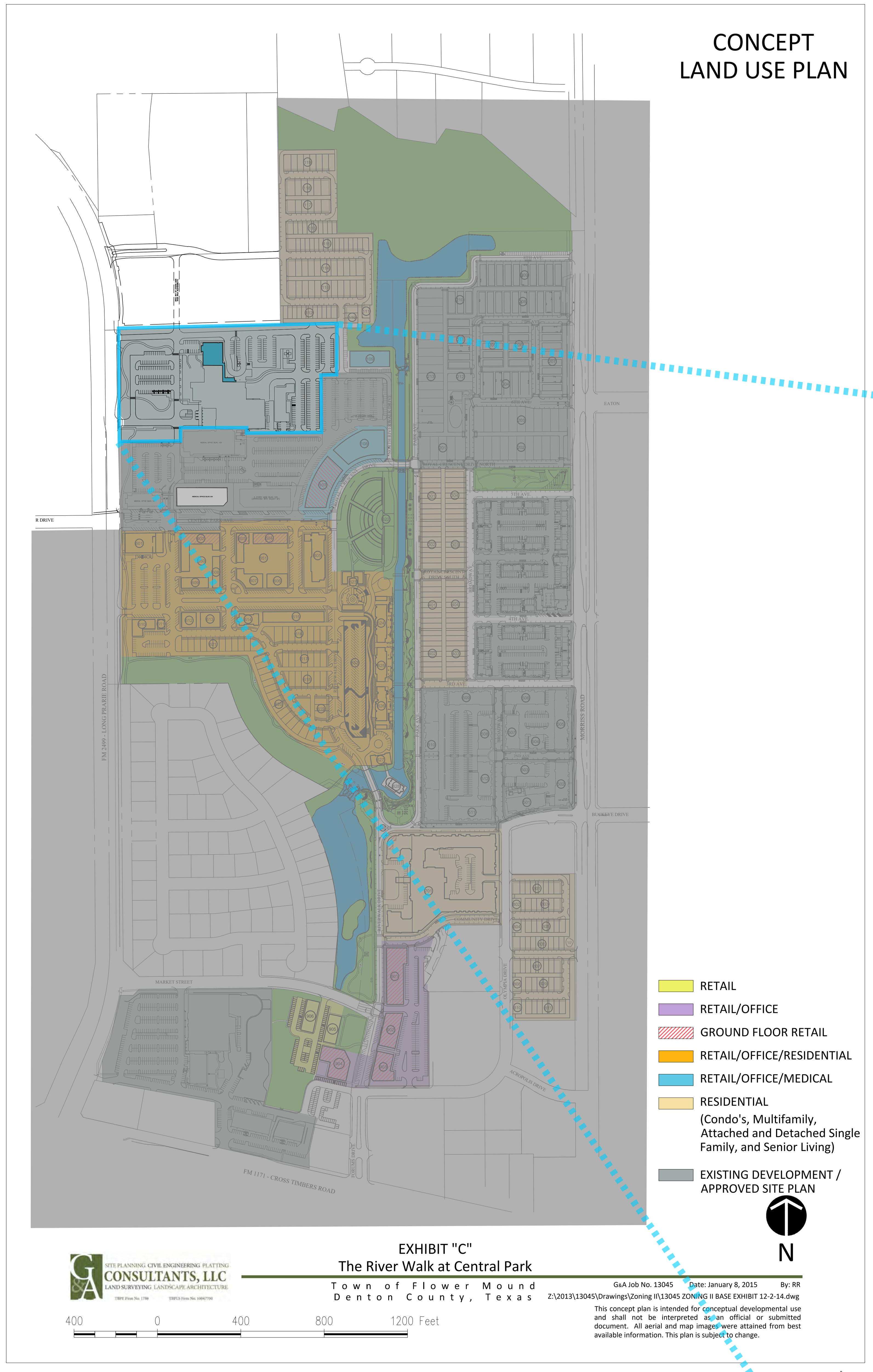
{viii) A reduction in the approved setbacks from property lines;

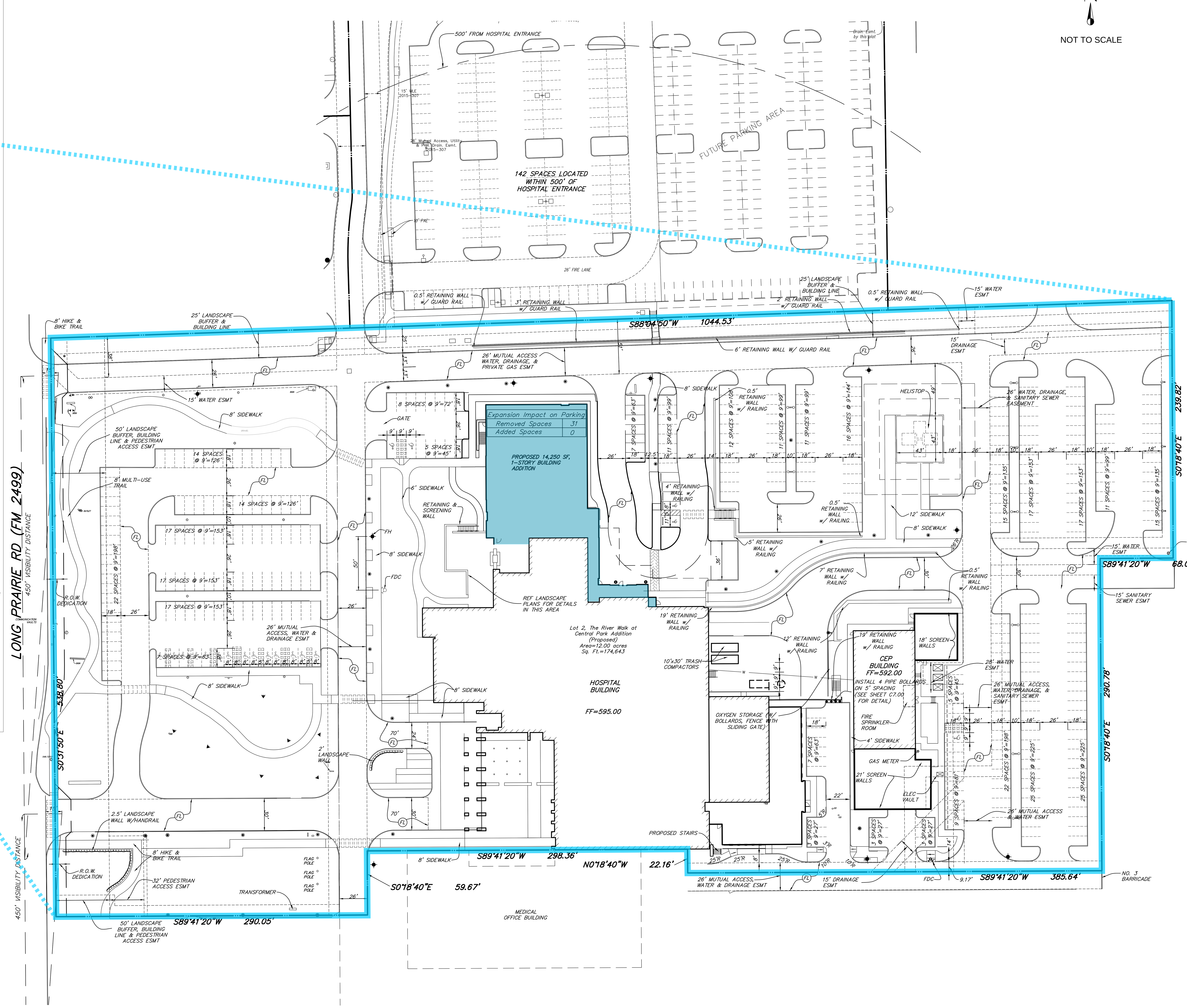
(ix) A decrease in the percentage of open space or common area required;

(x) A reduction in the required number of on-street and off-street parking spaces; or

(xi) An increase of more than ten percent (10%) in ground coverage by any structure.

Zoning Exhibit





TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO._______

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 46-08 AND ORDINANCE NO. 05-15, THE RIVER WALK AT CENTRAL PARK ADDITION, AS AMENDED, THROUGH THE AMENDMENT OF EXHIBIT "C" ENTITLED "CONCEPT PLANS" TO ORDINANCE NO. 05-15 BY ADDING A NEW CONCEPT PLAN FOR THE PRESBYTERIAN HOSPITAL SITE AS DEPICTED IN EXHIBIT "A" TO THIS ORDINANCE; 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 IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town of Flower Mound heretofore adopted the Land Development Regulations of the Town of Flower Mound, as amended, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as approximately 11.888 acres in The River Walk at Central Park Addition have filed an application for a zoning amendment to amend the River Walk at Central Park Zoning Ordinance No. 46-08 and Ordinance No. 05-15 as amended; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on June 8, 2020, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on June 15, 2020, with respect to the proposed zoning amendment as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Zoning Planned Development on the property; and,

WHEREAS, the Town Council finds that the zoning amendment as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public.

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

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area as shown below:

11.888 acres of land and being all of Lot 1R, Block A, The River Walk at Central Park Addition, Denton County, Texas.

Exhibit “C” to Ordinance No. 05-15, as amended, which exhibit is entitled "Concept Plans," is hereby amended by adding the maps designated as “Concept Land Use Plan-Presbyterian Hospital,” as depicted in Exhibit “A” to this ordinance attached hereto and incorporated herein.

SECTION 2

The use of the property described above shall be subject to all restrictions, terms and conditions contained in Exhibit “A,” attached hereto, as well as the applicable regulations contained in Ordinance No. 46-08, Ordinance No. 05-15, the Land Development Regulations, and all other applicable and pertinent ordinances of the Town of Flower Mound.

SECTION 3

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

SECTION 4

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 8

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 15TH DAY OF JUNE, 2020.

APPROVED:

____
Steve Dixon, **MAYOR**

ATTEST:

____
Theresa Scott, **TOWN SECRETARY**

EXHIBIT "A" - CONCEPT LAND USE PLAN - PRESBYTERIAN HOSPITAL

Zoning Exhibit

NOT TO SCALE

TOWN COUNCIL AGENDA ITEM NO. 14

REGULAR ITEM

DATE: June 15, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Consider a request for a Site Plan (SP19-0012 – DFW North Distribution Center (Lisanti)) to approve aggregate or inorganic materials in accordance with Section 82-247 of the Land Development Regulations. The property is generally located south of Spinks Road and east of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its June 8, 2020, meeting.)**

SUMMARY DATA:

- Size – 12.08 acres
- Existing building – 164,580 sf
- Basis of request – Compliance with landscaping restrictions on aggregate or inorganic materials
- SMARTGrowth – N/A, review not triggered
- Traffic Analysis – N/A, review not triggered
- Exceptions – N/A
- Incentives – N/A

BACKGROUND INFORMATION: Attached is the Planning and Zoning Commission (P&Z) report and backup for this item.

ATTACHMENTS:

1. Planning and Zoning Commission Staff Report

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

PLANNING AND ZONING COMMISSION

AGENDA ITEM NO: 2

REGULAR ITEM

DATE: June 8, 2020

FROM: Chuck Russell, Principal Planner

ITEM: **Consider a request for a Site Plan (SP19-0012 – DFW North Distribution Center II (Lisanti) to approve aggregate or inorganic materials in accordance with Section 82-247 of the Land Development Regulations. The property is generally located south of Spinks Road and east of Long Prairie Road.**

I. ITEM SUMMARY

This application has been reviewed by DRC and has been scheduled for consideration by the Planning and Zoning Commission.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of this request is to obtain site plan approval in accordance with Section 82-247 of the Land Development Regulations that allows the use of aggregate or inorganic materials to satisfy the Town's landscaping requirements with certain limitations. The subject site contains the Lisanti warehouse and distribution center. The original site plan for this use was approved by Town Council on August 4, 2014. The property is located within Planned Development District No. 135 (PD-135) for Campus Industrial (CI) uses and is designated for Campus Industrial uses in the Town's Master Plan. The subject property is also located within the Lakeside Business District Area Plan.

Aggregate or inorganic materials include rock, stone, decomposed granite and synthetic or artificial turf. The complete language of Section 82-247 "Aggregate or Inorganic Materials' (AIM) is located in Attachment A(3). On March 18, 2019, the Town Council approved an ordinance that amended this Code Section and further defined where synthetic turf can be located.

> *Synthetic turf is restricted only to outdoor recreation and play areas. Town Council may approve additional locations and coverage amounts for properties located in areas master planned for Campus Industrial uses within the Lakeside Business District. All synthetic turf applications must meet the Criteria for Synthetic Turf Installation as maintained by the Town Manager or his designee.*

The percentages of all landscaped areas existing on the subject property are as follows:

PLANTING BEDS	6,354 SF (6.6%)
SYNTHETIC TURF	19,138 SF (19.9%)
LAWN AREAS	63,510 SF (66.0%)
RIVER ROCK	7,170 SF (7.5%)
TOTAL LANDSCAPE AREA	96,172 SF

The locations of these existing materials are depicted in Attachment B(1).

Section 82-247 further states:

> *Notwithstanding the foregoing, the Town may approve alternate plans, designs, and materials that comply with the intent of this section and that are in accordance with generally accepted industry standards."*

The applicant is requesting approval of the plans in Attachment B(1) in accordance with the updated AIM ordinance. The proposed site plan also updates the numbers and locations of required trees, as well as the location of the approved cell tower compound. Final action must be taken by Town Council.

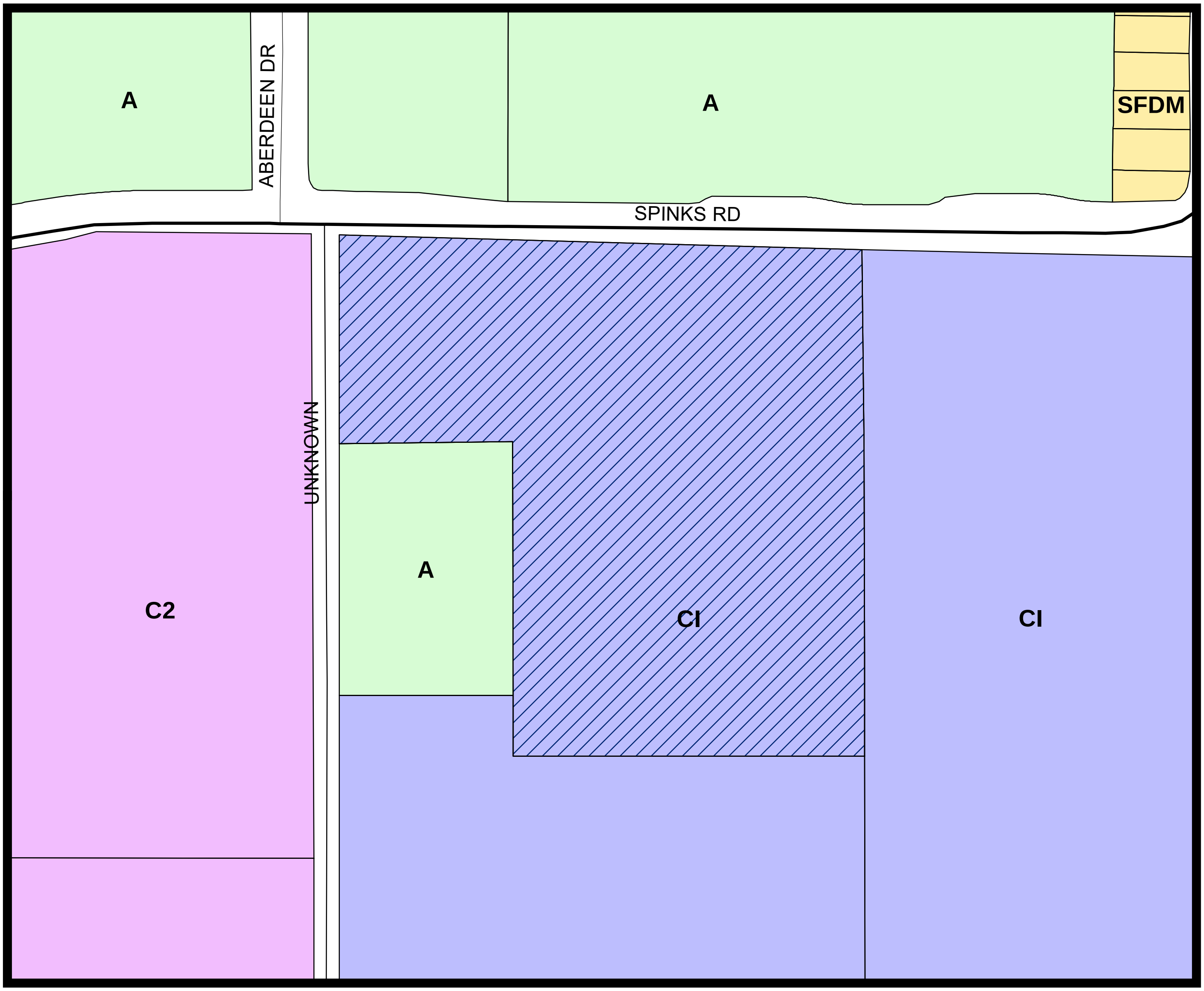
III. ATTACHMENTS

A. Background Information
1. Vicinity Map
2. Letter of Intent
3. Section 82-247 "Aggregate or Inorganic Materials"

B. Application Details
1. Site Plan Package

Vicinity Map

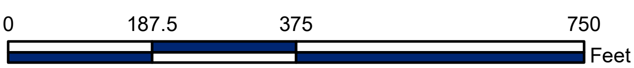
Reference Project: SP19-0012

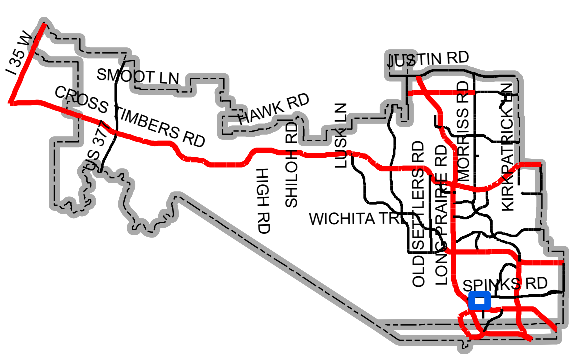


LEGEND

- **Agriculture**
- **Campus Industrial**
- **Commercial 2**
- **Single Family Density Medium**

Subject Property





Map Location

Lisanti Foodservice

2010 LAKESIDE PARKWAY, SUITE 100
FLOWER MOUND, TX 75028
PHONE: 972-929-8810

Lisanti Foodservice of Texas

2010 Lakeside Parkway

Flower Mound TX 75028

December 1, 2019

Town Of Flower Mound

Planning & Zoning

Flower Mound TX 75028

To Whom This May Concern;

We are submitting this letter to explain our intentions are to have a clean and uniform warehouse for food distribution.

The purpose for the artificial turf, as explain in town council meetings, is to have a clean, saniary, uniform, and professional warehouse to conduct business.

Please see the landscape plan attached for all detailed information regarding the square footage of the turf and also the trees.

Thank you

Joe Lisanti

Lisanti Foodservice of Texas

Sec. 82-247. - Aggregate or inorganic materials.

Aggregate or inorganic materials (AIM) may be used to satisfy the landscape requirements of this article if such materials do not predominate over plant material. For the purposes of this requirement, the following more particularly describes the criteria applicable for use of AIM as a soil cover:

(1) The use of AIM shall be restricted by the following requirements:

  a. Coverage cannot exceed 20 percent of the total open green space on a site, excluding decomposed granite pathways and patios.

  b. Substitution for soil as a planting medium is not allowed.

  c. Placement over an entire island or landscape planting bed is not allowed.

  d. Synthetic turf is restricted only to outdoor recreation and play areas. Town council may approve additional locations and coverage amounts for properties located in areas master planned for campus industrial uses within the lakeside business district. All synthetic turf applications must meet the criteria for synthetic turf installation as maintained by the town manager or his designee.

(2) The use of AIM shall comply with the following standards:

  a. Installation shall mitigate migration of material over time.

  b. Material must be sized appropriately to provide for slope stabilization.

  c. Depth may not exceed four inches.

  d. Size must be greater than the no. 4 sieve (4.75 mm) and smaller than 3 inches in diameter.

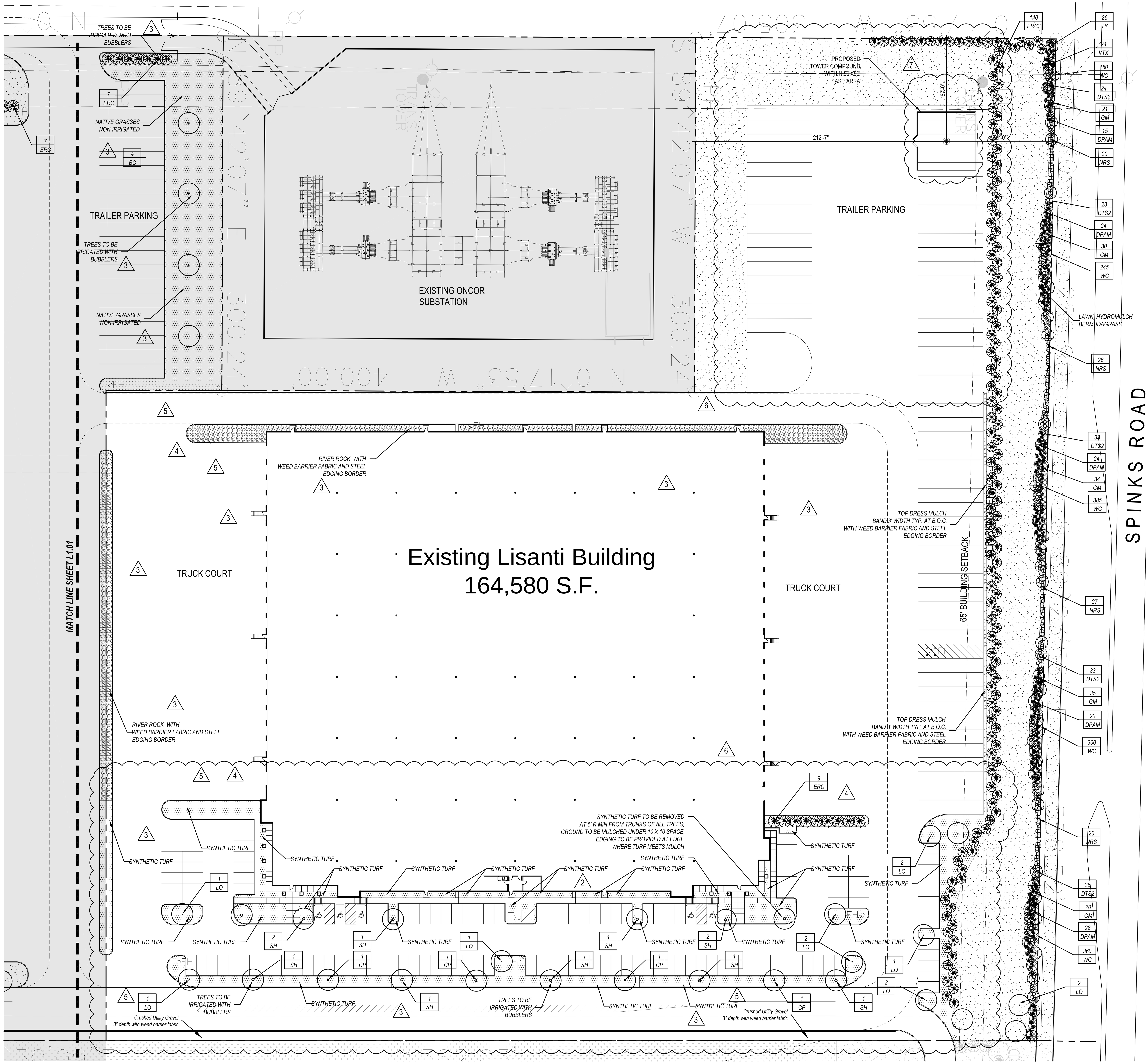
  e. Material must be washed or screened and free of "fines" in order to aid in water infiltration.

  f. Polypropylene and non-porous based weed barrier is strictly prohibited.

  g. Subsurface drip irrigation is the only allowed type of irrigation in bed areas covered with AIM.

(3) Notwithstanding the foregoing, the Town may approve alternate plans, designs, and materials that comply with the intent of this section and that are in accordance with generally accepted industry standards.

(Ord. No. 09-17 , § 1, 3-20-2017; Ord. No. 06-19 , § 1, 3-18-2019)



HUNTINGTON™
INDUSTRIAL PARTNERS
5950 Berkshire Lane, Suite 1250
Dallas, Texas 75225
972.951.9016

Revisions: 1 04.01.15; 2 06.22.15; 3 09.02.15; 4 12.7.15; 5 9.10.19; 6 3.2.2020

LANDSCAPE AREA CALCULATIONS

PLANTING BEDS	6,354 SF (6.6%)
SYNTHETIC TURF	19,138 SF (19.9%)
LAWN AREAS	63,510 SF (66.0%)
RIVER ROCK	7,170 SF (7.5%)
TOTAL LANDSCAPE AREA	96,172 SF

SYNTHETIC TURF MAINTENANCE NOTES

1. Synthetic turf shall be maintained in an attractive and clean condition and shall not contain holes, tears, stains, discoloration, seam separations, uplifted surfaces, heat degradation, or excessive wear.

GRAPHIC PLANT LEGEND

- BALD CYPRESS
- LIVE OAK
- RED OAK
- CHINESE PISTACHE
- SAVANNAH HOLLY
- VITEX
- EASTERN RED CEDAR
- TREE YAUPON HOLLY
- DWARF TEXAS SAGE COMPACTUM
- NELLIE R. STEVENS HOLLY
- DWARF PAMPAS GRASS
- DWARF TEXAS SAGE GREEN CLOUD
- GULF MUHLY GRASS
- SYNTHETIC TURF
- LAWN
- RIVER ROCK

PLANT LEGEND

TYPE	COMMON NAME
BC	Bald Cypress
CP	Chinese Pistache
ERC	Eastern Red Cedar
LO	Live Oak
RO	Red Oak 'Shumard'
VTX	Vitex
ERC3	Eastern Red Cedar
SH	Savannah Holly
TY	Tree Yaupon Holly

SHRUBS

TYPE	COMMON NAME
DTS	Dwarf Texas Sage 'Compactum'
NRS	Nellie R. Stevens Holly
DTS2	Dwarf Texas Sage 'Green cloud'
DPAM	Dwarf Pampas Grass
GM	Gulf Muhly

GROUNDCOVER

TYPE	COMMON NAME
WC	Wintercreeper

Eastern Red Cedar should be planted no more than 10-12' from the back of curb so it does not conflict with the trailers

Landscaping should maintain a 5' clear zone from fire hydrants and not obstruct FDCs.

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
DATE:
Town of Flower Mound Engineering Services

DFW NORTH DISTRIBUTION CENTER II
FLOWER MOUND, TEXAS
DENTON COUNTY

MEINHARDT & ASSOCIATES ARCHITECTS, P.L.L.C

REGISTERED LANDSCAPE ARCHITECT BRIAN D. ADAMS 1761 STATE OF TEXAS 3.2.2020

CALL BEFORE YOU DIG 1-800-245-4545 TEXAS ONE CALL SYSTEM

01 LANDSCAPE PLAN
SCALE: 1" = 40'-0"
0 20 40 80

ASP13-

smr
landscape architects, inc.
1708 N. Griffin Street
Dallas, Texas 75202
Tel 214.871.0083
Fax 214.871.0545
Email smr@smr-la.com

DATE: 3.17.15
DRAWN BY:
CHECKED BY:
SHEET:
L1.02

HUNTINGTON™ INDUSTRIAL PARTNERS
5950 Berkshire Lane, Suite 1250
Dallas, Texas 75225
972.951.9016

06.22.15
12.7.15

SECTION 02900 - LANDSCAPE

PART 1 - GENERAL

1.1 REFERENCED DOCUMENTS

Refer to bidding requirements, special provisions, and schedules for additional requirements.

1.2 DESCRIPTION OF WORK

Work included: Furnish all supervision, labor, materials, services, equipment and appliances required to complete the work covered in conjunction with the landscaping covered in these specifications and landscaping plans, including:

1. Planting (trees, shrubs, and grass)
2. Bed preparation and fertilization
3. Notification of sources
4. Water and Maintenance until final acceptance
5. Guarantee

1.3 REFERENCE STANDARDS

A. American Standard for Nursery Stock published by American Association of Nurserymen: 27 October 1980, Edition; by American National Standards Institute, Inc. (Z60.1) – plant material.

B. American Joint Committee on Horticultural Nomenclature: 1942 Edition of Standardized Plant Names.

C. Texas Association of Nurserymen, Grades and Standards.

D. Hortis Third, 1976 - Cornell University

1.4 NOTIFICATION OF SOURCES AND SUBMITTALS

A. The Contractor shall, within ten (10) days following acceptance of bid, notify the Architect/Owner of the sources of plant materials and bed preparation required for the project.

B. Samples: Provide representative quantities of sandy loam soil, mulch, bed mix material, gravel, and crushed stone. Samples shall be approved by Architect before use on project.

C. Product Data: Submit complete product data and specifications on all other specified materials.

D. Submit three representative samples of each variety of ornamental trees, shrubs, and groundcover plants for Architect's approval. When approved, tag, install, and maintain as representative samples for final installed plant materials.

E. File Certificates of Inspection of plant material by state, county, and federal authorities with Architect, if required.

F. Soil Analysis: Provide sandy loam soil analysis if requested by the Architect.

JOB CONDITIONS

A. General Contractor to complete the following punch list: Prior to Landscape Contractor initiating any portion of landscape installation, General Contractor shall leave planting bed areas three (3") inches below finish grade of sidewalks, drives and curbs as shown on the drawings. All lawn areas to receive solid sod shall be left one (1") inch below the finish grade of sidewalks, drives, and curbs. All construction debris shall be removed prior to Landscape Contractor beginning any work.

B. General Contractor shall provide topsoil as described in Section 02200 - Earthwork.

C. Storage of materials and equipment at the job site will be at the risk of the Landscape Contractor. The Owner cannot be held responsible for theft or damage.

1.6 MAINTENANCE AND GUARANTEE

A. Maintenance:

1. The Landscape Contractor will be held responsible for the maintenance of all work from the time of planting until final acceptance by the Owner. No trees, shrubs, groundcover or grass will be accepted unless they show a healthy growth and satisfactory foliage conditions.
2. Maintenance shall include watering of trees and plants, cultivation, weeding spraying, edging, pruning of trees, mowing of grass, cleaning up and all other work necessary of maintenance.
3. A written notice requesting final inspection and acceptance should be submitted to the Owner at least seven (7) days prior to completion. An on-site inspection by Owner and Landscape Contractor will be completed prior to written acceptance.
4. After final acceptance of installation, the Landscape Contractor will not be required to do any of the above listed work.

B. Guarantee:

1. Trees shall be guaranteed for a twelve (12) month period after acceptance. Shrubs and groundcover shall be guaranteed for twelve (12) months. The Contractor shall replace all dead materials as soon as weather permits and upon notification of the Owner. Plants, including trees, which have partially died so that shape, size, or symmetry has been damaged, shall be considered subject to replacement. In such cases, the opinion of the Owner shall be final.
   a. Plants used for replacement shall be of the same size and kind as those originally planted and shall be planted as originally specified. All work, including materials, labor and equipment used in replacements, shall carry a twelve (12) month guarantee. Any damage, including ruts in lawn or bed areas, incurred as a result of making replacements shall be immediately repaired.
   b. At the direction of the Owner, plants may be replaced at the start of the next year's planting season. In such cases, dead plants shall be removed from the premises immediately.
   c. When plant replacements are made, plants, soil mix, fertilizer and mulch are to be utilized as originally specified and reinspected for full compliance with Contract requirements. All replacements are to be included under "Work" of this section.
2. The Owner agrees that for the guarantee to be effective, he will water plants at least twice a week during dry periods and cultivate beds once a month after final acceptance.
3. The above guarantee shall not apply where plants die after acceptance because of injury from storms, hail, freeze, insects, diseases, injury by humans, machines or theft.
4. Acceptance for all landscape work shall be given after final inspection by the Owner provided the job is in a completed, undamaged condition, and there is a stand of grass in all lawn areas. At this time, the Owner will assume maintenance on the accepted work.

C. Repairs: Any necessary repairs under the Guarantee must be made within ten (10) days after receiving notice, weather permitting, and in the event the Landscape Contractor does not make repairs accordingly, the Owner, without further notice to Contractor, may provide materials and men to make such repairs at the expense of the Landscape Contractor.

1.7 QUALITY ASSURANCE

A. General: Comply with applicable Federal, State, County and Local regulations governing landscape materials and work

B. Personnel: Employ only experienced personnel who are familiar with the required work. Provide full time supervision by a qualified foreman acceptable to Landscape Architect.

C. Selection of Plant Material:

1. Make contact with suppliers immediately upon obtaining notice of contract acceptance to select and book materials. Develop a program of maintenance (pruning and fertilization) which will insure the purchased materials will meet and/or exceed project specifications.
2. Landscape Architect will provide a key identifying each tree location on site. Written verification will be required to document material selection, source and delivery schedules to site.
3. Owner and/or Architect shall inspect all plant materials when reasonable at place of growth for compliance with requirements for genus, species, cultivar/variety, size and quality.
4. Owner and/or Architect retains the right to further inspect all plant material upon arrival at the site and during installation for size and condition of root balls, limbs, branching habit, insects, injuries, and latent defects.
5. Owner and/or Architect may reject unsatisfactory or defective material at any time during the process of work. Remove rejected materials from the site immediately. Plants damaged in transit or at job site shall be rejected.

1.8 PRODUCT DELIVERY, STORAGE AND HANDLING

A. Preparation:

1. Balled and Burlapped (B&B) Plants: Dig and prepare shipment in a manner that will not damage roots, branches, shape, and future development.
2. Container Grown Plants: Deliver plants in rigid container to hold ball shape and protect root mass.

A. Delivery:

1. Deliver packaged materials in sealed containers showing weight, analysis and name of manufacturer. Protect materials from deterioration during delivery and while stored at site.
2. Deliver only plant materials that can be planted in one day unless adequate storage and watering facilities are available on job site.
3. Protect root balls by heeling in with sawdust or other approved moisture retaining material if not planted within 24 hours of delivery.
4. Protect plants during delivery to prevent damage to root balls or desiccation of leaves. Keep plants moist at all times. Cover all materials during transport.
5. Notify Architect of delivery schedule 72 hours in advance so plant material may be observed upon arrival at job site.
6. Remove rejected plant material immediately from site.
7. To avoid damage or stress, do not lift, move, adjust to plumb, or otherwise manipulate plants by trunk or stems.

PART 2 - PRODUCTS

2.1 PLANTS

A. General: Well-formed No. 1 grade or better nursery grown stock. Listed plant heights are from tops of root balls to nominal tops of plants. Plant spread refers to nominal outer width of the plant, not to the outer leaf tips. Plants will be individually approved by the Architect and his decision as to their acceptability shall be final.

B. Quantities: The drawings and specifications are complimentary. Anything called for on one and not the other is as binding as if shown and called for on both. The plant schedule is an aid to bidders only. Confirm all quantities on plan.

C. Quality and size: Plant materials shall conform to the size given on the plan, and shall be healthy, symmetrical, well-shaped, full branched, and well rooted. The plants shall be free from injurious insects, diseases, injuries to the bark or roots, broken branches, objectionable disfigurements, insect eggs and larvae and are to be of specimen quality.

D. Approval: All plant materials shall be subject to the approval of the Owner. All plants which are found unsuitable in growth, or in any unhealthy, badly shaped, or undersized condition, will be rejected by the Landscape Architect, either before or after planting, and shall be removed at the expense of the Landscape Contractor and replaced with acceptable plants as specified.

E. Trees shall be healthy, full-branched, well-shaped and shall meet the trunk diameter and height requirements of the plant schedule. Balls shall be firm, neat, slightly tapered, and well wrapped in burlap. Any tree loose in the ball or with broken ball at time of planting will be rejected. Balls shall be ten (10") inched in diameter for each one (1") inch of trunk diameter, Measured six (6") inched above ball.
Nomenclature conforms to the customary nursery usage: for clarification, the term "multi-trunk" defines a plant having three (3) or more trunks of nearly equal diameter.

F. Pruning: All pruning of trees and shrubs, as directed by the Landscape Architect, shall be executed by the Landscape Contractor at no additional cost to the Owner.

2.2 SOIL PREPARATION MATERIALS

A. Sandy Loam:

1. Friable, fertile, dark, loamy soil, free of clay lumps, subsoil, stones and other extraneous material and reasonably free of weeds and foreign grasses. Loam containing Dallasgrass or Nutgrass shall be rejected.
2. Physical properties as follows:
   Clay – between 7-27 percent
   Silt – between 15-25 percent
   Sand – less than 52 percent
3. Organic matter shall be 3%-10% of total dry weight.
4. If requested, provide a certified soil analysis conducted by an approved soil testing laboratory verifying that sandy loam meets the above requirements.

B. Organic Material: Compost with a mixture of 80% vegetative matter and 20% animal waste. Ingredients should be a mix of course and fine textured material.

C. Premixed Bedding Soil as supplied by Vital Earth Resources, Gladewater, Texas; Professional Bedding Soil as supplied by Living Earth Technology, Dallas, Texas or Acid Gro Municipal Mix as supplied by Soil Building Systems, Dallas, Texas or approved equal.

D. Sharp Sand: Sharp sand must be free of seeds, soil particles and weeds.

E. Mulch: Double Shredded Hardwood Mulch, partially decomposed, dark brown. Living Earth Technologies or approved equal.

F. Organic Fertilizer: Fertilaid, Sustane, or Green Sense or equal as recommended for required applications. Fertilizer shall be delivered to the site in original unopened containers, each bearing the manufacturer's guaranteed statement of analysis.

A. Commercial Fertilizer: 10-20-10 or similar analysis. Nitrogen source to be a minimum 50% slow release organic Nitrogen (SCU or UF) with a minimum 8% sulphur and 4% iron, plus micronutrients.

B. Peat: Commercial sphagnum peat moss or partially decomposed shredded pine bark or other approved organic material.

2.3 MISCELLANEOUS MATERIALS

A. Steel Edging: Shall be Ryerson "Estate Curbing", 1/8" x 4" with stakes 4' on center.

B. Staking Material for Shade Trees:

1. Post: Studded T-Post, #1 Armco with anchor plate; 6'-0" length; paint green.
2. Wire: 12 gauge, single strand, galvanized wire.
3. Rubber hose: 2 ply, fiber reinforced hose, minimum ½ inch inside diameter. Color: Black.

C. Gravel: Washed native pea gravel, graded 1 in. to 1-1/2 in.

D. Filter Fabric: Mirafi 140N by Celanese Fibers Marketing Company, available at Loftland Co., (214) 631-5250 or approved equal.

PART 3 - EXECUTION

3.1 BED PREPARATION & FERTILIZATION

A. Landscape Contractor to inspect all existing conditions and report any deficiencies to the Owner.

B. All planting areas shall be conditioned as follows:

1. Prepare new planting beds by scraping away existing grass and weeds as necessary. Till existing soil to a depth of six (6") inches prior to placing compost and fertilizer. Apply fertilizer as per manufacturers recommendations. Add six (6") inches of compost and till into a depth of six (6") inches of the topsoil. Apply organic fertilizer such as Sustane or Green Sense at the rate of twenty (20) pounds per one thousand (1,000) square feet.
2. All planting areas shall receive a two (2") inch layer of specified mulch.
3. Backfill for tree pits shall be as follows: Use existing top soil on site (use imported topsoil as needed) free from large clumps, rocks, debris, caliche, subsoils, etc., placed in nine (9") inch layers and watered in thoroughly.

C. Grass Areas:

1. Areas to be Solid Sod Bermudagrass: Blocks of sod should be laid joint to joint, (staggered joints) after fertilizing the ground first. Roll grass areas to achieve a smooth, even surface. The joints between the blocks of sod should be filled with topsoil where they are evidently gaped open, then watered thoroughly.
2. Areas to be Hydromulch Common Bermudagrass: Hydromulch with bermudagrass seed at a rate of two (2) pounds per one thousand (1,000) square feet. Use a 4' x 8' batter board against the bed areas.

3.2 INSTALLATION

A. Maintenance of plant materials shall begin immediately after each plant is delivered to the site and shall continue until all construction has been satisfactorily accomplished.

B. Plant materials shall be delivered to the site only after the beds are prepared and area ready for planting. All shipments of nursery materials shall be thoroughly protected from the drying winds during transit. All plants which cannot be planted at once, after delivery to the site, shall be well protected against the possibility of drying by wind and sun. Balls of earth of B & B plants shall be kept covered with soil or other acceptable material. All plants remain the property of the Contractor until final acceptance.

C. Position the trees and shrubs in their intended location as per plan.

D. Notify the Landscape Architect for inspection and approval of all positioning of plant materials.

E. Excavate pits with vertical sides and horizontal bottom. Tree pits shall be large enough to permit handling and planting without injury to balls of earth or roots and shall be of such depth that, when planted and settled, the crown of the plant shall bear the same relationship to the finish grade as it did to soil surface in original place of growth.

F. Shrub and tree pits shall be no less than two (2') feet, twenty-four (24") inches, wider than the lateral dimension of earth ball and six (6") inches deeper than it's vertical dimension. Remove and haul from site all rocks and stones over one (1") inch in diameter. Plants should be thoroughly moist before removing containers.

G. Dig a wide, rough sided hole exactly the same depth as the height of the ball, especially at the surface of the ground. The sides of the hole should be rough and jagged, never slick or glazed.

H. Percolation Test: Fill the hole with water. If the water level does not percolate within 24 hours, the tree needs to move to another location or have drainage added. Install a PVC stand pipe per tree planting detail as approved by the Landscape Architect.

I. Backfill only with 5 parts existing soil or sandy loam and 1 part bed preparation. When the hole is dug in solid rock, topsoil from the same area should not be used. Carefully settle by watering to prevent air pockets. Remove the burlap from the top 1/3 of the ball, as well as all nylon, plastic string and wire mesh. Container trees will usually be pot bound, if so follow standard nursery practice of 'root scoring'.

J. Do not wrap trees.

K. Do not over prune.

L. Mulch the top of the ball. Do not plant grass all the way to the trunk of the tree. Leave the area above the top of the ball and mulch with at least two (2") inches of specified mulch.

M. All plant beds and trees to be mulched with a minimum settled thickness of two (2") inches over the entire bed or pit.

N. Obstruction below ground: In the event that rock, or underground construction work or obstructions are encountered in any plant pit excavation work to be done under this section, alternate locations may be selected by the Owner. Where locations cannot be changed, the obstructions shall be removed to a depth of not less than three (3') feet below grade and no less than six (6") inches below the bottom of ball when plant is properly set at the required grade. The work of this section shall include the removal from the site of such rock or underground obstructions encountered at the cost of the Landscape Contractor.

O. Trees and large shrubs shall be staked as site conditions require. Position stakes to secure tree against seasonal prevailing winds.

P. Pruning and Mulching: Pruning shall be directed by the Architect and shall be pruned in accordance with standard horticultural practice following Fine Pruning, Class I pruning standards provided by National Arborist Association.

1. Dead wood or suckers and broken badly bruised branches shall be removed. General tipping of the branched is not permitted. Do not cut terminal branches.
2. Pruning shall be done with clean, sharp tools.
3. Immediately after planting operations are completed, all tree pits shall be covered with a layer of organic material two (2") inches in depth. This limit of the organic material

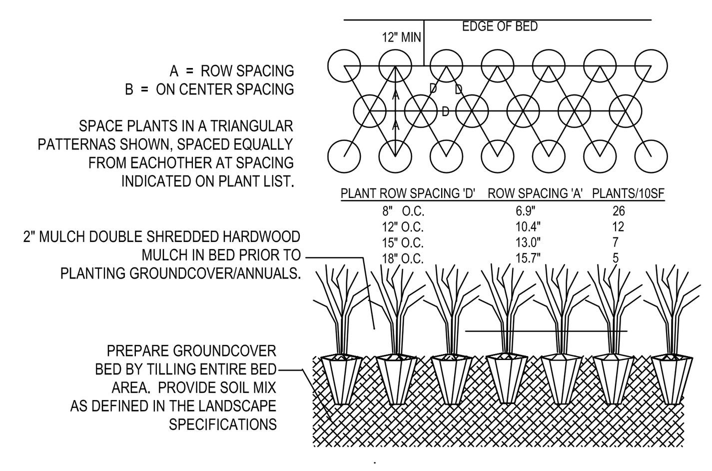
Q. Steel Curbing Installation:

1. Curbing shall be aligned as indicated on plans. Stake out limits of steel curbing and obtain Owners approval prior to installation.
2. All steel curbing shall be free of kinks and abrupt bends.
3. Top of curbing shall be 3/4" maximum height above grade.
1. Stakes are to be installed on the planting bed side of the curbing, as opposed to the grass side.
2. Do not install steel edging along sidewalks.
3. Cut steel edging at 45 degree angle where edging meets sidewalk.

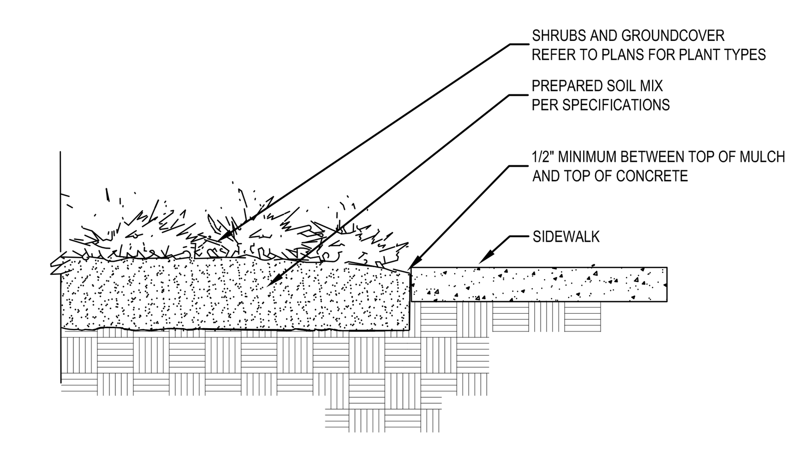
3.3 CLEANUP AND ACCEPTANCE

A. Cleanup: During the work, the premises shall be kept neat and orderly at all times. Storage areas for all materials shall be so organized that they, too, are neat and orderly. All trash and debris shall be removed from the site as work progresses. Keep paved areas clean by sweeping or hosing at end of each days work.

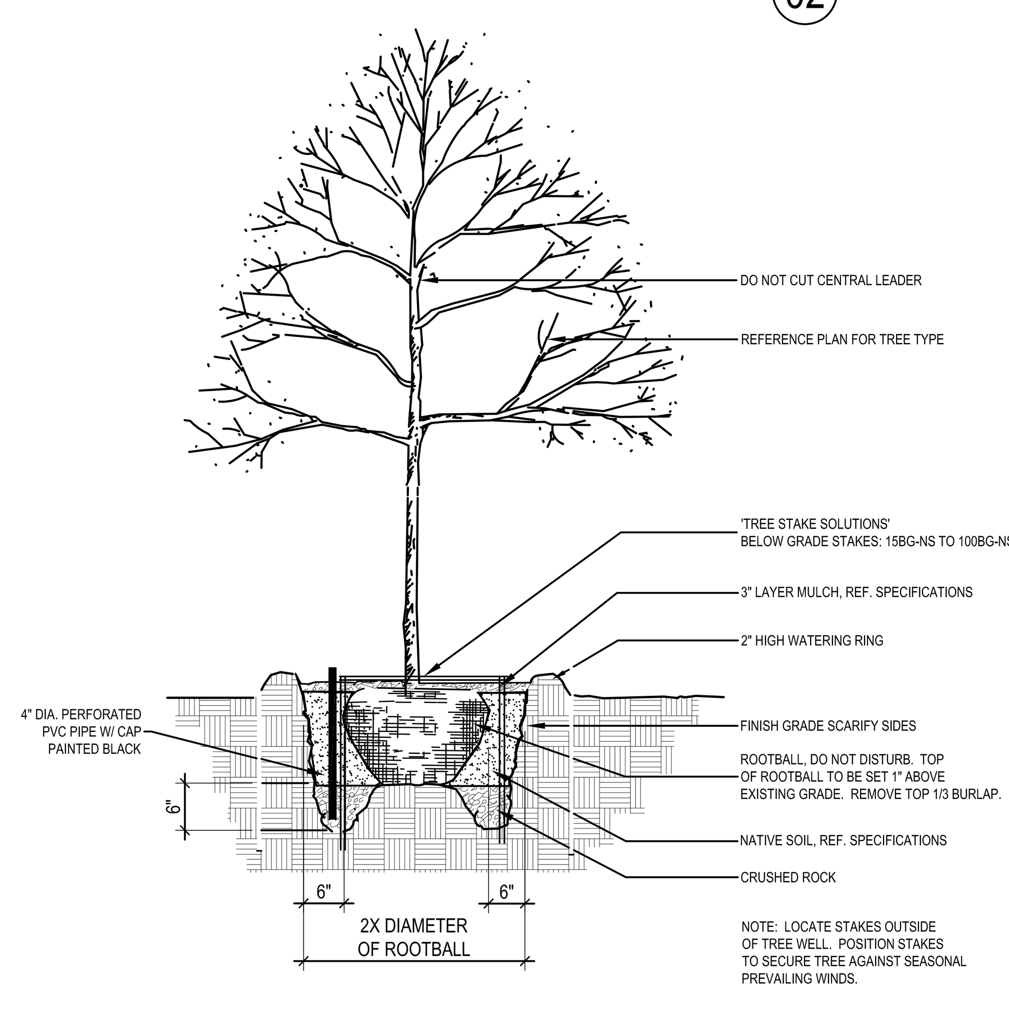
END OF SECTION



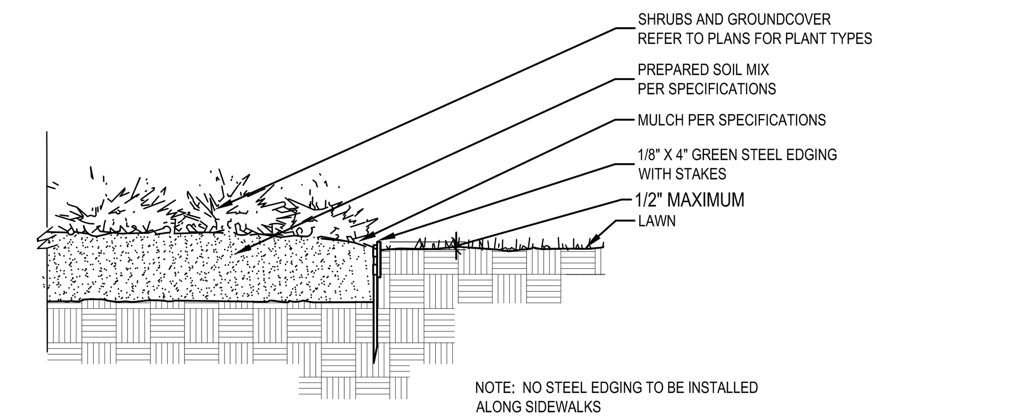
02 GROUNDCOVER PLANTING DETAIL
NOT TO SCALE



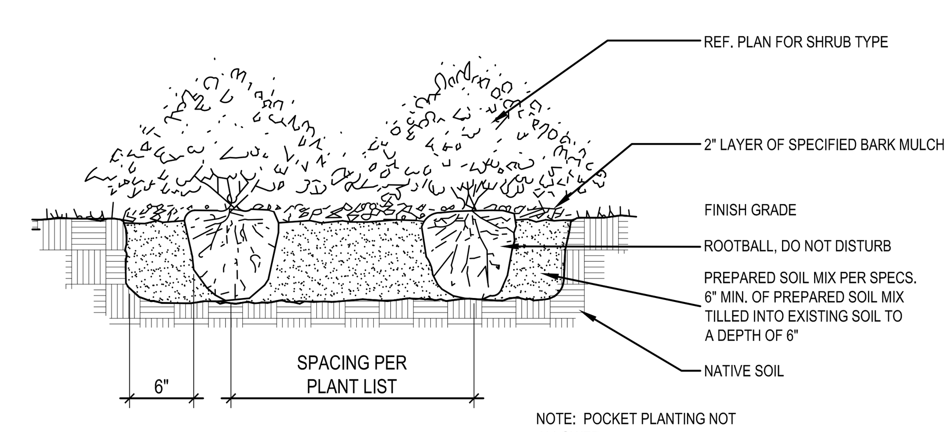
03 SIDEWALK / MULCH DETAIL
no steel along sidewalks
NOT TO SCALE



01 TREE PLANTING DETAIL
NOT TO SCALE



04 STEEL EDGING DETAIL
NOT TO SCALE



05 SHRUB PLANTING DETAIL
NOT TO SCALE

DENTON COUNTY

DFW NORTH DISTRIBUTION CENTER II
FLOWER MOUND, TEXAS

MEINHARDT & ASSOCIATES ARCHITECTS, P.L.L.C

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
DATE:

Town of Flower Mound
Engineering Services

9.10.19

ASP13-0015

smr
landscape architects, inc.
1708 N. Griffin Street
Dallas, Texas 75202
Tel 214.871.0083
Fax 214.871.0545
Email smr@smr-la.com

DATE: 3.17.15
DRAWN BY:
CHECKED BY:
SHEET:

L1.03

TOWN COUNCIL AGENDA ITEM NO. 15

REGULAR ITEM

DATE: June 15, 2020

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

ITEM: **Consider approval of a Construction Agreement with Muniz Construction, Inc., for the High Road Water Line Replacement Phase III project, in the amount of $1,225,406.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND INFORMATION: On April 14, 2020, bids were received and opened for the High Road Water Line Replacement Phase III project (Bid # 2020-67-B). Muniz Construction Inc., submitted the lowest qualified bid of the ten responding bidders at a base bid of $1,233,964.00 with bid alternates decreasing the project amount by $8,558.00 for a total of $1,225,406.00

The High Road Water Line Replacement Phase III project includes water line replacements in the Lake Ridge Road, Hickory Springs, and Lost Creek neighborhoods. These water line replacements are necessary due to their size, age, and condition.

Bid Alternative 1 requires the contractor to bore the water line under driveways instead of open cut. This will allow residents unrestricted access to their homes during construction and will reduce impacts to existing infrastructure. Bid Alternative 1 reduces the base bid by $8,558.00.

BOARD REVIEW/CITIZEN FEEDBACK: A neighborhood meeting was held on February 19, 2020 to discuss the project design plans and provide a construction schedule. Resident feedback was received and incorporated into the design plans.

ALTERNATIVES/OPTIONS: Water service to the project area is provided by substandard infrastructure installed prior to the Towns incorporation, a significant portion of the project area is served by undersized water mains providing insufficient fire flows, and the lines are prone to breaking and interrupting service in the area. A decision not to approve the construction award will cause these issues to remain until such time the water lines are replaced.

FISCAL IMPACT: $1,225,406.00

Proposed Expenditure/(Revenue):	Account Number(s):
$1,225,406.00	630-960-98851

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

Total project cost is $ 1,500,000. Funding source (s) are:

- Utility Debt $ 1,500,000

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

ATTACHMENTS:

1. Bid Tabulation
2. Construction Agreement

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

Attachment 1

Town of Flower Mound
Bid Tabulation

Bid No: 2020-67-B - High Road Water Line Replacement Phase III

Bid Opening: 4/14/2020 at 11:00 AM

Company	Base Bid
Muniz Construction Inc	$ 1,233,964.00
Dowager Utility Construction, Ltd	$ 1,294,557.60
Saber Development	$ 1,308,641.00
Canary Construction Inc	$ 1,318,976.00
Western Municipal Construction	$ 1,320,273.00
M-Co Construction, Inc	$ 1,438,280.00
Joe Funk Construction, Inc	$ 1,679,279.48
Mountain Cascade of Texas	$ 1,935,506.00
Atkins Brothers Equipment Co	$ 2,020,812.00
Excel Aircraft dba Excel Trenching	$ 2,972,213.00

**All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.

Certified By: Sabrina Zadow
Purchasing Manager
Town of Flower Mound, Texas

Date: April 14, 2020

TOWN OF FLOWER MOUND

HIGH ROAD WATER LINE REPLACEMENTS PHASE III

Bid # 2020-67-B

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (the "Agreement"), made and entered into this 15th day of June, 2020, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the "Town," and Muniz Construction, Inc., a corporation, hereinafter referred to as the "Contractor." For and in consideration of the payment, agreements, and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

HIGH ROAD WATER LINE REPLACEMENTS PHASE III
Bid # 2020-67-B

in the Town of Flower Mound, Texas, and all extra work in connection therewith, under the terms as stated in this Agreement, and under the terms of the Contract Documents; and at his, her, or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools, and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Conditions and Specifications as prepared by the Town or its consultant hereinafter called "Engineer", who has been identified by the endorsement of the Contractor's written proposal, and the General Conditions, Supplemental Conditions, and Special Provisions of this Agreement, and the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

ARTICLE 1. The Contract Documents shall consist of the following documents:

A. The Construction Agreement;

B. Properly executed Change Orders and Field Orders in writing and executed by the Town, the last in time being first in precedence;

C. Any listed and numbered addenda;

D. Special Provisions;

E. Supplementary Conditions;

F. Construction Drawings or Plans;

G. Technical Specifications;

H. Town's Standard Construction Details;

I. The most current edition of the *Town of Flower Mound Design Criteria and Construction Standards* (by reference);

J. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);

K. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference);

L. The General Conditions;

M. *Public Works Construction Standards - North Central Texas, as amended* (by reference);

N. Notice to Bidders;

O. Instructions to Bidders;

P. The Town's written notice to proceed to Contractor;

Q. The Contractor's Bid Proposal;

R. The Performance Bond, Payment Bond and Maintenance Bond; and

S. Bid materials distributed by the Town that relate to the Project.

These Contract Documents are incorporated by reference into this Agreement as if set out in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided; however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair, and/or correct that component of the project.

ARTICLE 2. For performance of the Work in accordance with the Contract Documents, the Town shall pay the Contractor in current funds an amount not to exceed **One Million Two Hundred Twenty-Five Thousand Four Hundred Six Dollars and Zero cents ($1,225,406.00)** taking into consideration additions to or deductions from the Total Bid through properly executed change orders by reason of alterations or modifications of the original quantities or by reason of "Extra Work" authorized under this Agreement in accordance with the provisions of the Contract Documents. It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the Contractor by the Town, the said Contractor shall furnish all labor, equipment, and material (except as otherwise specified above) and shall perform all work necessary to complete the improvements in a good and workmanlike manner, ready for use, within the specified time for substantial completion of Two Hundred Ten (210) calendar days, and final completion of Two Hundred Forty (240) calendar days ready for final payment, as measured from the Effective Start Date shown in the Notice to Proceed. The work shall be in strict accordance with this Agreement, a copy of which is filed pursuant to law in the office of the legal representative of the Town.

ARTICLE 3. Before commencing work, the Contractor shall, at its own expense, procure, pay for, and maintain the insurance coverage required by the Contract Documents written by companies approved by the State of Texas and acceptable to the Town of Flower Mound. Contractor shall provide the Town Purchasing Manager with certificates of insurance indicating coverage's required by the Contract Documents. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

ARTICLE 4. The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment, and maintenance bonds shall be issued on the forms attached to this Construction Agreement. Other performance, payment, and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment, and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon Town request. In addition to the foregoing requirements if the amount of the bond exceeds One Hundred Thousand and Zero/One Hundredths Dollars ($100,000.00) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand and Zero/One Hundredths Dollars ($100,000.00) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

<u>ARTICLE 5.</u> It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Town shall pay the Contractor the compensation due him by reason of said faithful performance of the work in accordance with the provisions of this Agreement. As it completes portions of the Work, the Contractor may request progress payments from the Town. Progress payments shall be made by the Town based on the Town's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Town satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Town:

1. copies of documents reasonably necessary to aid the Town in preparing an estimate of the value of Work properly completed;

2. full releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Town releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;

3. an updated and current schedule clearly detailing the project's critical path elements; and

4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Town determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Town determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Town the overpayment amount specified by the Town within thirty (30) calendar days after it receives written demand from the Town.

The fact that the Town makes a progress payment shall not be deemed to be an admission by the Town concerning the quantity, quality, or sufficiency of the Contractor's work.

Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Town shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set depending upon the value of the Contract Work on the effective date of the Contract:

Contract Amount	Retainage Percentage
Up to $25,000.00	15%
$25,000.00 to $400,000.00	10%
Over $400,000.00	5%

Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Town may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;

2. ensure timely completion of the Work. The Town may use retained funds to pay liquidated damages; and

3. provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Town in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

ARTICLE 6. The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Town may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents. Amounts withheld under this section shall be in addition to any retainage.

<u>ARTICLE 7.</u> When the erosion control measures have been completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

<u>ARTICLE 8.</u> When the Work is completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Town's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Town's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Town may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

<u>ARTICLE 9.</u> After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;

2. correct prior progress payments; and

3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens, or other evidence satisfactory to the Town to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Town may, but is not obligated to, issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Town copies of all documents that the Town determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Town has satisfied its obligation to administer the Agreement in accordance with applicable law.

Subject to the requirements of the Contract Documents, the Town shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

ARTICLE 10. **CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN, ITS TOWN COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK OR WHICH ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS, OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").**

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Town shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Town. Contractor shall retain approved counsel for the Town within seven business days after receiving written notice from the Town that it is invoking its right to indemnification under this Agreement. If Contractor does not retain counsel for the Town within the required time, then the Town shall have the right to retain counsel and the Contractor shall pay the attorneys' fees and expenses.

The Town retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Town elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Town for such costs.

<u>ARTICLE 11.</u> The Contractor understands and agrees that time is of the essence in performing and completing the Work. The Town and Contractor acknowledge that the actual damages the Town may sustain if the Contractor fails to complete the Work on time are uncertain and will be difficult to ascertain. The Contractor agrees that the sum of Two Hundred Fifty and Zero/One Hundredths Dollars ($250.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of Two Hundred Fifty and Zero/One Hundredths Dollars ($250.00) per day or portion of a day in Liquidated Damages for each calendar day or portion thereof the work has not been finally completed by the Contractor beyond the Contract time for final completion, or within such extra time as may have been allowed by an extension approved by the Town. The Town and the Contractor agree that this amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

<u>ARTICLE 12.</u> For a two-year period after the date specified in a written notice of acceptance of Work and authorization to make final payment by the Flower Mound Town Council, Contractor shall provide and pay for all labor and materials that the Town determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Town may make a warranty inspection of the Work. The Town shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Town shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Town may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the maintenance bond surety, or both.

If the Town determines that a hazard exists because of defective materials and workmanship, then the Town may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety.

Expenses incurred by the Town to alleviate the hazard shall be paid by the Contractor, the maintenance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the maintenance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Town may make as many warranty inspections as it deems appropriate.

ARTICLE 13. The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

ARTICLE 14. The Contractor shall sign the Construction Agreement, and deliver signed performance, payment, and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within fifteen (15) calendar days after the Town makes available to the Contractor copies of the Contract Documents for signature. Six copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided; however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Town delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Mayor or Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure that:

1. the Contractor timely delivers to the Town all bonds and insurance documents; and

2. the Town retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST THE TOWN, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE TOWN BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE TOWN DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

Contractor stipulates that the Town is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, the Town does not waive any of its immunities from suit and/or liability, except as otherwise expressly and specifically provided herein or as specifically provided by law.

Payments under this Contract are due and payable in accordance with the provisions of Texas Government Code Section 2251.022. Interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.
Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Contractor and any subcontractor shall pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of this Agreement. The Town has determined the general prevailing rate of per diem wages in the locality in which the public work is to be constructed by using the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as applicable to this Project. Contractor or a subcontractor who violates this provision shall be liable for the penalty specified in Texas Government Code Section 2258.023, which as of the date of this Agreement is $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. Town reserves the right to receive and review payroll records, payment records, and earnings statements of employees of Contractor, and of Contractor’s Subcontractors, and of Sub-Subcontractors to verify payments made to same. However, no Claim for additional compensation shall be considered by Town because of payments of wage rates in excess of the applicable rate provided herein.

It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialmen, artisan, laborer, or subcontractor, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the project of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas.

The Contractor represents and warrants the following to the Town (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Town to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

1. that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

2. that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

3. that it is authorized to do business in the State of Texas and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and

4. that the execution of the Contract and its performance thereof are within its duly-authorized powers.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Denton County, Texas.

Although the Construction Agreement has been drafted by the Town, should any portion of the Construction Agreement be disputed, the Town and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Town and Contractor and shall inure to their benefit as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Mayor or Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Mayor or Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

IN WITNESS WHEREOF, the Town and the Contractor, respectively, have caused this Agreement to be duly executed in the day and year first herein written in two copies, all of which to all intents and purposes shall be considered as the original.

This Agreement will be effective on the ____ day of __________, 20___.

TOWN OF FLOWER MOUND	CONTRACTOR
____________________________	____________________________ (Signature)
Steve Dixon, MAYOR	____________________________ (Printed Name)
	____________________________ (Position)
(CORPORATE SEAL)	(CORPORATE SEAL)
ATTEST:___________________________	ATTEST:_____________________ (Signature)
Theresa Scott, TOWN SECRETARY	_____________________ (Position)

TOWN COUNCIL AGENDA ITEM NO. 16

REGULAR ITEM

DATE: June 15, 2020

FROM: Brittni Barnett, Grants and Financial Analyst

ITEM: **Consider approval of an Interlocal Cooperation Agreement between Denton County, Texas and the Town of Flower Mound, which designates a portion of the County's CARES Act funding to the Town for the purpose of reimbursing expenditures associated with its ongoing response to COVID-19; and authorize the Mayor to execute the same on behalf of the Town.**

BACKGROUND INFORMATION: Denton County Commissioners Court approved the distribution of CARES Act Coronavirus Relief Funds (CRF) to its city partners who did not receive a direct CRF distribution. Using the State's distribution guidelines, the Commissioners Court approved a $55 per capita municipal CRF funds distribution method for the portion of each city's population residing in Denton County.

These funds will be used for expenses the Town incurred directly or may incur to address the impact of the public health emergency with respect to the COVID-19 pandemic. Total expenses paid by the town and potential future expenses are still being determined.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: $0.00

Proposed (Revenue):	**Account Number(s):**
($4,237,970.00)	Intergovernmental Revenue
Proposed Expenditure:	**Account Number(s):**
$4,237,970.00	Grant Fund

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Coronavirus Relief Fund Interlocal Cooperation Agreement

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

Attachment 1

06/03/2020

CORONAVIRUS RELIEF FUND
INTERLOCAL COOPERATION AGREEMENT

Denton County and the Town of Flower Mound

This Interlocal Cooperation Agreement ("Agreement") is entered into by and between Denton County, Texas (the "County") and the **Town of Flower Mound Texas** (the "Municipality"), pursuant to Chapter 791 of the Texas Local Government Code, to address the impact of the public health emergency with respect to the Coronavirus pandemic ("COVID-19").

GENERAL

1. Coronavirus Relief Fund. The County has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to address and respond to the impact and effects of the COVID-19 emergency.

2. County Authority. The Resolution of the Denton County, Texas Commissioners Court, under Chapter 381 of the Local Government Code, lawfully establishing a COVID-19 municipality funding program (the "Municipality Program"), allowing the County to grant money to your Municipality, is attached hereto as Attachment A and incorporated by reference herein. Funds were received by the County from the US Department of the Treasury (the "Treasury") under the Coronavirus Relief Fund ("CRF"), as provided for in the CARES Act. The use of these CRF funds to assist a municipality of the County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program are legitimate and lawful uses of the CRF funds.

3. Municipality Authority. The Orders of the Municipality, establishing a COVID-19 emergency program or programs, allowing it to make grants of its award, is attached hereto and incorporated by reference herein. The Municipality represents and warrants that its programs (if the Municipality decides to distribute the Municipal Funds through its own programs) will be in full compliance with Chapter 380 of the Local Government Code.

4. Inspector General Oversight & Recoupment. Section 601(f) provides that the Inspector General of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of CRF funds. If the Inspector General determines that a unit of local government has failed to comply with the use of funds rules (as described herein in Paragraphs 10-16, "Use of Funds"), the amount of CRF funds in noncompliance shall be "booked as a debt of such entity owed to the federal government." The conditions and restrictions on the use of the CRF funds follows to all

recipients, from the County, to the Municipality, to businesses and individuals that receive such funds.

GRANT

5. Amount. Subject to the terms and conditions of this Agreement, the County agrees to grant and transfer to the Municipality the sum of $4,237,970 of its CRF funds ("Municipal Funds").

6. Separate Bank Account. The Municipality agrees to deposit these Municipal Funds into a separate, segregated account created solely for holding and disbursing these Municipal Funds. The account must be an interest bearing account and similarly insured and protected in the same manner as the Municipality's other funds.

7. Calculation of Municipal Funds. The initial calculation of the grant amount of funds is based on the higher of the Municipality's 2019 NCTCOG estimated population (75,655) or 2018 ACS estimated population (77,054), multiplied by $55.00 per capita ("the Maximum Allocation"). That amount is reduced by:

   a. the excess of the Maximum Allocation minus the budgeted amount of eligible funds (as defined in Paragraph 8(a)), and further reduced by;

   b. the amount of funds redirected and contributed to the County's programs (e.g., small business, housing and food programs), at the election of the Municipality, which is included in the Municipality's proposed budget in Paragraph 8(a).

8. Conditions. Before receiving Municipal Funds, the Municipality must:

   a. provide the County with a proposed budget, which includes your contribution to the County's programs (e.g., small business, housing, and food programs), and description of eligible uses of Municipal Funds ("Budget of Expenditures and Description of Intended Uses"). The form to complete your Budget of Expenditures and Description of Intended Uses is attached as Attachment B;

   b. agree to participate in the County's CRF Compliance Forum (the "Forum"); and

   c. provide a copy of the appropriate Chapter 380 documentation.

RESPONSIBILITIES OF THE MUNICIPALITY

9. The responsibilities of the Municipality are:

   a. to comply with all terms and conditions of the CARES Act;

   b. to use Municipal Funds in compliance with the CARES Act;

c. to promptly return to the County any Municipal Funds not used;

d. to participate in the Forum;

e. to maintain proper and adequate records of its own expenses, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;

f. to maintain proper and adequate records of the expenses of any grantees of Municipal Funds, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;

g. to return the Statement of Compliance Certificate by February 1, 2021;

h. to cooperate and coordinate with other members in the Forum concerning a federal compliance audit; and

i. to comply with Chapter 381 and Chapter 380, if applicable.

USE OF FUNDS

10. Amounts paid from the Treasury's Coronavirus Relief Fund are subject to the restrictions outlined in the *Guidance for State, Territorial, Local, and Tribal Governments* (dated April 22, 2020) and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act. See Attachment C, which is incorporated by reference into this agreement.

11. Section 601(d) allows CRF funds/Municipal Funds to cover only those costs that:

a. are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;

b. were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and

c. are incurred between March 1, 2020 and December 30, 2020. See *Coronavirus Relief Fund Frequently Asked Questions (Updated as of May 4, 2020)*. See Attachment C.

12. "Necessary Expenditure" Condition. The use of the money is limited to "necessary expenditures." The Treasury intends for broad interpretation of the word "necessary," meaning "reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending the Fund payments." The Treasury's standard, reasonable judgment, adopts a subjective, not objective standard. Examples of eligible expenditures include, but are not limited to, payment for certain types of:

a. medical expenses;

b. public health expenses;

c. payroll expenses;

d. expenses relating to facilitating compliance;

e. expenses associated with providing economic support in connection with the COVID-19 public health emergency; and

f. any other COVID-19-related expense reasonably necessary to the function of government.

13. Funds may not be used to fill shortfalls in governmental revenue to cover expenditures that would not otherwise qualify under section 601(d). REVENUE REPLACEMENT IS STRICTLY PROHIBITED AND IS NOT A PERMISSIBLE USE OF FUNDS.

14. "Due To" Condition. The requirement that expenditures be incurred "due to" the public health emergency created by COVID-19 means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred by the Municipality to respond directly to the emergency, as well as expenditures incurred to respond to second-order effects of the emergency (e.g., economic support to those suffering from employment or business interruptions due to COVID-19-related business closures).

15. The Municipality expressly agrees without qualification or exception to adhere and comply with section 601(d) and the accompanying guidelines regarding its spending and uses of the Funds.

16. Return of Unused Funds by Municipality. Any Municipal Funds not spent on eligible expenses before December 30, 2020 must be returned to the County within 30 days after December 30, 2020.

CRF COMPLIANCE FORUM

17. Description. The Forum is a county-wide initiative between the County and all of the Municipalities that have requested upfront funding of the Municipal Funds. It is a single, integrated initiative to mutually benefit all municipalities and the County.

18. Purpose. The Forum shall work for the mutual benefit of the County and the Municipalities, which will promote administrative efficiency, streamline initial compliance measures, and continuing through a potential audit, and foster collaboration between our counties.

19. Benefits. The primary goals of the Forum are to:

a. provide answers to specific questions (e.g., eligible uses of funds);

b. provide assistance with documentation guidelines;

c. reduce noncompliance risk;

d. reduce administrative burdens;

e. manage and control the potential federal compliance audit; and

f. collaborate and integrate grant programs.

REMEDIES

20. Indemnity. To the extent allowable by law, the Municipality shall defend, indemnify, and hold harmless the County and its officers, commissioners, employees, volunteers, and agents, from any and all costs and expenses, damages, liabilities, demands, causes of action, suits, charges, or legal or administrative proceedings, claims and losses, including, without limitation, attorneys' fees and costs, caused by or arising out of any act or omission of the Municipality relating to the terms of this Agreement, including but not limited to any ineligible expenditures.

21. Recoupment. If the County, or its designee, reasonably determines that all or a portion of a Municipality's expenditure of Municipal Funds is an ineligible expenditure, then the Municipality shall immediately reimburse the County in an amount equal to the amount of the ineligible expenditure from funds of the Municipality other than Municipal Funds granted pursuant to this Agreement, and provide to the County evidence of such reimbursement. The Municipality shall have 30 days of receipt of the County's determination of an ineligible expenditure to reimburse the County for such expense. If the Municipality chooses to subsequently grant its Municipal Funds, it shall be responsible for properly tracing and accounting for when, how, why and by whom the expenses were ultimately incurred. This includes the documentation responsibilities listed in Paragraph 9(f-g) above. In the event the County has to enforce this Agreement, it shall be entitled to recover its reasonable attorney's fees and costs incurred in doing so.

22. Offset. To the extent allowable by law, the County reserves the right in its sole discretion to apply any money, damages or costs incurred as a result of a material breach of this agreement by the Municipality against the future distribution of future tax revenues or receipts from the County to the Municipality.

OTHER

23. Attorney's Fees and Costs. The County shall be entitled to recover its reasonable and necessary attorney's fees, costs and expenses, from the Municipality in the event the County must

enforce the terms of this Agreement in any way, including, but not limited to, litigation or mediation to the extent allowed by law.

24. Law and Venue. The laws of the State of Texas shall govern this Agreement, except where clearly superseded by federal law. Venue of any dispute shall be in a court of competent jurisdiction in Denton County, Texas.

25. No Assignment. The Municipality may not assign this Agreement.

26. Entire Agreement. This Agreement supersedes and constitutes a merger of all prior oral and/or written agreements and understandings of the parties on the subject matter of this Agreement and is binding on the parties and their legal representatives, receivers, executors, successors, agents and assigns.

27. Amendment. Any Amendment of this Agreement must be by written instrument dated and signed by both parties.

28. Severability. No partial invalidity of this Agreement shall affect the remainder unless the public purpose to be served hereby is so greatly diminished thereby as to frustrate the object of this Agreement.

29. Survival. All provisions of this Agreement that impose continuing obligations on the parties, including but not limited to payment, agreement purpose, and confidentiality shall survive the expiration or termination of this Agreement.

30. Waiver. No waiver by either party of any provision of this Agreement shall be effective unless in writing, and such waiver shall not be construed as or implied to be a subsequent waiver of that provision or any other provision.

31. Signature Authority. The signatories hereto represent to each other that they have the full right, power, and authority and have been given any approvals necessary to enter into this Agreement to bind the respective parties for which they sign, and to perform their obligations hereunder, and that the consent of no other parties is needed to fully effectuate this Agreement.

ATTACHMENTS

32. This is a list of attachments and is included with this agreement and incorporated herein, as appropriate:

1. Attachment A: Chapter 381 Resolutions of the County;
2. Attachment B: Form Budget of Expenditures and Description of Intended Uses;
3. Attachment C: CRF Guidelines, Regulations (including statute, FAQs, and Guidance).

Attachment 1

DENTON COUNTY, TEXAS

By:__________________________________
Andy Eads, County Judge

____
Date

Attest:

____
County Clerk

TOWN OF FLOWER MOUND, TEXAS

By: _________________________________
Mayor or City Manager

____
Printed Name

____
Printed Title

____
Date

Attest:

____
City Secretary

RESOLUTION OF THE DENTON COUNTY COMMISSIONERS COURT
Approving Economic Development Program under Texas Local Government Code Section 381.004(b) and adopting "Chapter 381 Economic Development Program Rules"

The Denton County Commissioners Court at its regular session on the 29th day of May 2020, considered the following resolution:

WHEREAS, Denton County is committed to the development and stimulation of business as part of an overall effort to increase job availability and improve the quality of life for residents; and

WHEREAS, pursuant to Article III, Section 52-a of the Texas Constitution, development and diversification of the economy, elimination of unemployment or underemployment, or the development or expansion of business serves a public purpose; and

WHEREAS, pursuant to Texas Local Government Code Section 381.004(h), commissioners court may develop and administer a program authorized by 381.004(b) for making grants of public money and providing personnel and services of the county; and

WHEREAS, pursuant to Section 381.004 (b)(1)-(3) of the Texas Local Government Code, Denton County Commissioners Court may develop and administer a Denton County program: 1. for state or local economic development; 2. for small or disadvantaged business development; 3. to stimulate, encourage, and develop business location and commercial activity in the County; and

WHEREAS, pursuant to Texas Local Government Code Section 381.004(c), 1. Commissioners Court may contract with another entity for administration of a program 3. Use County employees or funds for the program authorized by 381.004(b); and

WHEREAS, on May 8, 2020, Denton County desired to establish and administer a program (Exhibit A) under 381.004(b) for making grants of public money to small businesses in financial peril as a result of measures taken to inhibit the spread of the COVID-19 virus; and

WHEREAS, on May 8, 2020, Denton County determined that making economic development grants through the OPEN Grant Program (Exhibit A) in the amount up to TWO MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS ($2,200,000.00) will further the objectives of the County and benefit the County and its residents and serve the broader purpose of stimulating and encouraging business and commercial activity in the County, retaining and expanding job opportunities and building the property tax base; and

WHEREAS, Denton County is committed to distributing federal funding received from the U.S. Department of Treasury under the Coronavirus Aid, Relief, and Economic Security

Act (the “CARES Act”) to assist municipalities of the County through the COVID-19 Municipality Funding Program (hereinafter “Municipality Program”) (Exhibit B);

NOW THEREFORE, BE IT RESOLVED by the Commissioners Court of Denton County, Texas that:

Section 1. The foregoing are hereby found to be true and correct findings of Denton County, Texas, and are fully incorporated into the body of this Resolution.

Section 2. Due to measures taken to inhibit the spread of the COVID-19 virus, many small businesses and municipalities in Denton County have suffered and continue to suffer losses that threaten their businesses and residents. An urgent public need exists to help sustain these businesses and municipalities, and in particular, the jobs and services they provide to so many Denton County citizens, through this crisis.

Section 3. Denton County hereby amends the economic development program under Local Government Section 381.004(b)(1)-(3) (hereinafter "381 Program") for the making of grants of public money to businesses that are financially imperiled due to measures taken in response to the COVID-19 pandemic, which program will be operated and administered as described in the "Chapter 381 Economic Development OPEN Grant Program Rules," attached herein as Exhibit A; and adds program rules committed to distributing federal funding received from the U.S. Department of Treasury under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to assist municipalities of the County through the COVID-19 Municipality Funding Program (hereinafter “Municipality Program”) (Exhibit B);

Section 4. Denton County hereby adopts the attached "Chapter 381 Economic Development Program Rules," which rules describe the 381 Program in detail and set forth participation criteria and management/administration controls to ensure that the public purpose is accomplished or substantially achieved.

Section 5. The 381 Program will achieve or substantially obtain the public purpose of stimulating, encouraging and developing small business and other commercial activity within Denton County, and thereby contribute to the goal of developing/improving the local economy and providing and retaining employment for Denton County residents; as well as distribute federal funding to assist a municipality of the

County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program.

Section 6. Nothing in this Resolution or in the 381 Economic Development Program Rules shall be construed to suggest or imply that Denton County is under any obligation to provide any grant or funding to any business applicant and/or municipality, and all applications and/or agreements for a grant under the 381 Program shall be considered on an individual case-by-case basis.

ADOPTED AND APPROVED effective the 29th day of May 2020.

Andy Eads
County Judge

Hugh Emerson Coleman
Denton County Commissioner Precinct 1

Hugh Coleman
Commissioner, Precinct 1

Ron Marchant
Commissioner, Precinct 2

Bobbie Mitchell
Commissioner, Precinct 3

Dianne Edmondson
Commissioner, Precinct 4

Attest: Juli Luke
Denton County Clerk

EXHIBIT A

CHAPTER 381 ECONOMIC DEVELOPMENT OPEN GRANT PROGRAM RULES DENTON COUNTY, TEXAS

Due to measures taken to inhibit the spread of the COVID-19 virus, many small businesses in Denton County have suffered and continue to suffer losses that threaten their survival. An urgent public need exists to help sustain these businesses, and in particular, the jobs they provide to so many Denton County citizens, through this crisis. Through the 381 Economic Development OPEN Grant Program described herein, Denton County seeks to provide financial assistance, in the form of grants, to affected local businesses. Denton County seeks to provide such assistance to businesses that, despite responsible management have been greatly impacted by the COVID-19 Pandemic.

Denton County's 381 Economic Development OPEN Grant Program is established pursuant to Texas Local Government Code 381.004(b)(1)-(3). Under 381.004(b)(1)-(3), Commissioners Court may, to stimulate business and commercial activity in the county, develop and administer a program for any of the following purposes:

(1) for state or local economic development.

(2) for small or disadvantaged business development.

(3) to stimulate, encourage, and develop business location and commercial activity in the county.

1. General

Denton County may provide the following assistance to eligible businesses:

Operational Plan for Economic Normalization) Grant (hereinafter "OPEN Grant"):

Individual OPEN Grants of up to $10,000 may be awarded. Award and amount of individual OPEN Grants will be based on such factors as need, eligibility, number of employees, loss due to full/partial shutdown due to being deemed by local or state shut-down order as non-essential during the COVID-19 Pandemic and availability of funds. In addition to the factors mentioned in this Section 1, award and amount of individual OPEN Grants will be subject to the provisions set forth in these Rules.

A business may apply for an OPEN Grant only during the Application Period. The application must be executed and submitted on behalf of the applying business (hereinafter "Applicant Business") by an owner (hereinafter "Applicant Business Owner").

- Denton County is under no obligation to provide assistance under this Program to any business, regardless of need, eligibility, or worthiness. The amount a business can receive will be based on the percentage of closure the business experienced during the COVID-19 Stay-at-Home order.
  - Business operations completely closed can get 100% of eligible grant.
  - Business operations partially closed can get 75% of eligible grant.

- Eligible amount of grant is the higher of:
  - 1.75x the average monthly payroll costs for the first quarter of 2020 (form 941) - including gross payroll, retirement costs and health insurance costs; if sole proprietor can use the average monthly amount of Schedule C net income divided by twelve (must have a net profit)
  - 2x fixed costs (rent, lease or mortgage payment of real and business property, real property taxes, business personal property taxes, and utilities excluding costs of your personal residence) calculated on 2019 monthly average

2. Eligibility

To be eligible for a Grant, the Applicant Business and Applicant Business Owner, as applicable, must demonstrate all of the following to Denton County's satisfaction:

- Business started before March 1, 2019
- 50 Employees or fewer
- No more than $7 Million in Gross Annual Revenue
- If owner has more than one business, the owner is eligible for application for up to three businesses (all businesses must be located in Denton County). Ownership defined as 20% or more. Application will include disclosure of all 20% or more owners.
- Applications and required documentation will be reviewed by assigned Denton County Auditors based on Commissioners Court approved Denton OPEN Grant Program Guidelines. Applicant will receive an email indicating Denton County OPEN Program approval or denial or did not meet qualifications.
- Checks are to be issued to qualifying applicants by Denton County Accounts Payable.
- Applicant must have no outstanding Denton County tax liens or judgements
- Denton County is a governmental body subject to the Texas Public Information Act. Information you submit to Denton County in this application may be subject to the Act and, therefore, subject to public release.

APPLICATION PROCESS INCLUDES

- Good Faith Certification as to truth and accuracy of information provided

- That the grant request is necessary due to conditions caused by COVID-19
- Agreement to audit of the use of grant funds received
- Agreement to claw-back provisions if funds are used for ineligible purposes
- Unsworn Declaration of Owner

TYPES OF BUSINESSES:

- Corporation
- Individual
- Sole proprietorship
- Single-member limited liability company (LLC)
- LLC treated as a partnership
- LLC – C corporation
- LLC – S corporation
- Partnership

ELIGIBILE USES OF GRANT PROCEEDS

- Payroll costs for employees or owners draw (sole proprietors/partners)
- Contract labor
- Supplier payments
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence.)
- Rent, lease or purchase payment for business property (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment)
- New or expanded technology applications and Wi-Fi services
- Utility payments for business properties, excluding personal residence.
- Cost of critical business operations (raw materials, marketing expenses, etc. payments)
- PPE and sanitation supplies and equipment
- Interest on other business debt obligations incurred before March 1, 2020, excluding personal residence.

3. **DOCUMENTS REQUIRED**

- Documentation of business (Choose one of the following)
    - Secretary of State Texas File number; State of Texas License number; DBA, 2018 or 2019 tax return (return only, schedules not required); Social Security Number, Employer Identification Number or Individual Taxpayer Identification Number, Certificate of Filing. If sole proprietor, please provide documentation on when you started your business. Ex. Include Occupational license, Sales Tax Certificate
- Drivers' license or state issued ID
- Most Recent Filed Business Tax return

- Most recent payroll report and number of employees – 1st QTR 941 for 2020
- Bank Statements for the following four months – March & April 2019; March & April 2020
- Submit documentation for proof of fund uses by September 30, 2020, including Form W-3, Form 941, utility statements, cancelled checks/receipts or bank statements
- For Sole Proprietor Applicants provide 2018 or 2019 Schedule C
- Form W-9

Denton County may require Applicant to submit documentation additional to that which is described in the Application and Affidavit.

INELIGIBLE BUSINESSES

- Non-Profits
- Sexually/Adult Oriented Businesses
- Professional Services deemed essential by local/state government
- Lobbying organizations and political organizations subject to Internal Revenue Code 527
- Gambling Concerns, including casinos, racing operations or other activities whose purpose involves gambling
- Concerns engaged in illegal activities under federal, state or local laws
- A business that is otherwise prohibited by federal or Texas law
- A business that is ineligible or precluded to receive federal or State of Texas funding due to federal laws (including but not limited to the CARES Act) or Texas laws
- Multi-level marketing concerns
- Governmental/taxing agencies/departments

Denton County may add and/or subtract from this list at any time due to change of use, law or other reason considered for eligibility by administration of the program.

3. Application.

- To apply for an OPEN Grant, the owner of applicant business must complete, execute and submit an Application for Chapter 381 Economic Development Program OPEN Grant to these Rules and fully incorporated herein.

  The Application must be completed in full, and all information described therein must be provided in full, or the Application will not be considered. The Application must be completed and executed by the Owner of the applicant business.

EXHIBIT B

CHAPTER 381 ECONOMIC DEVELOPMENT COVID-19 MUNICIPALITY FUNDING PROGRAM RULES DENTON COUNTY, TEXAS

GENERAL

The County has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to address and respond to the impact and effects of the COVID-19 emergency. Through the 381 Economic Development COVID-19 Municipality Funding Program described herein, Denton County seeks to provide financial assistance, in the form of Interlocal Cooperation Agreements, to Denton County municipalities.

County Authority. The Resolution of the Denton County, Texas Commissioners Court, under Chapter 381 of the Local Government Code, lawfully establishing a COVID-19 municipality funding program (hereinafter "Municipality Program"). Funds were received by the County from the US Department of the Treasury (the "Treasury") under the Coronavirus Relief Fund ("CRF"), as provided for in the CARES Act. The use of these CRF funds to assist a municipality of the County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program are legitimate and lawful uses of the CRF funds.

Municipality Authority. The Order of the Municipality, establishing a COVID-19 Emergency Program (the "Program"), allowing it to make grants of its award, is attached hereto and incorporated by reference herein. The Municipality represents and warrants that its Program will be in full compliance with Chapter 380 of the Local Government Code.

Inspector General Oversight & Recoupment. Section 601(f) provides that the Inspector General of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of CRF funds. If the Inspector General determines that a unit of local government has failed to comply with the use of funds rules as described herein, the amount of CRF funds in noncompliance shall be "booked as a debt of such entity owed to the federal government." The conditions and restrictions on the use of the CRF funds follows to all recipients, from the County, to the Municipality, to businesses and individuals that receive such funds.

GRANT

Amount. Subject to the terms and conditions of this Agreement, the County agrees to grant and transfer to the Municipality the sum of *Calculation* Section below.

Separate Bank Account. The Municipality agrees to deposit these Municipal Funds into a separate, segregated account created solely for holding and disbursing these Municipal Funds. The account must be an interest bearing account and similarly insured and protected in the same manner as the Municipality's other funds.

Calculation of Municipal Funds. The initial calculation of the grant amount of funds is based on the higher of the municipality's 2019 NCTCOG estimated population (_____________) or 2018 ACS estimated population (_____________), multiplied by $55.00 per capita ("the Maximum Allocation"). That amount is reduced by:

- the excess of the Maximum Allocation minus budgeted amount of eligible funds (as defined in Paragraph 8(a)), and further reduced by;

- the amount of funds redirected and contributed to the County's programs (e.g., small business, housing and food programs), at the election of the Municipality, which is included in the Municipality's proposed budget in Paragraph 8(a).

Conditions. Before receiving Municipal Funds, the Municipality must:

- provide the County with a proposed and description of eligible uses of Municipal Funds ("Budget of Expenditures and Description of Intended Uses");

- agree to participate in the County's CRF Compliance Forum (the "Forum"); and

- provide a copy of the appropriate Chapter 380 documentation.

RESPONSIBILITIES OF THE MUNICIPALITY

The responsibilities of the Municipality are:

- to comply with all terms and conditions of the CARES Act;

- to use Municipal Funds in compliance with the CARES Act;

- to promptly return to the County any Municipal Funds not used;

- to participate in the Forum;

- to maintain proper and adequate records of its own expenses, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;

- to maintain proper and adequate records of the expenses of any grantees of Municipal Funds, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;

- to return the Statement of Compliance Certificate by February 1, 2021;

- to cooperate and coordinate with other members in the Forum concerning a federal compliance audit; and

- to comply with Chapter 381 and Chapter 380, if applicable.

USE OF FUNDS

Amounts paid from the Treasury's Coronavirus Relief Fund are subject to the restrictions outlined in the *Guidance for State, Territorial, Local, and Tribal Governments* (dated April 22, 2020) and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, which is incorporated by reference into this agreement.

Section 601(d) allows CRF funds/Municipal Funds to cover only those costs that:

- are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;

- were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and

- are incurred between March 1, 2020 and December 30, 2020. See *Coronavirus Relief Fund Frequently Asked Questions (Updated as of May 4, 2020).*

"Necessary Expenditure" Condition. The use of the money is limited to "necessary expenditures." The Treasury intends for broad interpretation of the word "necessary," meaning "reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending the Fund payments." The Treasury's standard, reasonable judgment, adopts a subjective, not objective standard. Examples of eligible expenditures include, but are not limited to, payment for certain types of:

- medical expenses;
- public health expenses;
- payroll expenses;
- expenses relating to facilitating compliance;
- expenses associated with providing economic support in connection with the COVID-19 public health emergency; and
- any other COVID-19-related expense reasonably necessary to the function of government.

Municipal Funds may not be used to fill shortfalls in governmental revenue to cover expenditures that would not otherwise qualify under section 601(d). REVENUE REPLACEMENT IS STRICTLY PROHIBITED AND IS NOT A PERMISSIBLE USE OF FUNDS.

"Due To" Condition. The requirement that expenditures be incurred "due to" the public health emergency created by COVID-19 means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred by the Municipality to respond directly to the emergency, as well as expenditures incurred to respond to second-order effects of the emergency (e.g., economic support to those suffering from employment or business interruptions due to COVID-19-related business closures).

The Municipality expressly agrees without qualification or exception to adhere and comply with section 601(d) and the accompanying guidelines regarding its spending and uses of the Municipal Funds.

Return of Unused Funds by Municipality. Any Municipal Funds not spent on eligible expenses before December 30, 2020 must be returned to the County within 30 days after December 30, 2020.

CRF COMPLIANCE FORUM

Description. The Forum is a county-wide initiative between the County and all of the Municipalities that have requested upfront funding of the Municipal Funds. It is a single, integrated initiative to mutually benefit all municipalities and the County.

Purpose. The Forum shall work for the mutual benefit of the County and the Municipalities, which will promote administrative efficiency, streamline initial compliance measures, and continuing through a potential audit, and foster collaboration between our counties.

Benefits. The primary goals of the Forum are to:

- provide answers to specific questions (e.g., eligible uses of funds);
- provide assistance with documentation guidelines;
- reduce noncompliance risk;
- reduce administrative burdens;
- manage and control the potential federal compliance audit; and
- collaborate and integrate grant programs.

DC Attachment B

Budget of Expenditures & Description of Intended Uses
(Budgeted Sources & Uses)

Town of Flower Mound

ELIGBLE USE RESTRICTIONS: The CRF funds/Municipal Funds may be used to cover only those costs that:
a. are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;
b. were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and
c. are incurred between March 1, 2020 and December 30, 2020.

Grant Amount ("Maximium Allocation," i.e., $55 per capita amount) $4,237,970

Category	Sub-Category	Tacking Indices	Description	Expenditures Paid to Date	Expenditures Proposed	Expenditures Total
Category 1: Medical						
	Hospitals/Clinics	1.A		$0	$0	$0
	Temporary Facilities	1.B		0	0	0
	Testing	1.C		0	0	0
	Emergency Reponse	1.D		0	0	0
	Telemedicine	1.E		0		0
	Sub-Total			0	0	0
Category 2: Public Health						
	Communication	2.A		0	0	0
	Medical, Protective Services	2.B		0	0	0
	Disinfection	2.C		0	0	0
	Technical Assistance	2.D		0	0	0
	Public Safety Measures	2.E		0	0	0
	Quarantine	2.F		0	0	0
	Sub-Total			0	0	0
Category 3: Payroll						
	Certain Payroll	3		0	0	0
Category 4: To Facilitate Compliance						
	Food Delivery	4.A		0	0	0
	Social Distancing/School Closings	4.B		0	0	0
	Telework	4.C		0	0	0
	Sick/Medical Leave	4.D		0	0	0
	Prisons/Jails	4.E		0	0	0
	Homelessness Care	4.F		0	0	0
				0	0	0
Category 5: Economic Support						
	Business Grants	5.A		0	0	0
	Government Payroll	5.B		0	0	0
	Unemployment	5.C		0	0	0
				0	0	0
Category 6: Other						
	Other	6		0	0	0
TOTAL ELIGIBLE EXPENDITURES				0	0	0
Municipality Programs: (Chapter 380) Amount of Contributions						
	Business Grant Program			0	0	0
	Housing or Food Program			0	0	0
	Total Contribution to Municipality Programs			0	0	0
County Programs (Chapter 381) Amount of Contributions						
	Business Grant Program			0	0	0
	Housing or Food Program			0	0	0
	Total Contribution to County Programs			0	0	0
TOTAL OF EXPENDITURES AND INTENDED USES				**$0**	**$0**	**$0**

EXCESS CASH (OR DEFICIT) **$4,237,970**

Coronavirus Relief Fund
Frequently Asked Questions
Updated as of May 28, 2020

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").[1] Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

Note that a public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

[1] The Guidance is available at https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a "broad range of uses" including payroll expenses for several classes of employees whose services are "substantially dedicated to mitigating or responding to the COVID-19 public health emergency." What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers' compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a "payroll support program" for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a "small business," and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of "hazard pay"?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include "[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency." Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers' employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum $1.25 billion allocation and had one county with a population over 500,000 that received $250 million directly. The State should distribute 45 percent of the $1 billion it received, or $450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the accrued interest expense on TANs and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019, pending completion of registration.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend $750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated $150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.[1]

The guidance that follows sets forth the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred "due to" the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be "necessary." The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

[1] *See* Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is "incurred" when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
   - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
   - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
   - Costs of providing COVID-19 testing, including serological testing.
   - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
   - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
   - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
   - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
   - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
   - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
   - Expenses for public safety measures undertaken in response to COVID-19.
   - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
    - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
    - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
    - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
    - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
    - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
    - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
    - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
    - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
    - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures[2]

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.[3]
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

---

[2] In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

[3] *See* 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

Town Council Future Agenda Items

SCHEDULED	**7/20/2020**	Consent	Bridlewood Elementary School Zone Speed Limit Change
		Consent	Upper Timber Creek Interceptor - CO1
		Consent	Consider approval of the purchase of Monoclor RCS Disinfectant Residual Management services from UGSI Solutions, Inc., a sole source provider, for work associated with the Bruton-Orand Chlorination System project, in the amount of $173,200.00; and authorization for the Mayor to execute on behalf of the Town.
		Consent	Consider approval of a Contract for Services with Path Studio, for the 2018-19 Playground Replacements project, to paint a mural at the Gerault Park playground in the amount of $14,960.00; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Fire Station #7 - Design Amendment #1
		Consent	High Road Water Line Phase III - Testing Award
		Consent	Consider approval of the minutes from a regular meeting of the Town Council held on June 15, 2020.
		Consent	Consider approval of the minutes from a strategic planning session of the Town Council held on June 19, 2020.
		Regular	FM 2499 at Waketon Intersection Improvements - Construction Award
		Regular	Public Hearing to consider an ordinance amending the Land Development Regulations (LDR20-0003 – Informational Sign Requirements) by amending Chapter 78 entitled “Administration,” of the Town's Code of Ordinances to update the requirements and process for posting informational signs on subject properties. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its July 13, 2020, meeting.)
	8/3/2020	Consent	Timber Creek Water Line Replacement Phase I - Construction Award
		Consent	PLACEHOLDER: Canyon Falls Park - Construction Award
		Consent	FM 2499 at Waketon Intersection Improvements - Testing Award
		Consent	PLACEHOLDER: Updates to calling November General Election
		Consent	Consider approval of the minutes from a work session of the Town Council held on July 16, 2020.

SCHEDULED	**8/3/2020**	Consent	Consider approval of the minutes from a regular meeting of the Town Council held on July 20, 2020.
	8/17/2020	Consent	Canyon Falls Park - Testing Award
		Consent	Timber Creek Water Line Replacement Phase I - Testing Award
	9/21/2020	Consent	Hound Mound Parking and Restroom - Construction Award
		Consent	Waketon Road - Construction Award.
		Consent	Lift Station Improvements & Decommissioning Phase II - Construction Award.
	10/5/2020	Consent	Lift Station Improvements & Decommissioning Phase II - Testing Award.
		Consent	Waketon Road - Testing Award.
		Consent	GMP Gibson Grant Construction Award.