

AGENDA

FLOWER MOUND TOWN COUNCIL REGULAR MEETING; CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING

7/19/2021

FLOWER MOUND TOWN HALL, 2121 CROSS TIMBERS ROAD
FLOWER MOUND, TEXAS

6:00 P.M.

An agenda information packet is available online at www.flower-mound.com/AgendaCenter

Please silence or turn off all electronic devices in Jody Smith Hall

A. CALL MEETING TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND TO THE TEXAS FLAG

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

D. PUBLIC COMMENT

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

- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired
- Please state your name and address when speaking

The purpose of this item is to allow the public an opportunity to address the Town Council on issues that are not indicated as a "Public Hearing" on this agenda. Issues regarding daily operational or administrative matters should first be dealt with by calling Town Hall at 972.874.6000 during business hours.

E. PRESENTATIONS

1. Veterans Liaison Board update

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members

G. TOWN MANAGER'S REPORT

Update and discussion on:

1. Capital improvement projects
2. Economic Development projects

H. FUTURE AGENDA ITEMS

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

Town Council Meeting Agenda

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I. COORDINATION OF CALENDARS

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

J. CONSENT ITEMS

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

1. Minutes 6/21- Consider approval of the minutes from a regular meeting of the Town Council, and Town of Flower Mound Crime Control and Prevention District Special meeting held on June 21, 2021.
2. Minutes 7/15- Consider approval of the minutes from a strategic planning session of the Town Council held on July 15, 2021.
3. Surveillance Camera Replacements- Consider approval of replacement of aged surveillance cameras and upgrade of current software in the amount of \$76,818.66.
4. Telecommunications Audit- Permission to proceed with Telecommunications service and bill audit.
5. Elite Chef- Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.
6. LISD Football Contract- Consider approval of the 2021 Lewisville Independent School District (LISD) for Contract with the Town of Flower Mound for law enforcement services.
7. Traffic Signal Purchases- Consider Approval of the purchase of traffic signal poles, signal heads, and signal parts in the estimated annual amount of \$650,000, from Consolidated Traffic Control, through the Houston-Galveston Area Council (H-GAC) contract.
8. Rheudasil Design- Consider approval of the Third Amendment to the Professional Services Agreement with Studio Outside Landscape Architecture for the design services associated with the Rheudasil Park Improvements project, in the amount of \$41,885.00; and authorization for the Mayor to execute same on behalf of the Town.
9. Grand Park- Consider approval of the purchase and installation of the 2020-21 Playground Replacements project, for Grand Park Picnic Pavilion, from Site Source, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$35,756.00.
10. Pink Evening Primrose Trail- Consider approval of a Professional Services Agreement with ECS Southwest, LLP, to provide construction materials engineering and testing, for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project, in the amount of \$29,970.00; and authorization for the Mayor to execute same on behalf of the Town.
11. Utility Power Engineering- Consider approval of a Professional Services Agreement with Power Engineers, Inc., for asset management and GIS services for the Utility Asset Management project, in the amount of \$72,200.00; and authorization for the Mayor to execute same on behalf of the Town.

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12. Hound Mound Parking & Restroom- Consider approval of Change Order No. 1 for the construction of the Hound Mound Parking Lot and Restroom project, amending the contract with to J.B. & Co., LLC to increase the contract amount by \$51,394.00; and authorization for the Mayor to execute same on behalf of the Town
13. Xerox Copier Lease Agreement- Consider approval of the lease of twelve copiers from Xerox Corporation, for an estimated annual expenditure of \$22,930.68, through the Omnia Texas State and local Xerox contract.

K. REGULAR ITEMS

14. SUP21-0004 Prairie Plaza Vet- **Public Hearing** to consider an ordinance granting a Specific Use Permit No. 471 (SUP21-0004– Prairie Plaza Vet) to permit a veterinary hospital (inside pens) use. The property is generally located north of Cross Timbers Road and west of Long Prairie Road. (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its July 12, 2021, meeting.)

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

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

M. CLOSED MEETING

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

- a. Consultation with Attorney.
 1. Cause No. 18-9622-431; EagleRidge Operating, LLC v Town of Flower Mound, Texas, et al
- 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 resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, **Community Development Corporation**, and **Planning and Zoning Commission**.
- d. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, senior housing, hospitality projects, and performance related to certain incentive agreements.

The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the above referenced items.

Town Council Meeting Agenda**July 19, 2021****Page 4****N. RECONVENE TO REGULAR MEETING**

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

O. ADJOURN MEETING

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: July 16, 2021, at 3:35 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: July 19, 2021

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from a regular meeting of the Town Council and Town of Flower Mound Crime Control and Prevention District Special meeting held on June 21, 2021.

BACKGROUND INFORMATION: The Town Council regular meeting and Town of Flower Mound Crime Control and Prevention District Board special meeting was held on June 21, 2021.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

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

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THE FLOWER MOUND TOWN COUNCIL REGULAR MEETING; CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING, HELD ON THE 21ST DAY OF JUNE 2021, 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:

Derek France	Mayor
Ben Bumgarner	Mayor Pro Tem
Sandeep Sharma	Deputy Mayor Pro Tem
Adam Schiestel	Councilmember Place 1
Jim Engel	Councilmember Place 4
Ann Martin	Councilmember Place 5

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

Theresa Scott	Town Secretary
Bryn Meredith	Town Attorney
Debra Wallace	Interim Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Tiffany Bruce	Assistant Town Manager/Town Engineer
Lexin Murphy	Director of Planning Services

A. CALL REGULAR MEETING TO ORDER

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

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

Chaplain Mike Liles gave the invocation and Mayor France 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 name and address	Subject (as written on the form)
1.	Yvette Elliott, 1309 Homestead	All Together Flower Mound
2.	Warner Watkins, 2800 London Ln	All Together Flower Mound
3.	Patrick Martin, 4700 Oak Springs Dr	Councilmember Martin
4.	Patsy Mizeur, 1821 Castle Ct	Code of Ordinances/Ethics

E. PRESENTATIONS

1. Proclamation for National Parks and Recreation Month

Mayor France recited the above referenced proclamation and presented it to Chuck Jennings, Director of Parks and Recreation.

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F. ANNOUNCEMENTS

Councilmember Martin announced it's her 30th wedding anniversary and extended well wishes to her spouse that was in the audience. Several members of Council offered congratulations to Ann and Patrick.

Councilmember Engel announced the Voices of Flower Mound concert is scheduled for June 27.

Mayor Pro Tem Bumgarner offered a reminder to use caution when walking pets outside during the extreme heat conditions.

Mayor France announced he will be placing his cell phone in a basket during the Council meeting in the interest of focusing on the meeting. He encouraged members of Council to do the same. He also announced that Carter Blood Care needs donors.

G. TOWN MANAGER'S REPORT

Ms. Wallace provided an update on the following items:

1. Capital improvement projects
 - Several projects have been pushed out due to materials shortages, weather, and labor
 - FM 2499 @ Waketon signal
 - Forest Vista Drive reconstruction project
 - Pink Evening Primrose trail connection
2. Economic Development projects
 - New or coming soon businesses
3. All Together Flower Mound focus group
 - Background information
 - What is All Together Flower Mound

and she responded to the following questions from Council:

- Cost associated with option 4

There was Council consensus to carry forward the discussion to the Strategic Planning Session.

H. FUTURE AGENDA ITEMS

There were no future agenda item request.

I. COORDINATION OF CALENDARS

Mayor France announced the following upcoming meeting dates:

1. A strategic planning session is scheduled for 4:00 p.m., Thursday, July 15.
2. A regular meeting is scheduled for Monday, July 19.

FLOWER MOUND TOWN COUNCIL MEETING OF JUNE 21, 2021

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J. CONSENT ITEMS

1. Consider approval of the minutes from a special meeting of the Town Council held on June 15, 2021.
2. 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, 2021.

RESOLUTION NO. 17-21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, 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 DISTRICT.

3. Consider approval of Central Fire Station north section roof replacement from damage of April 28, 2021, storm.
4. Consider approval of an Ordinance amending Chapter 14, "Buildings and Building Regulations," Article VI, of the Code of Ordinances of the Town of Flower Mound, to provide for the adoption of the International Swimming Pool and Spa Code, 2018 edition, and local amendments thereto and authorize the Mayor to execute same on behalf of the Town.

ORDINANCE NO. 26-21

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE VI, OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TO PROVIDE FOR ADOPTION OF THE *INTERNATIONAL SWIMMING POOL AND SPA CODE*, 2018 EDITION, AND LOCAL AMENDMENTS THERETO; PROVIDING THAT THE BOARD OF ADJUSTMENT SHALL BE THE BOARD OF APPEALS FOR PURPOSES SET OUT HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

5. Consider approval of an Ordinance amending Chapter 14, "Buildings and Building Regulations," Article V, of the Code of Ordinances of the Town of Flower Mound, to provide for the adoption of the National Electrical Code, 2020 edition, and local amendments thereto and authorize the Mayor to execute same on behalf of the Town.

ORDINANCE NO. 27-21

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS," THROUGH THE AMENDMENT OF ARTICLE V, ENTITLED "ELECTRICAL CODE," BY ADOPTING THE 2020 EDITION OF THE *NATIONAL ELECTRICAL CODE* THROUGH THE AMENDMENT OF SECTION 14-131, ENTITLED "*NATIONAL ELECTRICAL CODE ADOPTED*," BY AMENDING SECTION 14-132, ENTITLED "AMENDMENTS TO THE *NATIONAL ELECTRICAL CODE*," AND BY AMENDING SECTION 14-138, ENTITLED "BOARD OF APPEALS"; PROVIDING THIS ORDINANCE IS

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CUMULATIVE OF ALL ORDINANCES AND REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

6. Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2020, and ending on September 30, 2021, as adopted by Resolution No. 19-20 and amended by Resolution No. 02-21 and Resolution No. 07-21.

RESOLUTION NO. 18-21

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020, AND ENDING SEPTEMBER 30, 2021, AS ADOPTED BY RESOLUTION NO. 19-20 AND AMENDED BY RESOLUTION NO. 02-21 AND NO. 07-21; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

7. Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2020, and ending on September 30, 2021, as adopted by Ordinance No. 27-20 and amended by Ordinance No. 37-20, No. 09-21 and No. 18-21 for adjustments to the General Fund.

ORDINANCE NO. 28-21

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2020, AND ENDING ON SEPTEMBER 30, 2021, AS ADOPTED BY ORDINANCE NO. 27-20 AND AMENDED BY ORDINANCE NO. 37-20, NO. 09-21 AND NO. 18-21, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

8. Consider approval of a Professional Services Agreement with Plummer Associates, Inc., for the development of the Wastewater Treatment Plant (WWTP) Master Plan in the amount of \$298,389.00; and authorization for the Mayor to execute same on behalf of the Town.
9. Consider approval of a Professional Services Agreement with RJN Group, Inc., to provide professional engineering services for the Inflow/Infiltration/Evaluation & Repair project, in the amount of \$244,261.80; and authorization for the Mayor to execute same on behalf of the Town.

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10. Consider approval of a Construction Agreement with Parkscape Construction, Inc. for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project, in the amount of \$534,610.15; and authorization for the Mayor to execute same on behalf of the Town.
11. Consider approval of a Construction Agreement with Jeske Construction Company for the Edgefield Trail Reconstruction (Wood Creek Drive to Timber Valley Drive) project, in the amount of \$833,040.00; and authorization for the Mayor to execute same on behalf of the Town.
12. Consider approval of an Interlocal Agreement provided through the Harris County Department of Education with Basic IDIQ, for the demolition of a Communication Building and a Natatorium Building, in the amount of \$595,519.32; and authorization for the Mayor to execute same on behalf of the Town.

Mayor Pro Tem Bumgarner moved to approve by consent Items 1 – 12, as presented in the agenda caption. Councilmember Engel seconded the motion. Each item, as approved by consent, is restated above, and if applicable, the Ordinance or Resolution caption for each, for the record.

VOTE ON MOTION:

AYES: MARTIN, ENGEL, BUMGARNER, SHARMA, SCHIESTEL

NAYS: NONE

Motion passed

K. REGULAR ITEMS

Mayor France opened items 13 and 14 at the same time.

13. Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, General Obligation Refunding Bonds, Series 2021, 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.

Staff Presentation

Ms. Wallace and John Martin, Hilltop Securities, provided background information regarding items 13 and 14 and she, or Mr. Martin, responded to the following questions from Council:

- Cost of issuance
- Is staff concerned with the lack of materials that could impact the price (item 14)

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

ORDINANCE NO. 29-21

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “TOWN OF FLOWER MOUND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021”; 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.

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VOTE ON MOTION:

Motion passed

AYES: SCHIESTEL, SHARMA, BUMGARNER, ENGEL, MARTIN

NAYS: NONE

14. Consider approval of an ordinance authorizing the issuance of the Town of Flower Mound, Texas, Certificates of Obligation, Series 2021, 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.

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

ORDINANCE NO. 30-21

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “TOWN OF FLOWER MOUND, TEXAS, CERTIFICATES OF OBLIGATION, SERIES 2021”; 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.

VOTE ON MOTION:

Motion passed

AYES: MARTIN, ENGEL, BUMARNER, SHARMA, SCHIESTEL

NAYS: NONE

15. Public Hearing to consider an ordinance granting Specific Use Permit No. 467 (SUP21-0001– Lakeside Crossing Building 4 (Jesse James Fit)) to permit a health club or athletic club use. The property is generally located south of Lakeside Parkway along and between International Parkway and Northwood Drive. (The Planning and Zoning Commission recommended approval by a vote of 5 to 0 at its June 14, 2021, meeting.)

Mayor France opened the Public Hearing at 7:13 p.m.

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

Support: Comments/Questions	Opposition: Comments/Questions	Question(s)/ Comments Only
Kay Simms, 724 Red Oak Dr, Lewisville	None	None
Andrew Simms, 724 Red Oak Dr, Lewisville*		
Jesse James Leyra (applicant), 103 Ranney Dr, Highland Village		
Tiffany Leyra, 103 Ranney Dr, Highland Village		

**indicated do not wish to speak on public comment form*

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Mayor France closed the Public Hearing at 7:16 p.m.

Staff Presentation

Ms. Murphy gave a presentation identifying or noting:

- General and detailed location
- Land use and zoning
- SUP concept site plan
- Site photos
- Approved elevations, landscape plan, concept phasing
- Proposed SUP conditions

and she, or the applicant, responded to questions or comments from Council regarding:

- SMARTGrowth and traffic analysis
- Hours of operation
- Outdoor activities
- Clarification regarding permitting concerns that were mentioned at the Planning & Zoning Commission meeting

Councilmember Martin moved to approve as presented, and with an amendment to extend the business hours from 5:00 a.m. to 7:30 p.m. seven days a week. Mayor Pro Tem Bumgarner seconded the motion.

ORDINANCE NO. 31-21

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 467 (SUP-467) FOR A HEALTH CLUB OR ATHLETIC CLUB USE ON CERTAIN PROPERTY DESCRIBED AS 1.284 ACRES OF LAND AND BEING ALL OF LOT 4, BLOCK A, OF LAKESIDE CROSSING AND ZONED PLANNED DEVELOPMENT NO. 153 (PD-153) WITH BOTH RESIDENTIAL AND NON-RESIDENTIAL USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: SCHIESTEL, SHARMA, BUMGARNER, ENGEL, MARTIN

NAYS: NONE

16. Consideration and approval of an ordinance increasing the residential homestead ad valorem (property) tax exemption.

Staff Presentation

Ms. Wallace provided background information and she responded to the following questions from Council:

- Is it possible to go bigger

There was Council discussion regarding:

- Future opportunity to adjust tax rate

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- How the increase has impacted residential and not commercial

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

ORDINANCE NO. 32-21

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR A RESIDENTIAL HOMESTEAD AD VALOREM (PROPERTY) TAX EXEMPTION; PROVIDING A SAVINGS/REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION:

Motion passed

AYES: MARTIN, ENGEL, BUMGARNER, SHARMA, SCHIESTEL

NAYS: NONE

L. BOARDS/COMMISSIONS (Pre-Council Room)

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

There was some discussion about current vacancies and the board/commission application process.

M./N. CLOSED/OPEN MEETING

The Town Council convened into a closed meeting at 7:42 p.m. on June 21, 2021, pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, and reconvened into an open meeting at 8:14 p.m. on June 21, 2021, and no action was taken on the following items:

- a. Consultation with Attorney.
 1. 2006 Rule 11 agreement and dismissal, Cause No. 2005-20153-158
- 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 resignations, appointments, or evaluations for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.
- d. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, senior housing, hospitality projects, and performance related to certain incentive agreements.

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O. ADJOURN REGULAR MEETING

Mayor France adjourned the meeting at 8:14 p.m. on Monday, June 21, 2021, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

DEREK FRANCE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

DRAFT



TOWN COUNCIL AGENDA ITEM NO. 2

CONSENT ITEM

DATE: July 19, 2021

FROM: Theresa Scott, Town Secretary

ITEM: Consider approval of the minutes from the strategic planning session held on July 15, 2021.

BACKGROUND INFORMATION: The Town Council held a strategic planning session held on July 15, 2021.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Draft minutes

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

FLOWER MOUND TOWN COUNCIL STRATEGIC PLANNING SESSION, JULY 15, 2021 PAGE 1

THE FLOWER MOUND TOWN COUNCIL STRATEGIC PLANNING SESSION: HELD ON THE 15TH DAY OF JULY 2021, IN THE FLOWER MOUND TOWN HALL, LOCATED AT 2121 CROSS TIMBERS ROAD IN THE TOWN OF FLOWER MOUND, COUNTY OF DENTON, TEXAS AT 4:00 P.M.

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

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

Derek France	Mayor
Ben Bumgarner	Mayor Pro Tem
Sandeep Sharma	Deputy Mayor Pro Tem
Adam Schiestel	Councilmember Place 1
Jim Engel	Councilmember Place 4
Ann Martin	Councilmember Place 5

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

Theresa Scott	Town Secretary
Debra Wallace	Interim Town Manager/CFO
Tommy Dalton	Assistant Town Manager
Tiffany Bruce	Assistant Town Manager/Town Engineer
Lexin Murphy	Director of Planning Services
Chuck Jennings	Director of Parks and Recreation
JP Walton	Assistant to the Town Manager/Interim Director of Econ. Dev.
John Chapman	Long Range Planner
Clay Riggs	Director of Public Works
Matt Woods	Director of Environmental Services
Robert Pegg	Assistant Director of Engineering
Brian Waltenburg	Assistant Director of Engineering
Andy Kancel	Police Chief/Acting Fire Chief
Matt Hotelling	Traffic Engineer

A. CALL STRATEGIC PLANNING SESSION TO ORDER

Mayor France called the meeting to order at 4:00 p.m.

B. PUBLIC COMMENT

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

	Speaker name and address	Subject (as written on the form)
1.	Yvette Elliott, 1309 Homestead	Item 17
2.	Sandy Fambrough, 4105 Spring Meadow Ln	Item 17
3.	Don Shields, 3815 Cortadera Ct	All Together Flower Mound
4.	Vince Gallo, 3201 Walnut Grove	Items 7 and 9
5.	A. Jones (address not provided)	Item 17
6.	Paul Stone, 4100 Broadway	Various

C. AGENDA ITEMS

Discussion of the Town's Strategic Plan including objectives, action items, targets, and performance for the goals of:

1. Safety and Security
2. First Rate Infrastructure

FLOWER MOUND TOWN COUNCIL STRATEGIC PLANNING SESSION, JULY 15, 2021 PAGE 2

3. Financial Soundness and Operational Excellence
4. Superior Quality of Life
5. Dynamic Economic Environment
6. Regional Cooperation
7. Community Engagement
8. Quality Workforce

And including discussions involving:

9. Town communications, website, notifications, customer service, technology, transparency, engagement, and benchmarking
10. Town finance, tax rate, budget, revenues, expenditures, impact fees, development fees, and facilities
11. Economic development
12. Recycling, and solid waste contract
13. Town infrastructure (transportation, sidewalks/connectivity, lighting, water, wastewater, and drainage)
14. Development processes/standards/fees, tree ordinance, neighborhood planning, roadway and landscape setbacks and buffers, open space, parks, growth, uses, housing, SMARTGrowth, Cross Timbers Conservation Development District development options, Lakeside Business District and limited residential, Mixed-Use Zoning District Regulations, Master Plan, and zoning regulations
15. Infill development including potential discussion about 4000 Morriss Road, 4497 Cross Timbers Road, and the northwest corner of Firewheel Drive and Milford Drive.
16. Town Boards and Commissions, including required training, number of members on each and term limits
17. All Together Flower Mound initiative
18. Town Manager search
19. Charter Review

A strategic planning session report will be forthcoming for Council approval. Once adopted by Council the report will be posted on the Town Council section of the Town's website with [previous reports](#) (bottom of the page).

D. ADJOURN PLANNING SESSION

Mayor France adjourned the meeting at 10:35 p.m. on Thursday, July 15, 2021, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

DEREK FRANCE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA ITEM NO. 3

CONSENT ITEM

DATE: July 19, 2021

FROM: Gary Bertagnolli, Director of Information Technology

ITEM: Consider approval of replacement of aged surveillance cameras and upgrade of current software in the amount of \$76,818.66.

BACKGROUND INFORMATION: This is a yearly project that replaces aged surveillance cameras that are older than 5 years, and surveillance software older than 6 to 8 years. This year, 60 cameras need to be replaced as well as the surveillance software. Knight Security Systems has been selected as the vendor due to being best price and also under DIR contract

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: A decision to not approve the proposed upgrade could result in extended camera downtimes and incompatibilities with outdated surveillance software.

FISCAL IMPACT: \$76,818.66

Proposed Expenditure/(Revenue):	Account Number(s):
\$76,818.66	567-270-84510-2020

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Quote

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



Proposal: 19644-1-0

Milestone upgrade and adding Axis cameras

Prepared for:

Rob Silvy

Town of Flower Mound

2121 Cross Timbers Rd

Flower Mound TX, 75028

Private and Confidential: The proposal has been distributed to you on a confidential basis for your information only. By accepting it, you agree not to disseminate it to any other person or entity in any manner and not to use the information for any purpose other than considering opportunities for a cooperative business relationship with Knight Security Systems, Inc.

Proposal Issued:
6/15/2021

Proposal Valid To:
7/15/2021

Prepared by:

Michael Lee

214-577-4374

mlee@knightsecurity.com

10105 Technology Blvd West
Suite 100
Dallas, TX 75220

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

DESCRIPTION

CLIENT INFORMATION

Name: Town of Flower Mound

Site

2121 Cross Timbers Rd
Flower Mound, TX 75028

Billing

Purchasing Department, 2121
Cross Timbers Rd
Flower Mound, TX 75028

Contact

Rob Silvy, IT Manager
P (972) 874-6000
E Rob.Silvy@Flower-Mound.com

PROJECT NAME: Milestone upgrade and adding Axis cameras

PROJECT SCOPE OF WORK

DIR-CPO-4494

Knight Security Systems (KSS) will provide upgrades for 194 Milestone licenses & installation of 60 new Axis cameras.

Video Surveillance System

Knight Security (KSS) will provide Milestone CARE for 3-years forward from date of purchase plus tag on 3-months of Care premium to this at no cost, allowing direct access to Milestone support teams or expedited support through Knight Security. Furthermore, we offer, at no cost, a free Micro Health check on the system. A KSS Senior System tech will be on-site for approximately 1 day to coordinate the upgrade and assist with any problems related to the upgrade plus provide 1 day of additional training.

The existing Milestone VMS server storage capacity KSS does not guarantee.

We have provided pricing for installation of 60 AXIS cameras. The part numbers were determined from a list provided by the customer of existing Panasonic cameras. Installation includes removal of the existing Panasonic cameras, installation of the new Axis cameras, camera configuration and adding cameras to Milestone VMS.

KSS will utilize existing cabling to each camera as well as POE power and communication. Town of Flower Mound will provide a bucket truck for installation of the 2 outside cameras at the Police Department. Rental for a scissor lift is included in the proposal in case the existing Customer scissor lift does not meet the job requirements.

Customer Provided Items

- Electronic drawing files of the plans and approval of device layout
- Individual software administrator logins for personnel at each location for each system
- Assigning different schedules and access levels to the access control doors
- PoE switches and patch panels
- Existing recording server with storage space to accommodate the new devices
- Existing client workstations that meet the system minimal requirements
- Rack space and uninterruptable power supply in the MDF room for rack mount units
- Wall space and 3/4" plywood backboard for wall mount units
- Network configurations for connection of devices to Customer's network
- Phone line and / or network connection to intrusion panel for monitoring services
- 120VAC by a certified electrician for all security devices where needed
- Exterior and fire partition penetrations where needed
- Installation of conduit with a pull string to security devices where needed
- A dry contact connection from the fire system for fire drop out if needed

Client Initials: _____

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Finance

Purchaser hereby agrees to pay KSS the following terms:

The Customer is required to pay every invoice in full within 30 days of receiving the invoice.

Project Milestones and Invoicing Procedures

- For material upon delivery.
- For services as they are performed.

Any changes from the base price will be adjusted with approved change orders from the Customer.

Engineering

KSS shall provide system design and operational documentation to ensure proper installation and efficient servicing of the system. KSS will provide submittal plans that will show where each device is located at each site. The submittal plans will also include a system matrix, which includes the schedule of each device and the programming setup into the security system software.

Cabling & Wiring

KSS will not provide any conduit or trenching required to reach each device. It is the Customer's responsibility to provide a pathway for all wiring required for each device. KSS is not responsible for any existing wiring being used. A quote will be provided to the Customer for any wiring that is found to be unusable.

Field Devices

KSS will provide all necessary devices and hardware included on the equipment list attached. The devices on the security plans will be installed and programmed into the system according to the system matrix.

KSS is not responsible for any existing devices being reused. If any existing devices are found to be unusable then a quote will be provided to the Customer to replace the device. KSS is not responsible for any damages done from the existing devices being removed. The Customer is responsible to patch and repair any damages done from existing devices removed.

Programming

KSS trained personnel will program the security system to provide a functioning operational system. KSS will support Customer programming personnel and set up remote field panels consistent with manufacturer standards. KSS will program each device according to the system matrix provided in the security plans. If any additional programming or special programming outside the system matrix is needed an approved change order from the Customer is required.

Customer to furnish IP addressing scheme for all devices requiring an IP address on the network. KSS will provide a list of devices that need IP addresses to the Customer.

Rental Equipment

Lift (scissor) rental is included in this proposal.

Testing

KSS will perform acceptance testing in the presence of the appointed Customer representative to ensure proper operation and communication of all integrated systems. A test sheet with a check list for each device will be provided by KSS and signed by the Customer representative upon successful completion of a system acceptance test. The final system test report will be sent to all parties.

A punch list detailing items requiring a follow up that is within this scope of work will be created. KSS will correct the punch list items in a mutually agreed upon time. If the Customer wants something changed after the test sheet has been signed additional charges will be applied.

Upon system acceptance, a KSS job completion form shall be signed and sent to all parties. It is the Customer's responsibility to ensure proper periodic testing per the manufacturer's recommendation if a signed SecurePlan agreement is not in place.

Client Initials: _____

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Training

KSS will provide training for one combined end user training session. The individuals for the system training session will be determined by the Customer. All training for the above-mentioned systems to follow the manufacturer guidelines for Customer training. This training will be provided for administrators and users for each system.

Training will include upgrade implementation, system administration, end-user, and reports. The training will be classroom style and will include manuals, training material, and hands on training. Two hours of training are provided with this proposal. Additional training may be provided with additional cost.

Standard Proposal Notes:

1. This proposal will follow the guidelines stated in DIR contract number DIR-CPO-4494 Standard Terms and Conditions.
2. A standard 1-year warranty applies on all newly installed equipment.
3. Final Location of all equipment to be approved by owner prior to start of installation.
4. Work provided by KSS is assumed to be continuous and unhindered. Additional costs will be incurred if work is slowed by denial or delay of access to the work areas without three days' notice. Any cessation of work by the customer or delays in the project construction schedule will result in additional mobilization and project management charges.
5. The quantities of materials noted above scope of work are intended to be descriptive. Should there be any discrepancy between the scope of work and the equipment list, the equipment list will supersede the scope of work stated above.
6. All work will be done following federal, state, and local laws and requirements for the above scope of work.

Knight Security Systems Excludes the Following:

1. All 120 VAC connections are to be performed by customer or customer's designated licensed Electrical contractor.
2. Fire alarm interface, cabling, connection, input/output, testing and certification.
3. Any city or other governmental permits, not associated with this scope of work, required for the use and operation of the system.
4. Access to device location, penetrations, required access panels for concealed areas.
5. If not stated above wire mold, conduit, trenching, wireless devices or aerial cabling necessary to connect any remote locations or gates, computer workstations to operate the system, and network equipment to provided power and data communication for devices.
6. Overtime required due to schedule revisions, work stoppages, delays caused by others, or circumstances beyond Knight Security Systems control.
7. Final terminations and connections to equipment other than provided by Knight Security Systems.
8. Any trade installation that Knight Security Systems is not licensed to perform.
9. Painting, patching or landscaping required as a result of the installation of equipment associated with this scope of work.
10. Technical assistance or the setup of the customer's network for connection to the security control systems. The customer is required to provide static IP addresses and support personnel for assistance in setting up the network connections.

PROJECT INVESTMENT

Client Initials: _____

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

VIDEO					\$76,818.66
QTY	Manufacturer	Part #	Description	Unit Price	Ext. Price
10	DIR-Axis Communications	DIR-01591-001	Fixed dome with support for Forensic WDR and Light	\$387.11	\$3,871.10
25	DIR-Axis Communications	DIR-01920-001	Full HDTV 1080p fixed dome onboard camera with mal	\$425.90	\$10,647.50
12	DIR-Axis Communications	DIR-01593-001	Fixed dome with support for Forensic WDR, Lightfin	\$542.27	\$6,507.24
4	DIR-Axis Communications	DIR-01593-001	Fixed dome with support for Forensic WDR, Lightfin	\$542.27	\$2,169.08
1	DIR-Axis Communications	DIR-01054-001	Compact outdoor, 5MP resolution, day/night, fixed	\$581.06	\$581.06
1	DIR-Axis Communications	DIR-01919-001	Full HDTV 1080p fixed dome onboard camera for roll	\$464.69	\$464.69
1	DIR-Milestone	DIR-Y3OIXPETBL	Three years opt-in Care Plus for XProtect Expert B	\$783.43	\$783.43
194	DIR-Milestone	DIR-Y3OIXPETDL	Three years opt-in Care Plus for XProtect Expert D	\$105.91	\$20,546.54
7	DIR-Axis Communications	P1455-LE	COMPACT AND OUTDOOR-READY HDTV CAMERA FOR DAY AND	\$464.69	\$3,252.83
1	DIR-Knight Security	DIR-KSS-PROJKIT	DIR- Project Install Kit	\$312.50	\$312.50

Labor:

QTY	Description
10	SRTECH
15	PROJECTMGR
55	SYSTECH
145	INSTALL

Discounts and Misc. Items:

QTY	Description
1	Specialty Tools and Lifts per project requirements

Equipment Subtotal	\$49,135.97
Labor Subtotal	\$27,261.00
Discounts and Misc. Items SubTotal	\$421.69
VIDEO SubTotal	\$76,818.66

Investment Summary

Total Equipment	\$49,135.97
Total Labor	\$27,261.00
Total Discounts & Misc. Items	\$421.69
Total Proposal Amount	\$76,818.66

Note: Sales tax, if applicable, is not included on this proposal and will be added to the total upon invoicing.

Investment Total

Knight Security Systems will provide the proposed system as described in this proposal for the sum of: **\$76,818.66**

The price above includes: material, equipment and labor as described within this proposal.

Client Initials: _____

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Proposal Acceptance:

I have read the **General Terms and Conditions** of the sale, understand them fully, and agree to abide by them. I have also read and understand the payment terms as set forth in the **Customers Responsibilities** section of the agreement as well as the **Schedule of Equipment** as listed.

I hereby certify that I am authorized by my company to sign this agreement. Knight Security Systems is hereby authorized to perform the work as specified.

KNIGHT SECURITY SYSTEMS

Town of Flower Mound

By: _____ Signature _____ ISR _____ Title _____ Michael Lee _____ Print Name	By: _____ Signature _____ Title _____ Print Name
---	---

Private and Confidential: The proposal has been distributed to you on a confidential basis for your information only. By accepting it, you agree not to disseminate it to any other person or entity in any manner and not to use the information for any purpose other than considering opportunities for a cooperative business relationship with Knight Security Systems, Inc.

Client Initials: _____

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

TERMS & CONDITIONS

SEE PURCHASING CONTRACT

DIR-CPO-4494

FOR TERMS AND CONDITIONS.

Web Access:

<https://dir.texas.gov/View-Search/Contracts-Detail.aspx?contractnumber=DIR-CPO-4494&keyword=knight>



TOWN COUNCIL AGENDA ITEM NO. 4

CONSENT ITEM

DATE: July 19, 2021

FROM: Gary Bertagnolli, Director of Information Technology

ITEM: **Permission to proceed with Telecommunications service and bill audit.**

BACKGROUND INFORMATION: The Director of IT would like to initiate an audit of the town phone/data services and billing history. The objective is to seek out and disconnect services no longer in use as well as hold telecommunication companies liable for any billing discrepancies. The discrepancies found along with services discovered no longer in use will result in a net savings.

Fees for services rendered by Teleanalysis LLC:

- 25% of savings on recommendations for 12 months.
- 25% of retroactive refunds payable upon receipt.
- 25% of monthly reductions realized due to elimination and correction of billing discrepancies for 12 months.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: Net positive savings

Proposed Expenditure/(Revenue):	Account Number(s):
Net Positive savings	100-655-59100-5110

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

LEGAL REVIEW: Reviewed by Larry Collister of Taylor, Olson, Adkins, Sralla, Elam, LLP on 18-Jun-2021.

ATTACHMENTS:

1. Scope of Work-Telanalysis
2. Telanalysis Contract
3. Letters of Reference

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



CONTRACT

SCOPE OF WORK

PHASES OF WORK

TELANALYSIS

Telecommunications Billing Audit

SCOPE OF WORK

THE AUDIT PROCESS:

The Telanalysis strategy and objective is to assess the validity of telecommunications billing charges for our Client.

The audit will encompass effecting any necessary billing adjustments to cause an accurate correspondence between what is being charged by the service carriers/vendors, versus what should be charged, and to procure any retroactive monies/credits that Client may be entitled to. Every carrier invoice and line item will be audited to the USOC level.

Prior to initializing our studies we establish a “baseline” of local voice and data line costs by carrier account number to determine actualized savings at audit’s end.

Our method of research and analysis incorporates the utilization of various proprietary telecom databases that help us refine and isolate areas of conflict and alternative actions.

Additionally, to safeguard our initial study results, all audits are re-examined by a second auditor on the team.

We will present all billing discrepancies identified during the audit as well as offer “money smart” recommendations if possible, that will furnish Client alternative choices in services, plans, rates and configuration options that will reduce monthly costs and/or optimize existing telecom configurations.

Any item or initiative that is currently being addressed by Client and not to be included under the umbrella of this contract shall be listed and attached to the Telecommunications Study Agreement as ‘To Be Excluded.’ Items catalogued ‘To Be Excluded’ will be eliminated from the agreement between Client and Telanalysis. Telanalysis shall not claim any portion of savings for the excluded items/initiatives that accompany this Agreement. Otherwise all telecommunications billing issues will be included in the audit and subject to fee payments as contained within the terms of the Agreement.

PROCEDURES: The basic procedures we will enact for the audit are:

- Assemblage of vendor bills for local and long distance and existing contracts.
- Analysis of billing services/equipment and related charges.
- Researching the accuracy and appropriateness of tariff rates and existing contracts as applied by local and long distance service vendors to Client.

TELANALYSIS

Telecommunications Billing Audit

SCOPE OF WORK

Procedures - continued

- Identifying and rectifying erroneous billing overcharges.
- Identifying alternative services, plans, rates and programs that will offer a reduction in monthly expenditures.
- Negotiating equitable settlement terms for Client.
- Perform a complete billing audit on local and long distance billing to determine correctness of charges via tariff and contract investigation.
 - Recommend cost savings services based upon tariff regulations, existing contracts and customer profile.
- Analyze the proper applications of federal, state and local taxes.
- Analyze the proper application of access charges.
- Perform an equipment audit of wireless phones/services.
- Comparison of the site Customer Service Record (CSR) with the inventory of installed services and petitioning for refunds if due.
- Analysis of Intra-LATA traffic.
 - Investigation of cost effective alternatives, specific to site with value-based recommendation.
- Act as Client's interface Telecommunications Agent:
 - Prepare appropriate reports/paperwork to acquire refunds and rectify discrepancies.
 - Provide a monthly status report to Client to advise on progress of the audit.
- Initiate and oversee negotiation proceedings with carrier company officials to ensure that an equitable settlement is reached.
- Provide post-reconciliation of all local and long distance telecommunications service provider bills.
- Review carrier contracts for accuracy and determine if the best rates and services have been attested to.
- Investigate prospective alternatives offering beneficial cost savings and services for Client's consideration.
- Implement and administer recommendations accepted by Client.
 - Recommendations will be tracked and evaluated monthly for the entirety of the contract period.

GENERATION OF SAVINGS REPORT:

Upon completion of each study segment, Telanalysis will present a collective package of our findings, including all retroactive one-time refunds, on-going monthly reductions and cost savings recommendations that would be appropriate for Client to consider.

TELANALYSIS
Telecommunications Billing Audit
SCOPE OF WORK

Generation of Savings Report – continued

A savings report with projected cost savings and all necessary steps required to implement the savings will be presented at this time. If Client wishes to accept any recommendation, we request that Client agree to sign an Acceptance Declaration Form prior to implementation. If Client chooses not to accept our recommendation(s), our contractual agreement does require that Client forfeit its right to implement the recommendation for a period of 12 months.

THE DISENGAGEMENT PROCESS CONSISTS OF:

Client's engagement with Telanalysis will be completed when the last of the 12 monthly invoices have been generated with documented savings identified during the audit period.

COMPENSATION:

Telanalysis agrees to accept a share-in-savings fee structure of 25% fully contingent upon documented cost savings. Therefore Client will be entitled to receive 75% of all savings procured by Telanalysis during the course of the contract, and Telanalysis will be entitled to receive 25% for a period of 12 months. Telanalysis will generate invoices as follows.

*Retroactive Refunds and One-Time Credits: Telanalysis will generate an invoice upon receipt of a refund, credit or check to Client.

*On-Going Savings Due To Elimination and Correction of Billing Errors: Telanalysis will generate monthly invoices for a period of one year (12 months) upon verification of realized billing reductions.

*Recommendations Accepted and Implemented: Telanalysis will generate a monthly invoice for a period of one year (12 months) upon verification of actualized savings.

TELECOMMUNICATIONS STUDY AGREEMENT

TELANALYSIS LLC of Alexandria, Virginia ("CONSULTANT"), enters into this agreement with the TOWN of FLOWER MOUND, TEXAS, ("CUSTOMER") as of June 18th, 2021.

CONSULTANT will provide an audit and analysis of local, long distance and wireless carrier bills and related contracts. All telecommunications billing issues will be included in the Study and are subject to fee payments outlined below unless CUSTOMER provides CONSULTANT with a specific listing of telecommunications issues to be omitted. The listing ("ADDENDUM") must accompany this agreement and be signed by both parties in order to be excluded from the Study.

CONSULTANT is authorized to communicate directly with the appropriate telephone service(s) provided on behalf of CUSTOMER pursuant to the Letter of Agency attached hereto. Upon completion of the analysis, CONSULTANT will provide to the CUSTOMER a Findings Report that will identify and explain billing discrepancies discovered during the course of the Study and present specific recommendations to reduce telecommunications expenditures, if possible.

Should CUSTOMER implement some or all of the recommendations suggested by CONSULTANT within 24 months of the date of this agreement, CONSULTANT shall be entitled to a fee determined as follows:

- * 25% of Savings On Recommendations for 12 Months
- * 25% of Retroactive Refunds Payable Upon Receipt
- * 25% of Monthly Reductions Realized Due to Elimination and Correction of Billing Discrepancies for 12 Months

The reductions shall be determined by subtracting from a bill calculated as if the recommendations had not been implemented from a bill calculated with the recommendations in place. The calculations shall be done on a monthly basis beginning with the first month following the implementation and ending on the twelfth (12th) month following the implementation and each intervening month thereof. The amount of savings will include, but not be limited to all savings, credits, rebates and one-time retroactive refunds CONSULTANT obtains through its investigative study by means of rate changes, alternative configuration methodology, and other strategies that result in savings for the CUSTOMER. CONSULTANT shall issue a monthly invoice to CUSTOMER indicating a specific computation of the savings. CUSTOMER shall have thirty (30) days to dispute such savings calculated or it shall be considered final.

CUSTOMER acknowledges that CONSULTANT may use the Letter of Agency for a 24-month period to review all of the bills of the CUSTOMER to determine if CONSULTANT is entitled to any further fees under this agreement. Should either party be required to retain the services of an attorney to protect their respective interests under this agreement, then the prevailing party shall be entitled to be reimbursed from the non-prevailing party of all fees and costs incurred in enforcing this agreement.

CUSTOMER agrees that all information disclosed to it by CONSULTANT is proprietary information and may not be disclosed to any other party without the express written consent of the CONSULTANT. CONSULTANT acknowledges that CUSTOMER'S telephone records are confidential and agrees to protect their confidentiality at all times.

Witness the following signatures.

TELANALYSIS

By:

Ball

TOWN of FLOWER MOUND, TEXAS

By:

Addendum to Telecommunications Study Agreement

This Addendum to Telecommunications Study Agreement ("Addendum" and "Agreement" respectively) is by and between Telanalysis, LLC, a Virginia limited liability company, and the Town of Flower Mound, a Texas municipal home-rule corporation, and is effective the date the Agreement is executed. Together, the Addendum and Agreement comprise the entire contract between the parties and shall be referred to as the "Contract" in this Addendum.

In consideration of the promises and mutual covenants contained in the Contract, the parties further agree as follows:

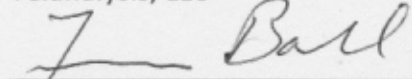
1. **Settlement of Disputes.** Any disputes arising from the execution of the Contract, including but not limited to savings calculated by Telanalysis and billed to Town, shall be settled through friendly consultations between both parties. In the case that no settlement can be reached through consultations, either party may submit the dispute directly to mediation or to the courts no earlier than 60 days after the date of dispute.

2. **Funding Out Clause.** This Contract may be terminated by the Town without notice and without penalty or liability in the event that (a) the Town lacks sufficient funds for this Contract; (b) funds for this Contract are not appropriated by the Town Council of the Town; and (c) funds for this Contract that are or were to be provided by grant or through an outside service are withheld, denied or are otherwise not available to the Town.

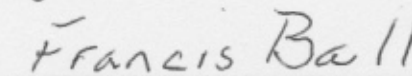
3. **Governing Law; Jurisdiction and Venue.** This Contract shall be governed by, and construed in accordance with, the laws of the State of Texas. The parties agree and consent to the exclusive jurisdiction of the courts of the State of Texas for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in Denton County, Texas.

In witness whereof, the parties have executed this Addendum as the date the Telecommunications Study Agreement was signed.

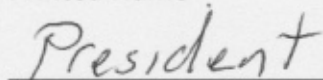
Telanalysis, LLC



Signature



Printed Name



Title

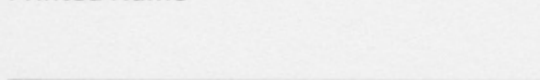
Town of Flower Mound, Texas



Signature



Printed Name



Title

Signed on the 18th day of June, 2021.

Signed on the ____ day of _____, 2021.



LETTERS OF REFERENCE



Prince George's County Public Schools

14201 School Lane • Upper Marlboro, Maryland 20772 • www.pgcps.org

N. Wesley Watts Jr.
Chief Information Officer
Telephone: 301-952-6250
Facsimile: 301-952-6266

October 18, 2012

Mr. Frank Ball
President
Telanalysis
2859 Duke Street
Alexandria, Virginia 22314

Dear Mr. Ball

I would like to express my appreciation for the excellent telecommunications billing audit that Telanalysis conducted on behalf of Prince George's County Public Schools.

The services were provided in a very professional and committed manner and resulted in substantial telecom savings to the school system. Since September 2010, the Telanalysis audit and recommendations have saved Prince George's County Public Schools roughly \$1,500,000.00 in retroactive refunds and \$700,000.00 in on-going annualized savings.

I highly recommend Telanalysis to any government agency or business in need of cutting the cost of telecommunications expenses. It has been a pleasure doing business with you.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Watts", is written over a horizontal line.

W. Wesley Watts Jr.
Chief Information Officer



July 16, 2014

To Whom It May Concern:

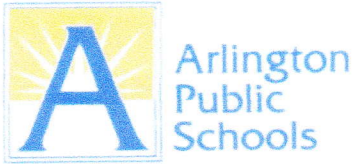
I would like to express my appreciation for the excellent Telecommunications Billing Audit that Telanalysis conducted on behalf of the City of Asheville.

Their services were provided in a very professional manner and resulted in substantial on-going telecom annualized savings to the City of Asheville.

I highly recommend Telanalysis to any government or business in need of cutting the cost of telecommunications expenses. It has been a pleasure doing business with them.

Sincerely,

Regina Zachary
City of Asheville
Information Technology
(828) 259-5510



Education Center 1426 N. Quincy Street • Arlington, Virginia 22207

July 1, 2014

To Prospective Clients of Telanalysis Inc:

I would like to express my appreciation for the excellent services provided to the Arlington County Public Schools by Telanalysis Inc. Over a ten year period, Telanalysis has provided numerous services to APS, including tariff consulting, RFP/proposal analysis, bill auditing, and cost recovery.

All services were provided in a very professional manner and resulted in substantial on-going telecom annualized savings to APS.

I highly recommend Telanalysis to any public or private sector entity seeking to reduce their existing telecommunications costs. It has been a pleasure doing business with them.

Sincerely,

Singh P. Ajrawat
Telecommunications Manager, Arlington Public Schools
703-228-6030

A handwritten signature in blue ink, appearing to read 'Singh P. Ajrawat', is written below the typed name and contact information.



Mr. Frank Ball
Telanalysis, Inc.
2859 Duke Street
Alexandria, VA 22320

Frank,

I want to take this opportunity to thank you and everyone at Telanalysis for your continued attention and support of the BNA accounts.

Without Telanalysis, BNA would not have recouped \$450,000 from telecom vendors for billing errors, mistakes, and delays last year. Telanalysis' attention to the many accounts, disconnect orders, and billing errors was very important to BNA.

This is not a job we could have done internally at BNA without specialized staff. You watched our accounts like they were your own, made recommendations, did extensive follow up, and kept the pressure on the vendors until they provided the fair credits and refunds to BNA from their delays and errors.

The continued reminders to the vendors, the conference calls, and face-to-face meetings were all coordinated by Telanalysis and Telanalysis followed up on every account, error, disconnect order, and every dollar due back to BNA.

Thank you for your excellent support.

Sincerely,

Gay Y. Stikeleather
Director
Business Services

From: Burns, Kevin
Sent: Tuesday, October 22, 2013 10:33 AM
To: 'Solomon, Camille'
Subject: RE: Telanalysis Interest

Good Morning – I have worked with Telanalysis for about 10 years now. When I took on this position in 2002, the telephone billing was a disaster, and I had several other large projects handed to me on arrival.

I contracted with Frank Ball and his team to do a complete audit of all our telephone billing and service agreements, because I simply did not have the time to deal with the disaster our telecom vendor had created.

Hiring Frank Ball turned out to be one of the smartest things I've ever done. Armed with nothing but a Letter of Authorization, he went after multiple phone companies and found so many problems I can't even begin to list them. By the time we were done our first 12 to 18 months work, he reworked our existing agreements and pulled together retroactive credits on billing errors that amounted to more than \$400,000.00 in savings. That's not a typo....

We have maintained our relationship with Frank and his team, and even though our billing is now squeaky clean, he continues to deliver value to the organization via yearly audits, contract negotiations at renewal time, and error checking.

Frank and I have a friendly gentleman's agreement that if there is ever a single year when Telanalysis fails to save me more than I pay them for their services, I'm going to fire them – I'm planning on retaining their service as long as I'm working here.

Do yourself a favor and hire them.
Thanks

Kevin Burns | Manager- Telecommunications | 443.481.4019| kburns1@aahs.org

 Anne Arundel Medical Center

GEORGETOWN UNIVERSITY**Information Services**

To: Susan Monaco

From: Chris Peabody

Re: Telanalysis

Susan:

I got your fax, here is my response to your questions.

Overall, as I said in my voicemail to you, I very highly recommend Telanalysis for the job that your organization is about to undertake.

As I stated, I have been in the telecommunications business for almost 20 years, working for Verizon for 15 of them (and installing hundreds of circuits) and here at GU for the past 3+. I have a very solid understanding of the telecommunications carriers billing processes, and therefore, the problems you are confronted with. Even with the knowledge that I have regarding these bills (I actually installed most of them here at GU - I was the Sr. Account Manager for GU, at Bell Atlantic for 6 years) - I felt it prudent to have an outside company help drive the process, and ensure (for audit purposes) that my organization had done everything possible to sort through, clean up, and audit these bills. Mr. Ball and his company did an excellent job. My staff was happy, my auditors were happy, my financial team was happy, and only Verizon was unhappy.

I have referred Telanalysis to many of my peers in the higher educational community. They too, have been extremely pleased with his results and professionalism.

Again, I very highly recommend Telanalysis.

SPECIFIC ANSWERS TO THE QUESTIONS

1. GU is a large University, Law and Research Center. Our budget for telecom carrier services is approximately \$2mil. We have approximately 16,000 phones on campus, and 5,000 off campus. We have about 45 buildings on campus and 15 or so off campus. We also nm an enormous wide area data network, including connections to the Internet, Internetl, and to the 15 off campus buildings. We receive over 150 bills from carriers for voice and data services every month. We asked Telanalysis to do four things:

A. Tell us what we "were" paying these carriers.

B. Tell us what we "should" be paying these carriers based on our existing contracts etc. C. Help us determine how much service we really need to be contracted for.

D. Inform us of better rate plans.

They did all three of these items for us, over the course of a year or so.

2. We have been dealing with them, off and on for the past 3 years or so.

3. Combined method of contracting with them, although I was not here for the initial discussions. I believe the other company being considered, withdrew.

4. We have had no problems.

5. They were very responsive, and helped ~ drive this process to conclusion. One of my major goals -was to have Telanalysis push GU to get through this, and teach us for the future. They accomplished both.

6. We provided data to them, and signed the Authorization letters. They did a lot of leg work for us with Verizon and the carriers. We did need to do some work in support of the effort (which was important to me, so that my staff could learn from the pro's how to do this in the future). Telanalysis seemed to have a lot of knowledge and "connections" at these companies, which took some of the burden off of my staff, and as I said, this ultimately helped us get through this process. Most of the interaction with my staff was questions like "Do you know anyone I can talk to at this department etc. ..." when they needed a contact for access or general info regarding a site they were auditing.

They did a lot of work at the physical Dmarc checking on circuits for us. They found many old analog circuits by doing this. Again, they seemed to have some great contacts at Verizon to help them with this. (As an ex insider, even I was impressed).

7. Our billing is very complex, so it is hard to put an exact figure on the changes (we add and subtract on a weekly basis).

Telanalysis probably knocked out about \$300,000 worth of charges (over a 12 month period) for GU. One of their major finds was that a "Most common dialed number" was an internal remote access server number, that we were dialing ourselves (GU calling GU but the called number was not a part of our PBX -it was a Data Server, therefore it was billing message units - LOTS OF THEM). I would not do anything different -which is why I am comfortable writing this long response to your questions! There are a lot of lousy contractors/consultants out there -Telanalysis was not one of them. They were excellent and did exactly what we asked them to do. You will be pleased with their work.

Please feel free to email me with other questions or comments.

Chris Peabody

Director, Network and Computing Services

202-687-1394

peabodyc@georgetown.edu



TOWN COUNCIL AGENDA ITEM NO. 5 CONSENT ITEM

DATE: July 19, 2021

FROM: Jaime Jaco-Cooper, Senior Center Manager

ITEM: **Consider approval of the consumption of alcoholic beverages at the Flower Mound Senior Center during the SIM Auxiliary's Elite Chef Competition fundraiser.**

BACKGROUND INFORMATION: SIM Auxiliary, Inc. is requesting approval from the Town Council to serve wine at their Elite Chef Competition fundraiser on Thursday, August 26, 2021, from 6:00 – 8:00 p.m. at the Flower Mound Senior Center.

The SIM Auxiliary (SIMA) was formed in 2009 as a 501(c)3 to support Flower Mound seniors and the Town's Seniors In Motion Program. SIMA has raised and contributed over \$100,000, which has been used to purchase equipment, furniture, and help offset the cost of the new accessible bus for the Town's senior program.

The Elite Chef Competition is an exciting event for SIM members and is also open to the public. For this event, SIMA partners with four local businesses who each donate a chef and tasting-servings for 200 people. During the event, four chefs will do cooking demonstrations and prepare small plates for each guest to sample. Guests will get to sample each dish while the chefs are performing their demonstrations. Each guest will vote for their favorite dish, and the winning chef will receive the Elite Chef Trophy. Guests will purchase a ticket for \$25 which will include appetizers, wine, and beverages. SIMA previously held this event five times at the Flower Mound Senior Center. The previous Elite Chef Competition fundraisers have brought in over \$10,000 for the Flower Mound Seniors In Motion Program.

During the fundraiser, a TABC licensed server will be onsite to serve wine, as well as monitor participant consumption to ensure that no one is overserved. There will be enough wine for two servings per person registered for the event. SIMA will take on the risk and liability of providing the alcohol at the event. The Town will be named as an additional insured on their liability insurance. No one under 21 will be admitted access to the event.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Council can deny the request and SIM Auxiliary can work with Town Staff to host the event without offering alcoholic beverages.

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Event Flyer

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

THE OAKS OF FLOWER MOUND PRESENTS

ELITE CHEF COMPETITION

AT THE FLOWER MOUND SENIOR CENTER
2701 WEST WINDSOR DRIVE

August 26, 2021

6 p.m.

\$25 per person

(Open to anyone 21 or older)

Four local chefs will compete for your vote to be crowned Flower Mound's Elite Chef. Ticket price includes appetizers, four tastings, dessert, and beverages. All proceeds will be donated to the SIM Auxiliary benefiting the Flower Mound Senior Center. For tickets, please call 972.874.6110.





TOWN COUNCIL AGENDA ITEM NO. 6

CONSENT ITEM

DATE: July 19, 2021

FROM: Andy Kancel, Chief of Police *AK*

ITEM: Consider approval of the 2021 Lewisville Independent School District for Contract with the Town of Flower Mound for law enforcement services at all Marcus High School & Flower Mound High School Varsity and Jr. Varsity home games and authorize the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: After discussion between representatives of the LISD Athletic Department and Town staff, a Cooperative Agreement for this year was reached. The Cooperative Agreement will allow off-duty police officers to provide police services for all Marcus High School & Flower Mound High School Varsity and Jr. Varsity home games. The additional uniformed security and traffic control of the stadium and surrounding streets provides citizens using the area a safer environment. Hourly expenses of personnel are reimbursed by the Lewisville Independent School District.

The LISD Cooperative Agreement this year includes the following event dates: Dates are subject to change**

Flower Mound Varsity Schedule

09/03/2021	vs.	Naaman Forest	5 Police Officers / 1 Police Supervisor
10/01/2021	vs.	Hebron	5 Police Officers / 1 Police Supervisor
10/15/2021	vs.	Plano East	5 Police Officers / 1 Police Supervisor
11/05/2021	vs.	Coppell	5 Police Officers / 1 Police Supervisor

Flower Mound Junior Varsity Schedule

09/02/2021	vs.	Celina/Sachse	1 Police Officer
09/09/2021	vs.	TBD/Azle/Mansfield	1 Police Officer
09/23/2021	vs.	Marcus	1 Police Officer
09/30/2021	vs.	Hebron	1 Police Officer
10/07/2021	vs.	Lewisville	1 Police Officer
10/14/2021	vs.	Marcus/McMillen	1 Police Officer
10/21/2021	vs.	Plano West	1 Police Officer
10/28/2021	vs.	Plano	1 Police Officer
11/04/2021	vs.	Coppell	1 Police Officer

Marcus Varsity Schedule

09/03/2021	vs.	Mckinney	5 Police Officers / 1 Police Supervisor
09/10/2021	vs.	Keller Central	5 Police Officers / 1 Police Supervisor
09/24/2021	vs.	Flower Mound	5 Police Officers / 1 Police Supervisor
10/08/2021	vs.	Coppell	5 Police Officers / 1 Police Supervisor
10/15/2021	vs.	Plano West	5 Police Officers / 1 Police Supervisor
10/29/2021	vs.	Lewisville	5 Police Officers / 1 Police Supervisor

Marcus Junior Varsity Schedule

09/02/2021	vs.	Mckinney	1 Police Officer
09/09/2021	vs.	Keller Central	1 Police Officer
09/15/2021	vs.	Hebron	1 Police Officer
09/23/2021	vs.	Coppell/Flower Mound	1 Police Officer
09/29/2021	vs.	Clark/Plano	1 Police Officer

10/07/2021	vs.	Allen/Coppell	1 Police Officer
10/14/2021	vs.	Jesuit/Jasper	1 Police Officer
10/21/2021	vs.	Hebron	1 Police Officer
10/28/2021	vs.	Lewisville	1 Police Officer
11/03/2021	vs.	McMillen/Plano East	1 Police Officer

**August 2022 games TBD – will be covered by this contract

			Total Hours
			346

The LISD Athletic Department will reimburse the Flower Mound Police Department a total contract price of \$28,437.00, which is \$82.19 per hour.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Not sign the solicitation for contract in which case the LISD Athletic Department would not reimburse the Town for expense of police officers and would seek outside law enforcement (i.e. County Sheriff's Office) to perform said duties.

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. LISD Athletic Department memorandum of understanding (MOU)
2. Labor Cost
3. 2021-2022 MHS and FMHS Football Schedule

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

AGREEMENT FOR POLICE SERVICES

THIS AGREEMENT entered into this day by and between the Town of Flower Mound, hereafter referred to as “The Town” and Lewisville Independent School District, hereinafter referred to as “LISD”, for and in consideration of the mutual covenants and agreements herein set forth, WITNESSETH:

1. “Additional or outside employment” as used in this Agreement shall be defined as employment that has been approved by the Town but is not a part and parcel of the officer’s regularly assigned duties or is that employment that might from time to time be further defined by proper departmental policy. The terms “additional or outside” indicate that the employment is in addition to the officer’s regular duties but does not indicate that the officer is anything other than a Town employee. It is contemplated that the officer will continue to act as an employee of the Town as described herein below while performing such additional or outside duties pursuant to this Agreement.

2 This Agreement shall be construed in a manner consistent with written Town and departmental “outside employment” policy for police officers, which is incorporated into and made a part of this Agreement as though fully set forth, word for word.

3 The Town agrees to station Flower Mound Police Officers and or Flower Mound Police Supervisor as is listed in Attachment A for the purpose of providing police-related security and traffic control at the varsity and junior varsity home football games for the period beginning on September 1, 2021 and ending on August 31, 2022. Officers shall perform the services on or about the premises of Marcus High School and Flower Mound High School during the listed dates.

4 Officers will be considered employees of the Town and will receive all pay and benefits from the Town for the off-duty work as listed in Attachment B. LISD will reimburse the Town for the full amount of any and all costs associated with paying the officer for the work performed pursuant to the agreed average overtime rate, all health and retirement benefits, leave time and other fringe or employment benefits that the Town would be obligated by law or local ordinances, regulations, or policies to pay if the officer had been working for the Town. The Town will provide LISD with a statement of said compensation to be reimbursed at the conclusion of the 2021 Marcus and Flower Mound High School football season. Payment from LISD to the Town will be made within 15 calendar days from the date of the statement.

5 Officers will be subject to, and shall abide by, all Town and departmental rules and regulations as well as complying with all local, state and federal laws.

6 This Agreement shall be subject to state laws regarding vacations, holidays, and sick leave for police officers.

7. This Agreement shall continue in full force and effect during the listed dates under the terms and conditions provided herein, unless terminated in writing by notice given at least 30 days prior to the expiration of any contract year.

8. This Agreement is drawn to be effective in and shall be construed in accordance with the laws of the State of Texas. No amendment or variation of the terms of this agreement shall be valid unless made in writing and signed by the Mayor and duly authorized representative of the Town. A waiver of any of the terms and conditions hereof shall not be construed as a general waiver by the Town, and the Town shall be free to reinstate any such term or condition.

WITNESS the hands of the parties hereto this _____ day of _____, 20____.

Lewisville Independent
School District

Executive Director of Purchasing- Craig
Martin

Mayor,
Town of Flower Mound

LABOR COST:

Salary Analysis for 2021 based on average overtime rates of all patrol officers, sergeants and lieutenants projected to perform work on this contract, 346 hours

Average Overtime Rate		Per Hour
Salary:	\$61.78 avg. hourly	\$61.78
FICA:	7.65%	\$4.73
Retirement:	11.41%	\$7.05
Health Ins. Avg. Cost	\$16,262.75	\$7.82
Workers Comp.	1.15%	\$0.71
Supp. Death	\$0.025 per \$1,000	\$0.00
LTD:	\$0.16 per \$100	<u>\$0.10</u>
Total Labor Cost Per Overtime Hour		\$82.19
Total Number of Contract Hours		346
Total Labor Cost for Contract		<u>\$28,437.74</u>

Flower Mound Varsity Schedule

09/03/2021	vs.	Naaman Forest	5 Police Officers / 1 Police Supervisor
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10/15/2021	vs.	Plano East	5 Police Officers / 1 Police Supervisor
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Flower Mound Junior Varsity Schedule

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10/14/2021	vs.	Jesuit/Jasper	1 Police Officer
10/21/2021	vs.	Hebron	1 Police Officer
10/28/2021	vs.	Lewisville	1 Police Officer
11/03/2021	vs.	McMillen/Plano East	1 Police Officer

**August 2022 games TBD – will be covered by this Attachment



TOWN COUNCIL AGENDA ITEM NO. 7

CONSENT ITEM

DATE: July 19, 2021

FROM: David Stallings, Traffic Operations Manager

ITEM: Consider approval of the purchase of traffic signal poles, signal heads, and signal parts in the estimated annual amount of \$650,000.00, from Consolidated Traffic Control, through the Houston-Galveston Area Council (H-GAC) contract.

BACKGROUND INFORMATION: In order to expedite timely order of traffic signal poles, signal head, and signal parts for the Town of Flower Mound, the Transportation Services Division is requesting to use the Houston-Galveston Area Council (H-GAC) contract for purchasing traffic signal poles, signal heads, and signal parts.

Transportation Services has determined that this contract will serve the needs of the Town, and has requested to participate in order to take advantage of the contracted rates. The items available under this contract are traffic signal poles, signal heads, and various traffic signal parts. Orders will be placed on an as needed basis only, and each purchase will be funded by the appropriate CIP or base budget project account.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$650,000.00

Proposed Expenditure/(Revenue):

\$650,000.00 estimated annually

Account Number(s):

Various Projects and Accounts

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. HGAC Executed Contract PE05-21

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

H-GAC

Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - Contract - Consolidated Traffic Controls, Inc. - Public Services - ID: 6676

GENERAL PROVISIONS

This Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and Consolidated Traffic Controls, Inc., hereinafter referred to as the Contractor, having its principal place of business at 1016 Enterprise PL, Arlington, TX 76001.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2: APPLICABLE LAWS

The Contractor agrees to conduct all activities under this Agreement in accordance with all federal laws, executive orders, policies, procedures, applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

ARTICLE 3: PUBLIC INFORMATION

Except as stated below, all materials submitted to H-GAC, including any attachments, appendices, or other information submitted as a part of a submission or Agreement, are considered public information, and become the property of H-GAC upon submission and may be reprinted, published, or distributed in any manner by H-GAC according to open records laws, requirements of the US Department of Labor and the State of Texas, and H-GAC policies and procedures. In the event the Contractor wishes to claim portions of the response are not subject to the Texas Public Information Act, it shall so; however, the determination of the Texas Attorney General as to whether such information must be disclosed upon a public request shall be binding on the Contractor. H-GAC will request such a determination only if Contractor bears all costs for preparation of the submission. H-GAC is not responsible for the return of creative examples of work submitted. H-GAC will not be held accountable if material from submissions is obtained without the written consent of the contractor by parties other than H-GAC, at any time during the evaluation process.

ARTICLE 4: INDEPENDENT CONTRACTOR

The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

ARTICLE 5: ANTI-COMPETITIVE BEHAVIOR

Contractor will not collude, in any manner, or engage in any practice which may restrict or eliminate competition or otherwise restrain trade.

ARTICLE 6: SUSPENSION AND DEBARMENT

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to the Federal Rule above, Respondent certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas and at all times during the term of the Contract neither it nor its principals will be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas Respondent shall immediately provide the written notice to H-GAC if at any time the Respondent learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. H-GAC may rely upon a certification of the Respondent that the Respondent is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless the H-GAC knows the certification is erroneous.

ARTICLE 7: GOAL FOR CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (if subcontracts are to be let)

H-GAC’s goal is to assure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible in providing services under a contract. In accordance with federal procurements requirements of 2 CFR §200.321, if subcontracts are to be let, the prime contractor must take the affirmative steps listed below:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller task or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
5. Using the services and assistance as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6.

Nothing in this provision will be construed to require the utilization of any firm that is either unqualified or unavailable. The Small Business Administration (SBA) is the primary reference and database for information on requirements related to Federal Subcontracting <https://www.sba.gov/federal-contracting/contracting-guide/prime-subcontracting>

NOTE: The term DBE as used in this solicitation is understood to encompass all programs/business enterprises

such as: Small Disadvantaged Business (SDB), Historically Underutilized Business (HUB), Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE) and Disabled Veteran Business Enterprise (DVBE) or other designation as issued by a certifying agency.

Contractor agrees to work with and assist HGACBuy customer in meeting any DBE targets and goals, as may be required by any rules, processes or programs they might have in place. Assistance may include compliance with reporting requirements, provision of documentation, consideration of Certified/Listed subcontractors, provision of documented evidence that an active participatory role for a DBE entity was considered in a procurement transaction, etc.

ARTICLE 8: SCOPE OF SERVICES

The services to be performed by the Contractor are outlined in an Attachment to this Agreement.

ARTICLE 9: PERFORMANCE PERIOD

This Agreement shall be performed during the period which begins May 01 2021 and ends Apr 30 2023. All services under this Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 21, which shall be fully executed by both parties to this Agreement.

ARTICLE 10: PAYMENT OR FUNDING

Payment provisions under this Agreement are outlined in the Special Provisions. H-GAC will not pay for any expenses incurred prior to the execution date of a contract, or any expenses incurred after the termination date of the contract.

ARTICLE 11: PAYMENT FOR WORK

The H-GAC Customer is responsible for making payment to the Contractor upon delivery and acceptance of the goods or completion of the services and submission of the subsequent invoice.

ARTICLE 12: PAYMENT TERMS/PRE-PAYMENT/QUANTITY DISCOUNTS

If discounts for accelerated payment, pre-payment, progress payment, or quantity discounts are offered, they must be clearly indicated in the Contractor's submission prior to contract award. The applicability or acceptance of these terms is at the discretion of the Customer.

ARTICLE 13: REPORTING REQUIREMENTS

If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this agreement with notice as identified in Article 29 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement. Any additional reporting requirements shall be set forth in the Special Provisions of this Agreement.

ARTICLE 14: INSURANCE

Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as outlined and defined in the attached Special Provisions.

ARTICLE 15: SUBCONTRACTS AND ASSIGNMENTS

Except as may be set forth in the Special Provisions, the Contractor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all

subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

ARTICLE 16: AUDIT

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

ARTICLE 17: TAX EXEMPT STATUS

H-GAC and Customer members are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. Respondent must not include taxes in its Response. It is the responsibility of Contractor to determine the applicability of any taxes to an order and act accordingly. Exemption certificates will be provided upon request.

ARTICLE 18: EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

Contractor agrees that H-GAC will have the right, with reasonable notice, to inspect its records pertaining to purchase orders processed and the accuracy of the fees payable to H-GAC. The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party agreements.

ARTICLE 19: RETENTION OF RECORDS

The Contractor and its subcontractors shall maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

ARTICLE 20: DISTRIBUTORS, VENDORS, RESELLERS

Contractor agrees and acknowledges that any such designations of distributors, vendors, resellers or the like are for the convenience of the Contractor only and the awarded Contractor will remain responsible and liable for all

obligations under the Contract and the performance of any designated distributor, vendor, reseller, etc. Contractor is also responsible for receiving and processing any Customer purchase order in accordance with the Contract and forwarding of the Purchase Order to the designated distributor, vendor, reseller, etc. to complete the sale or service. H-GAC reserves the right to reject any entity acting on the Contractor's behalf or refuse to add entities after a contract is awarded.

ARTICLE 21: CHANGE ORDERS AND AMENDMENTS

- A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.
- B. To ensure the legal and effective performance of this Agreement, both parties agree that any amendment that affects the performance under this Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Agreement and shall be binding upon the parties as if written herein.
- C. Customers have the right to issue a change order to any purchase orders issued to the Contractor for the purposes of clarification or inclusion of additional specifications, qualifications, conditions, etc. The change order must be in writing and agreed upon by Contractor and the Customer agency prior to issuance of any Change Order. A copy of the Change Order must be provided by the Contractor to, and acknowledged by, H-GAC.

ARTICLE 22: CONTRACT ITEM CHANGES

- A. If a manufacturer discontinues a contracted item, that item will automatically be considered deleted from the contract with no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
- B. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor must advise H-GAC of the details. H-GAC may allow or reject the change at its sole discretion. If the change is rejected, H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item, or take any other action deemed by H-GAC, at its sole discretion, to be in the best interests of its Customers.
- C. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise H-GAC of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. If the change is rejected H-GAC will remove the item from its program and there will be no penalty to Contractor. However, H-GAC may at its sole discretion elect to make a contract award to the next lowest Respondent for the item or may take any other action deemed by H-GAC at its sole discretion, to be in the best interests of its Customers.
- D. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing will be automatically incorporated into the contract. However, Contractor must still provide thirty (30) calendar days written notice and an explanation of the changes to products and pricing. H-GAC will respond with written approval.

ARTICLE 23: CONTRACT PRICE ADJUSTMENTS

Price Decreases

If Contractor's Direct Cost decreases at any time during the full term of this award, Contractor must immediately pass the decrease on to H-GAC and lower its prices by the amount of the decrease in Direct Cost. (Direct Cost means Contractor's cost from the manufacturer of any item or if Contractor is the manufacturer, the cost of raw materials required to manufacture the item, plus costs of transportation from manufacturer to Contractor and Contractor to H-GAC. Contractor must notify H-GAC of price decreases in the same way as for price increases set out below. The price decrease shall become effective upon H-GAC's receipt of Contractor's notice. If Contractor routinely offers discounted contract pricing, H-GAC may request Contractor accept amended contract pricing equivalent to the routinely discounted pricing

Price Increases

Contractors may request a price increase after twelve (12) months from the bid opening date of the bid received by H-GAC. The amount of any increase will not exceed actual documented increase in Contractor's Direct Cost and will not exceed 10% of the previous bid price. Considerations on the percentage limit will be given if the price increase is the result of increased tariff charges, or other economic factors.

Price Changes

Any permanent increase or decrease in offered pricing for a base contract item or published option is considered a price change. Temporary increases in pricing by whatever name (e.g. 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes. For published catalogs and price sheets as part of an H-GAC contract, requests to amend the contract to reflect any new published catalog or price sheet must be submitted whenever the manufacturer publishes a new document. The request must include the new catalog or price sheet.

All Products shall, at time of sale, be equipped as required under any then current applicable local, state, and federal government requirements. If, during the course of any contract, changes are made to any government requirements which cause a manufacturer's costs of production to increase, Contractor may increase pricing to the extent of Contractor's actual cost increase. The increase must be substantiated with support documentation acceptable to H-GAC prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale are the responsibility of the Customer.

Requesting Price Increase/Required Documentation

Contractor must submit a written notification at least thirty (30) calendar days prior to the requested effective date of the change, setting the amount of the increase, along with an itemized list of any increased prices, showing the Contractor's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Price change requests must include H-GAC Forms D Offered Item Pricing and E Options Pricing, or the documentation used to submit pricing in the original Response and be supported with substantive documentation (e.g. manufacturer's price increase notices, copies of invoices from suppliers, etc.) clearly showing that Contractor's actual costs have increased per the applicable line item bid. The Producer Price Index (PPI) may be used as partial justification, subject to approval by H-GAC, but no price increase based solely on an increase in the PPI will be allowed. This documentation should be submitted in Excel format to facilitate analysis and updating of the website. The letter and documentation must be sent to the Bids and Specifications manager, William Burton, at William.Burton@h-gac.com

Review/Approval of Requests

If H-GAC approves the price increase, Contractor will be notified in writing; no price increase will be effective until Contractor receives this notice. If H-GAC does not approve Contractor's price increase, Contractor may terminate its performance upon sixty (60) days advance written notice to H-GAC, however Contractor must fulfill

any outstanding Purchase Orders. Termination of performance is Contractor's only remedy if H-GAC does not approve the price increase. H-GAC reserves the right to accept or reject any price change request.

ARTICLE 24: DELIVERIES AND SHIPPING TERMS

The Contractor agrees to make deliveries only upon receipt of authorized Customer Purchase Order acknowledged by H-GAC. Delivery made without such Purchase Order will be at Contractor's risk and will leave H-GAC the option of canceling any contract awarded to the Contractor. The Contractor must secure and deliver any item within five (5) working days, or as agreed to on any corresponding customer Purchase Order.

Shipping must be Freight On Board Destination to the delivery location designated on the Customer purchase order. The Contractor will retain title and control of all goods until delivery is completed and the Customer has accepted the delivery. All risk of transportation and all related charges are the responsibility of the Contractor. The Customer will notify the Contractor and H-GAC promptly of any damaged goods and will assist the Contractor in arranging for inspection. The Contractor must file all claims for visible or concealed damage. Unless otherwise stated in the Agreement, deliveries must consist only of new and unused merchandise.

ARTICLE 25: RESTOCKING (EXCHANGES AND RETURNS)

There will be no restocking charge to the Customer for return or exchange of any item purchased under the terms of any award. If the Customer wishes to return items purchased under an awarded contract, the Contractor agrees to exchange, these items for other items, with no additional charge incurred. Items must be returned to Contractor within thirty (30) days from date of delivery. If there is a difference in price in the items exchanged, the Contractor must notify H-GAC and invoice Customer for increase price or provide the Customer with a credit or refund for any decrease in price per Customer's preference. On items returned, a credit or cash refund will be issued by the Contractor to Customer. This return and exchange option will extend for thirty (30) days following the expiration of the term of the Contract. All items returned by the Customer must be unused and in the same merchantable condition as when received. Items that are special ordered may be returned only upon approval of the Contractor.

ARTICLE 26: MANUALS

Each product delivered under contract to any Customer must be delivered with at least one (1) copy of a safety and operating manual and any other technical or maintenance manual. The cost of the manual(s) must be included in the price for the Product offered.

ARTICLE 27: OUT OF STOCK, PRODUCT RECALLS, AND DISCONTINUED PRODUCTS

H-GAC does NOT purchase the products sold pursuant to a Solicitation or Agreement. Contractor is responsible for ensuring that notices and mailings, such as Out of Stock or Discontinued Notices, Safety Alerts, Safety Recall Notices, and customer surveys, are sent directly to the Customer with a copy sent to H-GAC. Customer will have the option of accepting any equivalent product or canceling the item from Customer's Purchase Order. Contractor is not authorized to make substitutions without prior approval.

ARTICLE 28: WARRANTIES, SALES, AND SERVICE

Warranties must be the manufacturer's standard and inclusive of any other warranty requirements stated in the Agreement; any warranties offered by a dealer will be in addition to the manufacturer's standard warranty and will not be a substitute for such. Pricing for any product must be inclusive of the standard warranty.

Contractor is responsible for the execution and effectiveness of all product warranty requests and any claims, Contractor agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

ARTICLE 29: TERMINATION PROCEDURES

The Contractor acknowledges that this Agreement may be terminated for Convenience or Default.

H-GAC will not pay for any expenses incurred after the termination date of the contract.

A. *Convenience*

H-GAC may terminate this Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

The Contractor may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.

B. *Default*

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement, in any one of the following circumstances:

- (1) If the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.
- (3) In the event of such termination, Contractor will notify H-GAC of any outstanding Purchase Orders and H-GAC will consult with the End User and notify the Contractor to what extent the End User wishes the Contractor to complete the Purchase Order. If Contractor is unable to do so, Contractor may be subject to a claim for damages from H-GAC and/or the End User.

ARTICLE 30: SEVERABILITY

H-GAC and Contractor agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 31: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 32: CONFLICT OF INTEREST

No officer, member or employee of the Contractor or subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

- A. **Conflict of Interest Questionnaire:** Chapter 176 of the Texas Local Government Code requires contractors contracting or seeking to contract with H-GAC to file a conflict of interest questionnaire (CIQ)

if they have an employment or other business relationship with an H-GAC officer or an officer's close family member. The required questionnaire and instructions are located on the H-GAC website or at the Texas Ethics Commission website <https://www.ethics.state.tx.us/forms/CIQ.pdf>. H-GAC officers include its Board of Directors and Executive Director, who are listed on this website. Respondent must complete and file a CIQ with the Texas Ethics Commission if an employment or business relationship with H-GAC office or an officer's close family member as defined in the law exists.

- B. **Certificate of Interested Parties Form – Form 1295:** As required by Section 2252.908 of the Texas Government Code. H-GAC will not enter a Contract with Contractor unless (i) the Contractor submits a disclosure of interested parties form to H-GAC at the time the Contractor submits the contract H-GAC, or (ii) the Contractor is exempt from such requirement. The required form and instructions are located at the Texas Ethics Commission website https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. Respondents who are awarded a Contract must submit their Form 1295 with the signed Contract to H-GAC.

ARTICLE 33: FEDERAL COMPLIANCE

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. With regards to "Rights to Inventions Made Under a Contract or Agreement," If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Contractor agrees to be wholly compliant with the provisions of 2 CFR 200, Appendix II. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CFR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CFR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

ARTICLE 34: CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the Contractor's ability to perform services under this Agreement.

ARTICLE 35: INDEMNIFICATION AND RECOVERY

H-GAC's liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will H-GAC be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless H-GAC, its board members, officers, agents, officials, employees and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgements, and liens arising as a result of Contractor's negligent act or omission under this Agreement. Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Agreement.

ARTICLE 36: LIMITATION OF CONTRACTOR'S LIABILITY

Except as specified in any separate writing between the Contractor and an END USER, Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, is limited to the price of the particular products/services sold hereunder, and Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will Contractor be liable for any loss of use, loss of time, inconvenience, commercial loss, loss of profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor understands and agrees that it shall be liable to repay and shall repay upon demand to END USER any amounts determined by H-GAC, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Agreement.

ARTICLE 37: TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

ARTICLE 38: JOINT WORK PRODUCT

This Agreement is the joint work product of H-GAC and the Contractor. This Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

ARTICLE 39: PROCUREMENT OF RECOVERED MATERIAL

H-GAC and the Respondent must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items

designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Pursuant to the Federal Rule above, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), Respondent certifies that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the Contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

ARTICLE 40: COPELAND “ANTI-KICKBACK” ACT

Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the contract. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as appropriate agency instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

ARTICLE 41: DISCRIMINATION

Respondent and any potential subcontractors shall comply with all Federal statutes relating to nondiscrimination. These include, but are not limited to:

- a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin;
- b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
- c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
- d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age;
- e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
- f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
- h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
- i) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
- j) The requirements of any other nondiscrimination statute(s) that may apply to the application.

ARTICLE 42: DRUG FREE WORKPLACE

Contractor must provide a drug-free workplace in accordance with the Drug-Free Workplace Act, as applicable. For the purposes of this Section, “drug-free” means a worksite at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance. H-GAC may request a copy of this policy.

ARTICLE 43: APPLICABILITY TO SUBCONTRACTORS

Respondent agrees that all contracts it awards pursuant to the contract awarded as a result of this Agreement will be bound by the foregoing terms and conditions.

ARTICLE 44: WARRANTY AND COPYRIGHT

Submissions must include all warranty information, including items covered, items excluded, duration, and renewability. Submissions must include proof of licensing if using third party code for programming.

ARTICLE 45: DATA HANDLING AND SECURITY

It will always be the responsibility of the selected Contractor to manage data transfer and to secure all data appropriately during the project to prevent unauthorized access to all data, products, and deliverables.

ARTICLE 46: DISPUTES

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, shall be decided by the Executive Director of H-GAC or his designee, who shall reduce his decision to writing and provide notice thereof to the Contractor. The decision of the Executive Director or his designee shall be final and conclusive unless, within thirty (30) days from the date of receipt of such notice, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the Contractor shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. The Contractor may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H-GAC's final decision.

ARTICLE 47: CHOICE OF LAW: VENUE

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with the Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 48: ORDER OF PRIORITY

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and, 4) Other Attachments.

ARTICLE 49: WHOLE AGREEMENT

The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

SIGNATURES:

H-GAC and the Contractor have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

Consolidated Traffic Controls, Inc.

Signature  DocuSigned by:
4CFC215BBD244A0...

Name Bryan Jones

Title Senior Vice President

Date 5/25/2021

H-GAC

Signature  DocuSigned by:
82EC270D5D61423...

Name Chuck Wemple

Title Executive Director

Date 5/27/2021

H-GAC

Houston-Galveston Area Council

P.O. Box 22777 · 3555 Timmons · Houston, Texas 77227-2777

Cooperative Agreement - Contract - Consolidated Traffic Controls, Inc. - Public Services - 6676

SPECIAL PROVISIONS

Incorporated by attachment, as part of the whole agreement, H-GAC and the Contractor do, hereby agree to the Special Provisions as follows:

ARTICLE 1: BIDS/PROPOSALS INCORPORATED

In addition to the whole Agreement, the following documents listed in order of priority are incorporated into the Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

ARTICLE 2: END USER AGREEMENTS ("EUA")

H-GAC acknowledges that the END USER may choose to enter into an End User Agreement ("EUA") with the Contractor through this Agreement, and that the term of the EUA may exceed the term of the current H-GAC Agreement. H-GAC's acknowledgement is not an endorsement or approval of the End User Agreement's terms and conditions. Contractor agrees not to offer, agree to or accept from the END USER, any terms or conditions that conflict with those in Contractor's Agreement with H-GAC. Contractor affirms that termination of its Agreement with H-GAC for any reason shall not result in the termination of any underlying EUA, which shall in each instance, continue pursuant to the EUA's stated terms and duration. Pursuant to the terms of this Agreement, termination of this Agreement will disallow the Contractor from entering into any new EUA with END USERS. Applicable H-GAC order processing charges will be due and payable to H-GAC on any EUAs, surviving termination of this Agreement between H-GAC and Contractor.

ARTICLE 3: MOST FAVORED CUSTOMER CLAUSE

Contractor shall provide its most favorable pricing and terms to H-GAC. If at any time during this Agreement, Contractor develops a regularly followed standard procedure of entering into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to H-GAC on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to H-GAC, Contractor shall notify H-GAC within ten (10) business days thereafter, and this Agreement shall be deemed to be automatically retroactively amended, to the effective date of Contractor's most favorable past agreement with another entity. Contractor shall provide the same prices, warranties, benefits, or terms to H-GAC and its END USER as provided in its most favorable past agreement. H-GAC shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If Contractor claims that a more favorable price, warranty, benefit, or term that was charged or offered to another entity during the term of this Agreement, does not constitute more favorable treatment, than Contractor shall, within ten (10) business days, notify H-GAC in writing, setting forth the detailed reasons Contractor believes the aforesaid offer is not in fact most favored treatment. H-GAC, after due consideration of Contractor's written explanation, may decline to accept such explanation and thereupon this Agreement between H-GAC and Contractor shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to H-GAC and the END USER.

EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, proposer or contractor, which are not within bidder's/proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.

ARTICLE 4: PARTY LIABILITY

Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to the price of the particular products/services sold hereunder. Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. Contractor accepts liability to repay, and shall repay upon demand to END USER, any amounts determined by H-GAC, its independent auditors, or any state or federal agency, to have been paid in violation of the terms of this Agreement.

ARTICLE 5: GOVERNING LAW & VENUE

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes with the END USER in accord with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 6: SALES AND ORDER PROCESSING CHARGE

Contractor shall sell its products to END USERS based on the pricing and terms of this Agreement. H-GAC will invoice Contractor for the applicable order processing charge when H-GAC receives notification of an END USER order. Contractor shall remit to H-GAC the full amount of the applicable order processing charge, after delivery of any product or service and subsequent END USER acceptance. Payment of the Order Processing Charge shall be remitted from Contractor to H-GAC, within thirty (30) calendar days or ten (10) business days after receipt of an END USER's payment, whichever comes first, notwithstanding Contractor's receipt of invoice. For sales made by Contractor based on this Agreement, including sales to entities without Interlocal Agreements, Contractor shall pay the applicable order processing charges to H-GAC. Further, Contractor agrees to encourage entities who are not members of H-GAC's Cooperative Purchasing Program to execute an H-GAC Interlocal Agreement. H-GAC reserves the right to take appropriate actions including, but not limited to, Agreement termination if Contractor fails to promptly remit the appropriate order processing charge to H-GAC. In no event shall H-GAC have any liability to Contractor for any goods or services an END USER procures from Contractor. At all times, Contractor shall remain liable to pay to H-GAC any order processing charges on any portion of the Agreement actually performed, and for which compensation was received by Contractor.

ARTICLE 7: LIQUIDATED DAMAGES

Contractor and H-GAC agree that Contractor shall cooperate with the END USER at the time an END USER purchase order is placed, to determine terms for any liquidated damages.

ARTICLE 8: INSURANCE

Unless otherwise stipulated in Section B of the Bid/Proposal Specifications, Contractor must have the following insurance and coverage minimums:

- a. General liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit.
- b. Product liability insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B of the Bid/Proposal Specifications.
- c. Property Damage or Destruction insurance is required for coverage of End User owned equipment while in Contractor's possession, custody or control. The minimum Single Occurrence limit is \$500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as part of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to H-GAC.

- d. Insurance coverage shall be in effect for the length of any contract made pursuant to the Bid/Proposal, and for any extensions thereof, plus the number of days/months required to deliver any outstanding order after the close of the contract period.
- e. Original Insurance Certificates must be furnished to H-GAC on request, showing Contractor as the insured and showing coverage and limits for the insurances listed above.
- f. If any Product(s) or Service(s) will be provided by parties other than Contractor, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by H-GAC, a separate insurance certificate must be submitted for each such party.
- g. H-GAC reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

ARTICLE 9: PERFORMANCE AND PAYMENT BONDS FOR INDIVIDUAL ORDERS

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB); therefore, Contractor shall offer pricing that reflects this cost savings. Contractor shall remain prepared to offer a PPB to cover any order if so requested by the END USER. Contractor shall quote a price to END USER for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of END USER's purchase order.

ARTICLE 10: ORDER PROCESSING CHARGE

H-GAC will apply an Order Processing Charge for each sale done through the H-GAC contract, with the exception of orders for motor vehicles. Any pricing submitted must include this charge amount per the most current H-GAC schedule. For motor vehicle orders, the Processing Charge is paid by the Customer.

ARTICLE 11: CHANGE OF STATUS

Contractor shall immediately notify H-GAC, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name. Contractor shall offer written guidance to advise H-GAC if this Agreement shall be affected in any way by such change. H-GAC shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Agreement.

ARTICLE 11: REQUIREMENTS TO APPLICABLE PHYSICAL GOODS

In the case of physical goods (e.g. equipment, material, supplies, as opposed to services), all Products offered must comply with any applicable provisions of the Texas Business and Commerce Code, Title 1, Chapter 2 and with at least the following:

- a. Be new, unused, and not refurbished.
- b. Not be a prototype as the general design, operation and performance. This requirement is NOT meant to preclude the Contractor from offering new models or configurations which incorporate improvements in a current design or add functionality, but in which new model or configuration may be new to the marketplace.
- c. Include all accessories which may or may not be specifically mentioned in the Agreement, but which are normally furnished or necessary to make the Product ready for its intended use upon delivery. Such accessories shall be assembled, installed and adjusted to allow continuous operation of Product at time of delivery.
- d. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a Product as may be purchased simultaneously by any Customer.
- e. Be designed and constructed using current industry accepted engineering and safety practices, and materials.
- f. Be available for inspection at any time prior to or after procurement.

ARTICLE 12: TEXAS MOTOR VEHICLE BOARD LICENSING

All that deal in motor vehicles shall maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Agreement term, any required Contractor license is denied, revoked, or not renewed, Contractor shall be in default of this Agreement, unless the Texas Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to H-GAC upon request.

ARTICLE 13: INSPECTION/TESTING

All Products sold pursuant to this Agreement will be subject to inspection/testing by or at the direction of H-GAC and/or the ordering Customer, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Agreement, and unless otherwise agreed in advance, the cost of any inspection and/or testing, will be the responsibility of the Contractor.

ARTICLE 14: ADDITIONAL REPORTING REQUIREMENTS

Contractor agrees to submit written quarterly reports to H-GAC detailing all transactions during the previous three (3) month period. Reports must include, but are not limited, to the following information:

- a. Customer Name
- b. Product/Service purchased, including Product Code if applicable
- c. Customer Purchase Order Number
- d. Purchase Order Date
- e. Product/Service dollar amount
- f. HGACBuy Order Processing Charge amount

ARTICLE 15: BACKGROUND CHECKS

Cooperative customers may request background checks on any awarded contractor's employees who will have direct contact with students, or for any other reason they so choose, any may require contractor to pay the cost of obtaining any background information requested by the Customer.

ARTICLE 16: PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL CERTIFICATION

As required by Chapter 2271 of the Texas Local Government Code the Contractor must verify that it 1) does not boycott Israel; and 2) will not boycott Israel during the term of the Contract. Pursuant to Section 2271.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

ARTICLE 17: NO EXCLUDED NATION OR TERRORIST ORGANIZATION CERTIFICATION

As required by Chapter 2252 of the Texas Government Code the Contractor must certify that it is not a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

ARTICLE 18: PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT (Effective Aug. 13, 2020 and as amended October 26, 2020)

Pursuant to 2 CFR 200.216, Contractor shall not offer equipment, services, or system that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications equipment or services means 1) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); 2) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); 3) telecommunications or video surveillance services provided by such entities or using such equipment; or 4) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Contractor must comply with requirements for certifications. The provision at 48 C.F.R Section 52.204-26 requires that Contractors review SAM prior to completing their required representations. This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off the-shelf items.

ARTICLE 19: BUY AMERICA ACT (National School Lunch Program and Breakfast Program)

With respect to products purchased by Customers for use in the National School Lunch Program and/or National School Breakfast Program, Contractor shall comply with all federal procurement laws and regulations with respect to such programs, including the Buy American provisions set forth in 7 C.F.R. Part 210.21(d), to the extent applicable. Contractor agrees to provide all certifications required by Customer regarding such programs.

In the event Contractor or Contractor’s supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, H-GAC Customers may decide not to purchase from Contractor. Additionally, H-GAC Customers may require country of origin on all products and invoices submitted for payment by Contractor, and Contractor agrees to comply with any such requirement.

ARTICLE 20: BUY AMERICA REQUIREMENT (Applies only to Federally Funded Highway and Transit Projects)

With respect to products purchased by Customer for use in federally funded highway projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 23 U.S.C. Section 313, 23 C.F.R. Section 635.410, as amended, and the Steel and Iron Preference provisions of Texas Transportation Code Section 223.045, to the extent applicable. Contractor agrees to provide all certifications required by Customer regarding such programs. With respect to products purchased by Customer for use in federally funded transit projects, Contractor shall comply with all federal procurement laws and regulations with respect to such projects, including the Buy American provisions set forth in 49 U.S.C. Section 5323(j)(1), 49 C.F.R. Sections 661.6 or 661.12, to the extent applicable. Contractor agrees to provide all certifications required by Customer regarding such programs.

ARTICLE 21: DOMESTIC PREFERENCE

In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, a Customer using federal grant award funds should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The Customer must include this requirement in all subawards including all contracts and purchase orders for work or products under the federal grant award. If Contractor intends to qualify for Purchase Orders using federal grant money, the it shall work with the Customer to provide all required certifications and other documentation needed to show compliance.

ARTICLE 22: TITLE VI REQUIREMENTS

H-GAC in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this Agreement and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

ARTICLE 23: EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all Contracts and Customer Purchase Orders that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., pg.339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Contractor agrees that such provision applies to any contract that meets the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 and agrees that it will comply with such provision.

ARTICLE 24: CLEAN AIR AND WATER POLLUTION CONTROL ACT

Customer Purchase Orders using federal funds must contain a provision that requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Federal Rule above, Contractor certifies that it is in compliance with all applicable provisions of the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will remain in compliance during the term of the Contract.

ARTICLE 25: PREVAILING WAGE

Contractor and any potential subcontractors have a duty to and shall pay the prevailing wage rate under the Davis-Bacon Act, 40 U.S.C. 276a – 276a-5, as amended, and the regulations adopted thereunder contained in 29 C.F.R. pt. 1 and 5.

ARTICLE 26: CONTRACT WORK HOURS AND SAFETY STANDARDS

As per the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), where applicable, all Customer Purchase Orders in excess of ,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of

every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ARTICLE 27: PROFIT AS A SEPARATE ELEMENT OF PRICE

For purchases using federal funds in excess of ,000, a Customer may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). Contractor agrees to provide information and negotiate with the Customer regarding profit as a separate element of the price for the purchase. Contractor also agrees that the total price, including profit, charged by Contractor to Customer will not exceed the awarded pricing, including any applicable discount, under any awarded contract.

ARTICLE 28: BYRD ANTI-LOBBYING AMENDMENT

Byrd Anti-Lobbying Amendment (31U.S.C. 1352) – Contractors that apply or bid for an award exceeding ,000 must file the required anti-lobbying certification. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Customer. As applicable, Contractor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352). Contractor certifies that it is currently in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and will continue to be in compliance throughout the term of the Contract and further certifies that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal Grant, the making of a Federal Loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing, or attempting to influence, an officer or employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, Contractor shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.
3. Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ,000 and not more than ,000 for each such failure.

ARTICLE 29: COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

Contractor certifies compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (13 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

ARTICLE 30: COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT

Contractor certifies that Contractor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).



TOWN COUNCIL AGENDA ITEM NO. 8

CONSENT ITEM

DATE: July 19, 2021

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of the Third Amendment to the Professional Services Agreement with Studio Outside Landscape Architecture for the design services associated with the Rheudasil Park Improvements project, in the amount of \$41,885.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Third Amendment to the Professional Services Agreement includes additional design services for the Rheudasil Park project. The additional design services include additional construction observation for structural and architectural items (Tasks 13-16). If approved, the additional design fee will increase the not to exceed amount from \$158,100.00 to \$199,985.00.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: A decision to not approve the Third Amendment to the Professional Services Agreement would leave the project with a lack of structural or architectural observation on several engineered items to be constructed.

FISCAL IMPACT: \$41,885.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$41,885.00	310-320-90661

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

Total project cost is \$2,900,000. Funding sources are:

- Park Development \$ 300,000
- Dedicated Sales Tax \$ 2,600,000

LEGAL REVIEW: The Town's standard amendment to the 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 Amendment to the Professional Services Agreement.

ATTACHMENTS:

1. Third Amendment to Professional Services Agreement

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH
STUDIO OUTSIDE LANDSCAPE ARCHITECTURE, LLC**

This Third Amendment to Professional Services Agreement (“Third Amendment”) is entered into on this 19th day of July, 2021, 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 **STUDIO OUTSIDELANDSCAPE ARCHITECTURE, LLC**, (“hereinafter referred to as “Consultant”) regarding the following project:

RHEUDASIL PARK IMPROVEMENTS

I. RECITALS

WHEREAS, Town entered into a professional services agreement with CONSULTANT relative to design services for the Rheudasil Park Improvements project; and (“Services”) on or about the 1st day of October, 2018 (the “Contract”); and

WHEREAS, Town and Consultant both desire to amend the Contract and Consultant is willing to undertake the performance of such additional services and agrees to the increased cost for such services as expressed herein;

II. TERMS OF AMENDMENT

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:

A.

Recitals Incorporated

The foregoing recitals are found to be true and correct, are fully incorporated into the body of this Third Amendment, and made a part hereof by reference just as though they are set out in their entirety.

B.

Amendment of Paragraph No. II

From and after the approval of this Third Amendment, Section II of the Contract, entitled “Scope of Services” is hereby deleted in its entirety and replaced with a new Paragraph No. II to read as follows:

“CONSULTANT shall perform such professional design services, not necessarily limited to, the tasks enumerated more fully

in Attachment “A-3” entitled “Scope of Services”, as are necessary to complete the Rheudasil Park Improvements project (hereafter referred to collectively as the “Project”). Attachment “A-3” 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-3” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.”

C.

Amendment of Paragraph No. III

From and after the approval of this Third Amendment, Section III of the Contract entitled “Payment for Services” is amended in part by deleting the first paragraph of said Section III and replacing it with a new paragraph reading as follows and leaving all other provisions of Section III intact and unchanged:

“Total payment for services described herein for the Services for the Project shall be a sum not to exceed One Hundred Ninety-Nine Thousand Nine Hundred Eighty-Five Dollars and NO/100 (\$199,985.00) as specified in Attachment “B-3”.”

D.

Revisions of the Scope of Services

From and after the approval of this Third Amendment, Attachment “A-2”, is replaced by the document attached hereto and incorporated herein by reference as Attachment “A-3” to the Contract. In case of conflict in the language of Attachment “A-3” and any other provision of the Contract, as amended by this Third Amendment, the terms and conditions of the Contract, as amended by the Third Amendment, shall control, and shall be final and binding upon both parties hereto.

From and after the approval of this Third Amendment, Attachment “B-2”, is replaced by the document attached hereto and incorporated herein by reference as Attachment “B-3” to the Contract. In case of conflict in the language of Attachment “B-3” and any other provision of the Contract, as amended by this Third Amendment, the terms and conditions of the Contract, as amended by the Third Amendment, shall control, and be final and binding upon both parties hereto.

E.

Contract Controls

All other provisions of the Contract remain in full force and effect. In the event of a conflict or an inconsistency between the Contract and/or the Third Amendment, the terms of the Third Amendment shall control.

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 Derek France
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

STUDIO OUTSIDE LANDSCAPE ARCHITECTURE, LLC

By: *Ellen Calhoun*
 Name Ellen Calhoun
 Title Principal

Date Signed: 6/3/21

State of Texas §
 §
 County of Denton §

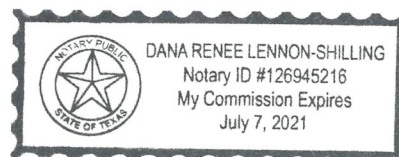
This instrument was acknowledged before me on the 3rd day of June, 2021, by Ellen Calhoun, in his capacity as principal of **Studio Outside Landscape Architecture, LLC**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of **Studio Outside Landscape Architecture, LLC**.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 3rd
 DAY OF June, 2021

Dana Renee Lennon-Shilling
 Notary Public, State of Texas

My Commission Expires:

July 7, 2021



Attachment A-3 – Scope of Work

studioOutside

Proposal for Professional Services

September 4, 2018

Studio Outside
Landscape Architecture

824 Exposition Ave Ste 5
Dallas TX USA
75226

tel +1 214 954 7160

Ms. Kari Biddix, RLA
Town of Flower Mound
Parks & Recreation Department
1200 Gerault Rd.
Flower Mound, Texas 75028

Project: Rheudasil Park Re-Development

Dear Ms. Biddix,

We appreciate your considerations and opportunity to work with the Town of Flower Mound in developing Rheudasil Park. This letter of proposal describes planning and landscape architectural services to be provided by StudioOutside, the costs of these services, and general conditions under which these services would be executed.

ASSUMPTIONS

Studio Outside has written this proposal based on the following assumptions: The design process will begin in early Fall 2017, with a construction start to be determined.

The Town of Flower Mound will provide a singular point of contact that will provide guidance and direction, including coordination with adjacent neighborhood or other community and stakeholder groups.

The Town of Flower Mound will coordinate and provide the following:

- Program direction and history of the project, including existing concept design
- Budget considerations
- "Boiler plate" & "front end" town-standard bid documents
- Construction superintendent
- Relevant Town Codes, Ordinances, and Guidelines
- Public meeting support, scheduling, advertisement, etc.
- Graphic Design for park rules, and other unique town design standards

Construction documents for custom or stock playground equipment is not in the scope of this project and is assumed to be facilitated by a design/build playground supplier or manufacturer. StudioOutside will coordinate the aesthetic and work with the town to evaluate potential suppliers for this equipment, and work with the selected company to ensure that equipment is integrated into the final site design and details.

Consultant scope assumes a process to identify and document a construction scope that responds to an assumed approximate \$1,870,000 base construction budget.

Bid alternates will also be prepared for a town-agreed-to amount of additional construction scope, not to exceed an additional \$300,000 in construction cost. It is understood that such proposed bid alternates generally will relate to the expansion of quantities or materials upgrades, and not additional customized items (ex. second playground or pavilion, etc.). Additional new extensive architectural features are not included without a written change to the fee contract.

General scope of work is understood to include open air pavilion that houses a small restroom facility, playground, sidewalks, boardwalks/pier overlook, memorial plaque, seating, lighting, park signage, landscape, and irrigation.

Should the bid alternates not be selected for construction at this time, the town is free to rebid for construction those elements at a later date on their own.

Studio Outside will provide landscape architectural services, a singular point of contact, design lead, and prime consultant. We propose to utilize a subconsultant team to provide the following services, at cost:

SCOPE	CONSULTANT	ASSUMED FEE
Civil Engineering	Spiars Engineering	\$2,500
Geotechnical Investigations	HVJ Associates	\$3,000
Architecture	Munn Harris Architects	\$22,500
Accessibility plan review inspections	Ron Davis Consulting	\$1,000
Structural Engineering	Don Ellingsworth Engineering	\$5,000
Mechanical, Electrical, Plumbing	Jordan & Skala Engineering	\$6,500
Irrigation Design	Seth Heideman	\$1,500
Site topographic survey	G&A consultants	\$4,000

Studio Outside assumes that the Town of Flower Mound will provide day to day operations and point of contact with contractor.

Note that no specialized permitting is in this scope, including, but not limited to, wetland mitigation, cultural resources, 404 permitting, or other ecological or habitat investigations or permitting coordination. Zoning or any other legal or land use consulting is not included.

SCOPE OF WORK – APPROACH & DELIVERABLES

Task One: Discovery

Studio Outside will meet with the town staff to walk the site and comprehend specific opportunities and constraints associated with views, safety, neighborhood interface, and other immediate adjacent phenomena. This will include a detailed discussion regarding program goals, and a "download" of the concept schemes previously prepared by others to date. A component of this discovery session should be a discussion with parks maintenance staff, and possibly include a site tour to two or three other sites in Flower Mound that the town believes to be relevant to the challenges in design or maintenance of this redeveloped park. These conversations will enable the design team to comprehend the town's approach to similar program elements, and understand a vernacular of materials (hardscape and landscape) that the town staff prefers to consider or avoid. A component of this meeting will also address schedule, key submittal dates, and overall project kick off coordination.

Deliverables: confirmed program, budget, and schedule.

Meetings: One joint site visit and meeting with town staff (including maintenance personnel). Visit up to three additional park sites within the town.

Task Two: Site Topographic Survey

Studio Outside will contract with a registered survey company to prepare a site topographic survey to use as a base of data for design documents. This scope will include:

Topographic Survey

1. Locate property corners and re-establish any missing corners.
2. Locate existing structures, drives, walks, etc.
3. Locate trees with elevation at base, size will be expressed in inches and species in common name.
4. Spot elevations on-site at an approximate twenty-five (25) foot grid including major grade breaks.
5. Spot elevations on perimeter curbing at twenty five (25) foot intervals including edge of alley pavement.
6. Contours will be shown at one (1) foot intervals.
7. Establish an on-site benchmark.
8. Locate and plot visible evidence of utilities on-site and in perimeter rights of way. Underground items will be plotted using Town of Flower Mound record drawings.

Deliverables: AutoCAD survey and plat drawing file plus PDF.

Meetings: none.

Task Three: Schematic Design

Working with the established program priorities and prior concept plan, Studio Outside will prepare a schematic design for the park. This design update will build on the existing concept to better define forms, materials, and relationships that respond to the town-provided site survey, existing trees, and budget. The package, at a minimum, will include the following elements for the project:

1. Site Plan to include all program elements – hardscape and landscape planting concept
2. Key hardscape elevations for primary vertical structures, including pavilion, walls, etc.
3. Grading concept
4. Lighting Concept
5. Furniture Selections
6. Playground Equipment Concept
7. Utilities Concept Overlay
8. Opinion of Probable Cost
9. Proposed options for Phase I construction scope

StudioOutside will present the schematic design to town staff. We will make one round of revisions to the schematic design in order to arrive at a final approved site plan and confirmed phase I construction scope for use in the engagement discussions outlined in the following task.

Deliverables: Schematic design set (includes site plan and key hardscape elevations), Opinion of Probable Cost in PDF format

Meetings: One (1) half-day meeting in Flower Mound

Task Four: Design Development

Upon written approval of the schematic design package, Studio Outside will develop the plan with further detail as required to address the type of construction issues necessary to execute the construction documents. These refinements within the design development package will define utility work and provide details of key construction methods. Colors and material finishes will also be identified. This effort will produce a refined set of drawings that depict:

- Architectural pavilion floor plans, elevations, sections, interior elevations (limited dimensions and materials)
- Electrical concept drawings (plan only, no details)
- Grading plan (updated contours with limited key spot grades, subsurface drain lines, directed flows and drainage concepts)
- Utilities plan – restroom needs, water meter, storm tie ins, etc.
- Hardscape plan (depicting geometries and materials, key dimensions)
- Hardscape details for 60% of elements (elevations and some sections with key dimensions and materials)
- Landscape planting concept (locations & plant types, no quantities or species)
- Coordination of revised playground concept (provided by supplier or design/build contractor)
- Conceptual Lighting Plan
- Irrigation main line routing and zone identification (drip vs. spray heads - no details or head layouts)
- Updated Opinion of probable cost

Deliverables: StudioOutside will develop a design development set and distribute a hard copy set and PDF to the client for their review. StudioOutside will also develop an updated opinion of probable cost for review and comment by the client.

Meetings: One design presentation and drawing review with town staff.

Task Five: Construction Documents

Studio Outside will build on the approved design development drawings with final detail as required to address the type of construction issues necessary to execute the bid and construction documents. Comments will be incorporated from direction given by the client in order to distill a final package and project manual. Document sets will be distributed for comments at intervals appropriate for client review and comment.

Studio Outside will prepare construction documents and specifications that shall include the following information

- Demolition Plans
- Full Architectural Plans – including structural engineering for open air pavilion
- Grading Plans with full spot grades and invert elevations as necessary
- Dimensioned Layout Plans
- Hardscape Details, including plans, sections, elevations, with full dimensioning
- Civil Engineering – including Utility Plans & final Erosion Control
- Electrical Plans
- Planting Details & Species List
- Irrigation Plans & Details
- Lighting Plan
- Specifications
- Preparation of appropriate additive or deductive alternatives
- Texas Department of Licensing & Review accessibility submittal & review

It is important to note that StudioOutside will organize the construction documents in a clear manner by which the set can be reviewed by town in order to comply with town permitting requirements.

The contractor will also be responsible for, among other things, preparation and maintenance of the SWPPP plan for the course of construction.

Deliverables: StudioOutside will provide the following sets for review throughout the construction drawing phase:

Two (2) hard copies and PDF at 75% progress, including opinion of probable cost.

Two (2) hard copies and PDF at 90% progress, including draft specifications.

Two (2) hard copies and PDF of final set complete with professional stamps, one (1) final set of specifications and cost projection.

One (1) electronic file drawing in 2D AutoCAD format.

Meetings: Conference calls as necessary and one (1) half-day meeting with the client

Task Six: Bidding Assistance

StudioOutside will assist the Town in their implementation of the bidding process as follows:

- Preparation of bid forms for town inclusion in the bid package for contractors using town template.
- Provide technical specifications sections for insertion into the town-prepared project manual.
- Design team attendance at (1) pre-bid meeting.
- Answer questions and interpret drawings and specifications during the bidding period (via conference calls as necessary).
- Prepare any required addendum for distribution by the town.
- Review bid tabular summary (prepared by the town), if required.
- Provide review and analysis to town staff of the apparent low bids for each project as identified by the town, if required.
- Discuss budget value engineering solutions if necessary. This will allow all pricing decisions and "value engineering" decisions to be mutually understood and agreed to by the Client, Contractor, and the design team.
- Recommendation for award of contract, if required.

This scope assumes that the town will prepare all contractor contracts and bid packages. Studio Outside will provide PDF files to the town's contracted reprographics provider to print and deliver the drawings to the town for inclusion in bid packages and distribution to contractors. The town will also print and provide all bid and construction sets of drawings and specifications to the selected contractor.

Product: Final scope and suggested contract on budget. Design-appropriate value engineering if necessary.
Meetings: Conference calls as needed. Attendance at (1) pre-bid meeting

Task Seven: As-Built drawing coordination

The bid form will include a line-item requiring the contractor to provide a site survey of "as-built" conditions at the completion of the job, creating record drawings in CAD format for the town's records. This CAD file will document plan view of structures and hardscape alignment, landscape bed forms, and tree locations only, not individual shrubs or construction detail cross sections, etc. StudioOutside is not responsible for any on-the-ground measurements provided by the contractor's surveyor. As the town is self-performing the construction observation, Studio Outside cannot guarantee the contractor's work or the contractor's survey accuracy. The survey work is the responsibility of the contractor, and we will facilitate documents that reflect their provided information.

Studio Outside will translate the contractor-provided survey CAD linework into the working design AutoCAD "base" file for the project, and cloud any adjustments that were made during the construction process. These documents will disclaim Studio Outside's responsibility for the accuracy of the contractor's survey, but will generally depict their work in the context of the rest of the design "sheets" prepared for construction. We will provide a CAD file for the town to use at their own discretion and a PDF set of unstamped exhibit sheets.

Product: clouded as-built set of drawings, per contractor's survey.
Meetings: one meeting on site to discuss field changes with the contractor

Task Eight: Reimbursable Expenses

Reimbursable non labor costs for this project shall not exceed total listed in attachment 'B' Cost of Services without the prior written approval by the Client. All expenses will be billed at cost.

ADDITIONAL SERVICES

Task Nine: Additional Corps Permitting

Studio Outside will provide an assessment of the site to delineate waters of the US and acquire historic aerial photography. Studio Outside will prepare a site plan illustrating the impacts and/or alterations to the pond to accompany the assessment.

Product: Report for US Corps to accompany Letter of No Permit Request

Task Ten: Additional Corps Permitting Coordination

As required, coordination for any additional information and a site visit with the US Corps can be provided.

Meetings: Coordination site visit with US Corps.

Task Eleven: Additional Bidding Assistance

StudioOutside will assist the Town in their implementation of the bidding process as follows:

- Preparation of bid forms for town inclusion in the bid package for contractors using town template and inclusive of quantities.
- Answer questions and interpret drawings and specifications during the bidding period (via conference calls as necessary).
- Prepare any required addendum for distribution by the town.
- Review bid tabular summary (prepared by the town), if required.
- Provide review and analysis to town staff of the apparent low bids for each project as identified by the town, if required.
- Discuss budget value engineering solutions if necessary. This will allow all pricing decisions and "value engineering" decisions to be mutually understood and agreed to by the Client, Contractor, and the design team.
- Recommendation for award of contract, if required.

This scope assumes that the town will prepare all contractor contracts and bid packages. Studio Outside will provide PDF files for inclusion in digital bid packages and distribution to contractors.

Product: Bid proposals. Design-appropriate value engineering if necessary.

Meetings: Conference calls as needed.

Task Twelve: Initial Construction Observation

Studio Outside will maintain involvement with the project through its construction phase and make visits to the site to observe the construction and its visible conformance to the design drawings. Studio Outside has included the following during this task:

1. Conduct site visits to assist the client in observing the progress of work and prepare field memo or report. Three will be by Studio Outside and one will be by Studio Outside consultants. We anticipate that an additional eleven site visits will be required and are not included in this scope.
2. Tagging and/or inspection of plant materials (at the nursery or on site as appropriate) to evaluate conformance with the plans and specifications if requested. This service would be considered as one site visit.
3. Review and comments on material submittals and shop drawings submitted by the contractor. We anticipate an additional twenty-one submittals will be required and are not included in this scope.
4. Respond to Contractor questions, provide consultation and advice to the Client, and prepare supplementary sketches where such sketches are needed to resolve conflicts. We anticipate an

additional twenty-five RFI responses, CO, ASI, and sketches may be required and are not provided within this scope.

Deliverables: Studio Outside will provide the following deliverables for the construction observation phase:

1. Field memos or Field Reports
 - a. 4 memos or field reports (\$812 per site visit)
2. Material Submittal responses
 - a. 26 submittals (\$327 per submittal response)
3. RFI responses, CO, ASI, and sketches
 - a. Estimate 10 responses (\$142 per response)
4. Punch List (included in site visit)

Field Visits: Studio Outside estimates that four (4) on site construction observation visits in Flower Mound, TX will be required for this scope of work of initial construction observation. *Weekly OAC meetings during construction are not included.

Task Thirteen: Construction Observation

Studio Outside will maintain involvement with the project through its construction phase and make visits to the site to observe the construction and its visible conformance to the design drawings. Studio Outside has included the following during this task:

1. Conduct twenty-two additional site visits to assist the client in observing the progress of work and prepare field memo or report. Nineteen will be by Studio Outside and three will be by Studio Outside consultants.
2. Review and comment on twenty-one additional material submittals and shop drawings submitted by the contractor.
3. Respond to twenty-five additional Contractor questions, provide consultation and advice to the Client, and prepare supplementary sketches where such sketches are needed to resolve conflicts.

Deliverables: Studio Outside will provide the following deliverables for the construction observation phase:

1. Field memos or Field Reports
 - a. 22 additional memos or field reports (\$812 per site visit)
2. Material Submittal responses
 - a. 21 additional submittals (\$327 per submittal response)
3. RFI responses, CO, ASI, and sketches
 - a. Estimate 25 additional responses (\$142 per response)

Field Visits: Studio Outside estimates that twenty-two (22) on site construction observation visits in Flower Mound, TX will be required for this scope of work of construction observation. *Weekly OAC meetings during construction are not included.

Task Fourteen: Post-Tensioned Basketball Court and Additional Structural Site Visit

Studio Outside will provide performance guidelines for a post-tensioned basketball court and an additional structural site visit. Studio Outside has included the following during this task:

1. Provide performance specification for post-tensioned slab-on-grade basketball court.
2. Process and review one post-tensioned basketball court shop drawings.
3. Perform one additional structural site visit to visually observe concrete formwork prior to placement of concrete.

Deliverables: Studio Outside will provide the following deliverables:

1. One performance specification
2. One review of shop drawings

Field Visits: One (1) on site structural construction observation visit in Flower Mound, TX.

Task Fifteen: Additional Interpretive Signage at Boardwalk

Studio Outside will provide graphics for interpretive signage along the boardwalk. Concept is based on watershed, bioswale, and plant material and how these are incorporated into the design of the park. Studio Outside has included the following during this task:

1. Develop and refine interpretive signage concept for signs along the boardwalk.
2. Provide graphics for signs in five locations along the boardwalk.
3. Determine attachment of signage to boardwalk.

Deliverables: Studio Outside will provide the following deliverables:

1. Signage files in format for contractor to send to signage manufacturer
2. Revisions to boardwalk plan and construction detail(s) for signage attachment

Meetings: Two (2) conference calls.

Task Sixteen: Signage Reimbursable Expenses

Reimbursable non labor costs for this project shall not exceed total listed in attachment 'B' Cost of Services without the prior written approval by the Client. All expenses will be billed at cost.

Attachment B-3 – Cost of Services

COST OF SERVICES

ALL TASK FEES ARE "LUMP SUM" UNLESS NOTED OTHERWISE.

	BASE	OPTIONAL
TASK 1: DISCOVERY	\$ 8,000.00	
TASK 2: TOPOGRAPHIC SURVEY	\$ 4,000.00	
TASK 3: SCHEMATIC DESIGN	\$ 18,000.00	
TASK 4: DESIGN DEVELOPMENT	\$ 23,500.00	
TASK 5: CONSTRUCTION DOCUMENTS	\$ 64,500.00	
TASK 6: BIDDING ASSISTANCE	\$ 3,000.00	
TASK 7: AS BUILT DRAWING COORINATION	\$ 2,500.00	
TASK 8: REIMBURSABLE EXPENSES	\$ 13,200.00	
TASK 9: ADDITIONAL CORPS PERMITTING	\$ 3,600.00	
TASK 10: ADDITIONAL CORPS PERMITTING COORDINATION	\$ 3,000.00	
TASK 11: PROJECT REBID WITH SPECIAL PROVISIONS	\$ 5,000.00	
TASK 12: INITIAL CONSTRUCTION OBSERVATION	\$ 13,500.00	not to exceed
TASK 13: CONSTRUCTION OBSERVATION	\$ 28,280.00	
TASK 14: POST-TENSIONED COURT & ADD STRUCTURAL SITE VISIT	\$ 4,100.00	
TASK 15: ADDITIONAL INTERPRETIVE SIGNAGE AT BOARDWALK	\$ 9,230.00	
TASK 16: SIGNAGE REIMBURSABLE EXPENSES	\$ 275.00	
GRAND TOTAL BASE SCOPE	\$ 199,985.00	

COST OF SERVICES NOTE:

1. Studio Outside's fee for Base Design Services is based upon an anticipated construction budget and project complexity outlined above. Should the final budget or complexity of the project greatly differ from these assumptions, the fee structure may need to be evaluated.
2. Any additions to scope, design or budgets will be documented and will require additional services. Studio Outside will contact the client prior to commencement with additional scope for written authorization and approval.

ALLOWANCE FOR REIMBURSABLE

Reimbursable non-labor costs for this project are over and above the professional fees stated above. Reimbursable expenses are estimated to be within the reimbursable expense allowance for travel, printing, reproduction and miscellaneous expense (fax, overnight, postage, etc.).

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 Client, as a result of changes requested by Client or other consultant will be considered additional services and billed at an hourly rate as follows:

Studio Outside

Principal / Partner	\$225.00
Principal	\$180.00
Associate	\$130.00
Project Leader	\$110.00
Landscape Designer	\$90.00

CONDITIONS

The following is listing of contractual conditions that apply to this proposal:

1. The client will provide the following:
 - a. Site survey locating trees, utilities, structures, property lines, and utilities that cross the property as provided by civil engineer
 - b. Estimated Construction Budget for Scope of Services listed above
2. Not included services are the following:
 - a. Design of new or additional elements added to the scope of work
 - b. 3D graphics or illustrations
 - c. Graphic design not included in this Scope, including graphics for marketing and development
 - d. Redesign of elements due to site plan changes after approvals
 - e. Project Signage, Way finding, Graphics and Interpretive Design
 - f. Marketing Graphics
 - g. Value Engineering (after 60% Construction Documents are completed)
3. Studio Outside may subcontract consultants in the performance of any services described in this agreement.
4. Studio Outside does not act as General Contractor in any way or accept responsibility for poor craftsmanship.
5. The above-described compensation for Studio Outside does not include the following reimbursable non-labor costs, which will be billed as part of an allowance:
 - a. Printing
 - b. Binding
 - c. Reprographics
 - d. Scanning
 - e. Overnight mailing or courier services
 - f. Mailing/Postage
 - g. Long distance phone calling
 - h. Mileage (rate allowable by IRS)
 - i. Permits and/or registration fees
 - j. Parking/tolls
 - k. Travel expenses outside of Dallas
 - l. Other products or services specifically requested by the Client and not described herein
6. The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as Landscape Architects in Texas. Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337; tele: 512.305.9000; fax: 512.305.9005; e-mail: www.tbae.state.tx.us.

Respectfully submitted,
Studio Outside



Ellen Calhoun



TOWN COUNCIL AGENDA ITEM NO. 9

CONSENT ITEM

DATE: July 19, 2021

FROM: Kari Biddix, Park Development Manager

ITEM: Consider approval of the purchase and installation of the 2020-21 Playground Replacements project, for Grand Park Picnic Pavilion, from Site Source, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$35,756.00.

BACKGROUND INFORMATION: The Community Development Corporation and Town Council approved Playground Replacements (Grand Park with pavilion, 2 picnic tables, grill, trash receptacle, grass volleyball with irrigation) in the Fiscal Year 2020-2021 after recommendation from the Parks Board for Park and Recreation needs for the Capital Improvement Program projects.

BOARD REVIEW/CITIZEN FEEDBACK: Project created, recommended by the Parks Board and approved by the Community Development Corporation.

ALTERNATIVES/OPTIONS: A decision to not approve this item will mean that the funded pavilion will not be constructed at the park.

FISCAL IMPACT: \$35,756.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$35,756.00	317-110-90821

Total project cost is \$ 350,000. Funding sources are:

- Dedicated Sales Tax \$ 350,000

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Buyboard Proposal
2. Pavilion Elevation

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

Site Source Inc.

P.O. Box 270190
 Flower Mound, TX 75027
 972-539-4024
 972-539-0520 (fax)

Quotation

Date	Estimate #
6/14/2021	816

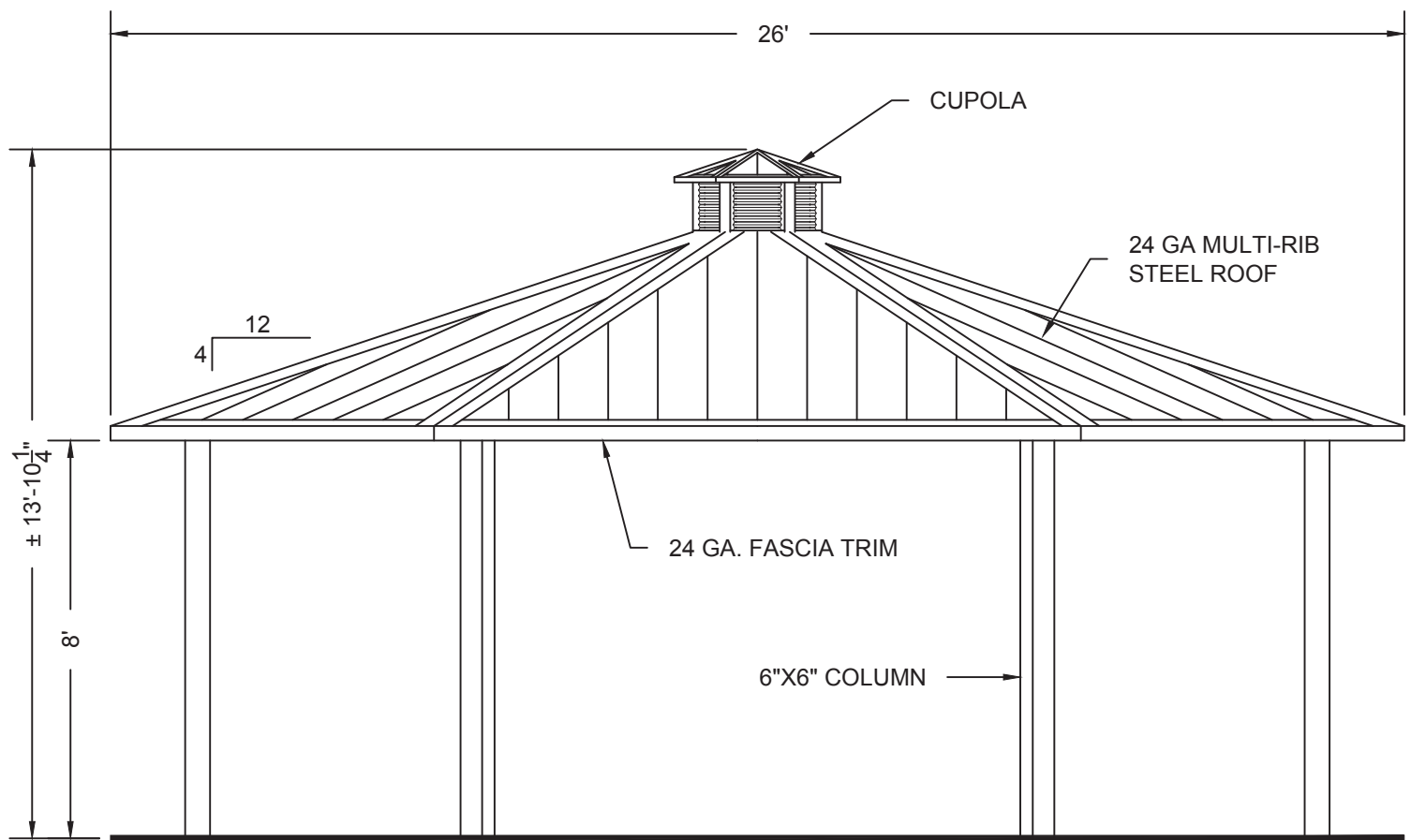
Name / Address
Town of Flower Mound Grand Park BUY BOARD PROPOSAL 592-19

		Estimated Shipping	Terms	Validity	Rep	Project
		23 weeks	Net 30	90 Days	KN	Grand Park
Item	Description			Qty	Unit Price	Total
Charleston	Charleston Model by Classic Recreation Systems, 26', Hexagon, Multi Rib Style Roof, 24 Ga Fascia Trim, 8' Eave Height, 6 Columns, Surface Mount, Cupola,TGIC Poly Powder Coat w/Zinc Rich Primer, Provision for Electrical, Texas Engineer Stamp. Buy Board Discount 5% Would include off-load, anchor bolts, assembly and clean up. It does not include concrete, masonry or electrical work. Shipping and Handling Note: This is for product, engineering and delivery only. It does not include concrete, installation, masonry or electrical work.			1	22,375.00	22,375.00T
Discount				-1,119.00	-1,119.00T	
Installation				11,500.00	11,500.00T	
Freight				3,000.00	3,000.00T	
HUB Certification #1264226952100				Sales Tax (0.0%) \$0.00		
				Total \$35,756.00		



ATTACHMENT 2

NOT FOR CONSTRUCTION



ELEVATION 26' CHARLESTON MODEL
NTS



TOWN COUNCIL AGENDA ITEM NO. 10

CONSENT ITEM

DATE: July 19, 2021

FROM: Blake Hummel, P.E., Senior Project Engineer

ITEM: Consider approval of a Professional Services Agreement with ECS Southwest, LLP, to provide construction materials engineering and testing, for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project, in the amount of \$29,970.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Professional Services Agreement includes construction materials engineering and testing for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project.

On May 18, 2021, bids were received and opened (Bid # 2021-63-B) for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project. Parkscape Construction, Inc. submitted the lowest qualified bid of the fourteen (14) responding bidders at a base bid of \$534,610.15. The construction award was reviewed and approved on June 21, 2021 by Town Council.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: A decision not to approve the Professional Services Agreement for construction materials engineering and testing would remove the ability of Town staff to verify materials are installed to the required standards and specifications in the contract documents. This verification is necessary to ensure a quality project.

FISCAL IMPACT: \$29,970.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$29,970.00	310-320-90471

Total project cost is \$915,000. Funding sources are:

- Park development fees \$ 515,000
- TIRZ \$ 400,000

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

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

ATTACHMENTS:

1. Professional Services Agreement

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ECS SOUTHWEST, LLP**

This contract is entered into on this 19th day of July, 2021, 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 **ECS SOUTHWEST, LLP**, (“hereinafter referred to as “CONSULTANT”) whose address is 2621 White Settlement Road, Fort Worth, Texas 76107

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails Park) project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Pink Evening Primrose Trail Connection (Bridge & Trail from Gaston Park to Timber Trails

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

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed Twenty-Nine Thousand Nine Hundred Seventy and No/100 Dollars (\$29,970.00). This total payment for services includes CONSULTANT’s ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV. Revisions of the Scope of Services

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

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

V. Term

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

VI. Contract Termination Provision

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

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

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

Blake Hummel
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6301 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII. Independent Contractor

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

XIV. Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

Blake Hummel
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6301 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:

Vince Elizarde, P.E.
ECS Southwest, LLP
3033 Kellway Drive, Suite 110
Carrollton, TX 75006
972-392-3222 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. Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution.

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of

the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract

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

[The remainder of this page left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
The Honorable Derek France
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
ECS SOUTHWEST, LLP

By: *Siddharth Neekhra*
 Name: Siddharth Neekhra, P.E.
 Title: Vice President
 Date Signed: 06/29/21

State of Texas §
 §
 County of Dallas §

This instrument was acknowledged before me on the 29th day of June, 2021, by Siddharth Neekhra in his capacity as Vice President of ECS Southwest, LLP, a LLP Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Vice President.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 29th DAY OF June, 2021.

Marcellina Okorie
 Notary Public, State of Texas

My Commission Expires:
08/30/24



APPENDIX A: SCOPE OF SERVICES

Our construction materials engineering & testing services scope is limited to providing periodic testing and/or observations for the expected general construction activities for this project. We understand that the client or their designated representative will be scheduling our services, and the number of hours and level of effort that we based our proposal on should be considered approximate for budgetary purposes since it is not based on a published construction schedule or contractor material quantities. If a schedule becomes available, we can review this schedule against our assumptions and be more definitive in our proposed scope of services.

Unless otherwise noted, we agree to provide an engineering technician(s) or an engineer to perform our construction materials field testing, sampling, and observation services as noted in the following sections. *To most effectively serve the client and facilitate the construction process, our services should be scheduled 24-hours in advance. We understand that the construction process incorporates a large degree of variability and as such, we will do our best to accommodate scheduling calls made on the same day as our services are needed but we cannot guarantee that we can satisfy service requests made after-hours or on the same day as the services are needed to be performed.*

We anticipate the following services for this project:

Earthwork

Perform as-scheduled earthwork (soils) observation, sampling, and testing services including:

1. Obtain (pick up) soil samples and perform laboratory soil tests generally including moisture/density relationship (Standard Proctor) tests, soil classification tests (Atterberg Limits and percent finer than the no. 200 sieve) for each requested soil-type. Additional soil testing may be required depending on project-specific requirements.
2. Perform in-place moisture/density tests on placed and compacted backfill soils and prepared subgrades.
3. Perform cement-stabilized laboratory and in-field testing for pavement subgrades.

Foundations (Drilled Shafts / Piers)

A Senior Engineering Technician will perform the following services pertaining to foundations:

1. Observe foundation excavation including prepared subgrade surfaces (shallow foundations, footings, etc) and bearing strata, penetration depth, and end bearing surface (deep foundations, piers, etc).

Observe the reinforcing steel layout and concrete placement (see "Reinforcing Steel & Cast-In-Place Concrete

Cast-In-Place Concrete

Perform as-scheduled observation, sampling, and testing services for concrete placement events including:

1. Perform concrete field tests and associated measurements including: slump, air content, unit weight, and ambient air & concrete temperature. Sample placed concrete materials.
2. Pick up concrete sample cylinders the following work-day and transport them to the ECS concrete laboratory for processing, moisture curing, and subsequent compressive strength testing. *Appropriate onsite storage areas (curing boxes, shades, etc) for initial sample curing and any other field curing of concrete samples shall be provided by the contractor.*

Project Administration, Clerical, & Dispatching

Project Administrators / Clerical Staff will work on the project as follows:

1. Perform Field Services Dispatching.
2. Process Field Reports and Laboratory Test Result Reports.
3. Perform additional administrative and clerical duties to aid in project execution.

Project Management

Project Managers and Principal Engineers will manage the project as follows:

1. Coordinate with Client's field and office staff.
2. Attend the Pre-Construction meeting (if held) and periodic site meetings (as requested).
3. Coordinate field and lab services with the project general contractor and dispatch our field staff as scheduled.
4. Process, finalize, and distribute all field and laboratory reports.
5. Manage our project operation and services delivery as well as provide general material engineering consultation.

Our field staff or project professionals will provide documentation of events in the field and notify the project general contractor and the client (as needed) upon recognition of deficiencies.

ADDITIONAL SERVICES

The following services are not included in the Scope of Services and will be considered as *Additional Services*, if and when they are required, requested, or occur:

1. Additional construction material samples for laboratory testing including early test samples or additional sample sets beyond the frequency required in the project documents.*
2. Service cancellations while our staff is in transit to the project site or once at the project site.*
3. Onsite delays and standby time.*
4. Failed Tests.*
5. Field (on site) curing facilities and/or storage for the cementitious samples.
6. Attend project meetings or routine construction meetings throughout the duration of the construction process.
7. Observation and testing of non-structural or temporary components.
8. Any additional services not specifically included in the above Scope of Services for this project.*

* Including all associated time, materials, and vehicle charges.

The additional services noted above are not factored into our scope and estimated fees and will be invoiced as additional services to be addressed by the Town of Flower Mound with the contractor. *These additional services will be invoiced as Task 2 charges.* Unless defined specifically, all additional services will be invoiced at their standard rates (subject to overtime modification, where applicable) shown on the "Standard Fee Schedule" provided in Appendix B.

Beyond the scope of services presented in this proposal for this project, ECS offers the following construction materials engineering and testing services, locally, that could prove beneficial to the client and the project in general:

- Erosion Control Status Observation
- Ground Penetrating Radar (GPR)
- Concrete Coring and Core Sample Testing
- Asphalt Coring

APPENDIX B: ESTIMATED FEES & STANDARD FEE SCHEDULE

ESTIMATED FEES

Description of Services	Detail	Estimate	Quantity	Unit	Rate	Total
Earthwork						
Engineering Technician	<i>Sample Pickups</i>	<i>2 Events</i>	8	hours	\$ 55.00	\$ 440.00
Engineering Technician	<i>Pavement - Trail</i>	<i>5 events</i>	30	hours	\$ 55.00	\$ 1,650.00
Engineering Technician	<i>Ret Walls & Wing Walls</i>	<i>8 events</i>	48	hours	\$ 55.00	\$ 2,640.00
Nuclear Gauge Fee			13	events	\$ 75.00	\$ 975.00
St. Proctor (Moist./Dens. Rel.)	<i>Standard Proctor</i>		4	each	\$ 140.00	\$ 560.00
Atterberg Limits Tests	<i>Plasticity Index</i>		4	each	\$ 80.00	\$ 320.00
Washed Sieve (- #200 Sieve)	<i>Percent Fines</i>		4	each	\$ 60.00	\$ 240.00
Vehicle Charge			15	trips	\$ 35.00	\$ 525.00
Subtotal:						\$ 7,350.00
Concrete						
Engineering Technician	<i>Concrete Cap/Ledges</i>	<i>3 events</i>	18	hours	\$ 55.00	\$ 990.00
Engineering Technician	<i>Pavement - Trail</i>	<i>5 events</i>	30	hours	\$ 55.00	\$ 1,650.00
Engineering Technician	<i>Flume, Mow Strip, Riprap</i>	<i>12 events</i>	72	hours	\$ 55.00	\$ 3,960.00
Engineering Technician	<i>Ret Walls & Wing Walls</i>	<i>8 events</i>	48	hours	\$ 55.00	\$ 2,640.00
Senior Engineering Technician	<i>Drilled Piers</i>	<i>4 events</i>	40	hours	\$ 60.00	\$ 2,400.00
Conc. Cylinders (Comp. Str.)			120	each	\$ 18.00	\$ 2,160.00
Material Sample Pickup			30	trips	\$ 55.00	\$ 1,650.00
Vehicle Charge			30	trips	\$ 35.00	\$ 1,050.00
Subtotal:						\$ 16,500.00
Structural Steel						
Structural Steel Technician	<i>Pavement</i>	<i>2 Events</i>	8	hours	\$ 80.00	\$ 640.00
Vehicle Charge			2	trips	\$ 35.00	\$ 70.00
Subtotal:						\$ 710.00
Project Management						
Administrator / Clerical / Dispatch			12	hours	\$ 50.00	\$ 600.00
Project Manager			23	hours	\$ 120.00	\$ 2,760.00
Project Principal			12	hours	\$ 165.00	\$ 1,980.00
Vehicle Charge			2	trips	\$ 35.00	\$ 70.00
Subtotal:						\$ 5,410.00
PROJECT TOTAL:						\$ 29,970.00

General Assumptions:

Based on the general project information and our scope of services outlined above, the general assumptions utilized in the preparation of our estimated fees are listed below:

1. All material sample pickups and transport to our Laboratory are separate trips, independent of scheduled services.
2. Utility trench excavation backfilling will be completed at a rate of 2 lifts per day for a length of 100 linear feet per day.
3. Utility structures includes box culverts, headwalls, storm structures, inlets, manholes, light pole bases, etc.
4. Subgrade preparation (stabilization/compaction) will be completed and concrete for road pavement will be placed at a rate of roughly 200 linear feet per event (pour). Two sets of concrete sample cylinders are expected for each concrete placement event.
5. Subgrade preparation (stabilization/compaction) will be completed and concrete for sidewalks will be placed at a rate of 50-100 linear feet per event (pour). One 1 set of concrete sample cylinders is expected for each concrete placement event.
6. Concrete for curbs will be completed at a rate of 200 linear feet per event (pour) in two phases for joints.
7. Subgrade preparation (compaction) and concrete for sidewalks will be completed each with each individual section completed on separate/independent events at a minimum.
8. Subgrade preparation (compaction) and concrete for driveways will be completed each with one to two completed on separate/independent events at a minimum.
9. Asphalt observation and testing is expected to be completed in 6 trips.
10. Concrete sample sets will consist of 4 sample cylinders measuring 6 inches in height by 12 inches in diameter and will be tested: 2 at 7 Days, 2 at 28 Days.
11. Overtime is not expected due to the project location and construction work hours constraints.
12. For budgeting purposes, all onsite services (example: earthwork and concrete) are estimated to be performed on separate trips and independent of each other.
13. Reinforcing steel will be observed by the Town of Flower Mound Inspectors.

STANDARD FEE SCHEDULE

Description of Services	Notes	Unit Rate
Field Services		
• Engineering Technician		\$ 55.00 / hour
• Senior Engineering Technician		\$ 60.00 / hour
• Specialty Engineering Technician		\$ 75.00 / hour
• Structural Steel Technician		\$ 80.00 / hour
• Nuclear Gauge Fee		\$ 75.00 / day
• Core Drilling (Crew)		\$ 100.00 / hour
• Core Drilling (Equip. & Mats)		\$ 15.00 / each
Project Management & Engineering Services		
• Administrator / Clerical / Dispatch		\$ 50.00 / hour
• Project Manager		\$ 120.00 / hour
• Project Principal		\$ 165.00 / hour
• Concrete Mix Design Review		\$ 300.00 / each
• Certification Letter		\$ 325.00 / each
Laboratory Services		
• St. Proctor (Moist./Dens. Rel.)	ASTM D-698	\$ 140.00 / each
• Mod. Proctor (Moist./Dens. Rel.)	ASTM D-1557	\$ 140.00 / each
• Atterberg Limits Tests	ASTM D-4318	\$ 80.00 / each
• Washed Sieve (- #200 Sieve)	ASTM D-1440	\$ 60.00 / each
• Lime Series	ASTM D-6276	\$ 160.00 / each
• Lime Gradations	ASTM D-6913	\$ 15.00 / each
• Free-Swell Test	ASTM D-4546	\$ 100.00 / each
• Conc. Cylinders (Comp. Str.)	ASTM C-39	\$ 18.00 / each
• Conc. Cores (Comp. Str.)	ASTM C-39	\$ 50.00 / each
• Grout Prisms (Comp. Str.)	ASTM C-1019	\$ 30.00 / each
• Mortar Cubes (Comp. Str.)	ASTM C-270	\$ 18.00 / each
• Masonry Block Prisms (Comp. Str.)	ASTM C-1314	\$ 300.00 / each
Mobilization & Transportation		
• Core Drilling (Mobilization)		\$ 350.00 / each
• Floor Flatness (Mobilization)		\$ 300.00 / hour
• Material Sample Pickup		\$ 55.00 / trip
• Vehicle Charge		\$ 35.00 / trip

General Notes:

1. There will be no minimum charge for services rendered on this project; billing will be based on specific unit rates reflecting only the actual time spent and tests performed on this project.
2. Hourly unit rates are based on a normal 10 hour work day, Monday through Friday (non-holidays), between normal business hours of 7:00 a.m. to 5:00 p.m. Hourly rates outside normal hours (excluding travel time and report preparation/lab time), and on Saturday, Sunday, and Holidays, will be invoiced at a rate of 1.5 times the normal hourly rate indicated above.
3. All vehicle charges account for a round trip from the **ECS Southwest, LLP Fort Worth, Texas** office to the project site.



TOWN COUNCIL AGENDA ITEM NO. 11 CONSENT ITEM

DATE: July 19, 2021

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

ITEM: Consider approval of a Professional Services Agreement with Power Engineers, Inc., for asset management and GIS services for the Utility Asset Management project, in the amount of \$72,200.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: The Professional Services Agreement provides for data cleanup and digitization of the Town's water distribution system geographical database. The services will include reviewing all the Town's water as-builts to ensure data is correct and digitization of the Town's water tanks, pump stations and associated yard piping. The services will also include configuring the geographical database to optimize the Town's work system used to track work orders and asset condition ranking. These services are needed to accurately attach work orders and condition assessments to water distribution assets.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: A decision not to approve these services will result in work orders and asset condition assessments to be improperly associated to water distribution assets. This would make it difficult to plan maintenance and replacement of the water distribution system assets.

FISCAL IMPACT: \$72,200.00

Proposed Expenditure/(Revenue):	Account Number(s):
\$72,200.00	630-960-96004

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

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

ATTACHMENTS:

- 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
POWER ENGINEERS, INC.**

This contract is entered into on this 7th day of July, 2021, 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 **Power Engineers, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 4100 International Plaza, Suite 320, Fort Worth, TX 76109.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to asset management, work order system, and GIS services for the Utility Asset Management and Utility Repair project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Seventy - Two Thousand Two Hundred and No/100 Dollars (\$72,200.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV. Revisions of the Scope of Services

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

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

V. Term

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

VI. Contract Termination Provision

Notwithstanding any other provision of this Contract, this Contract may be terminated at any time by TOWN for any reason, with or without cause, by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or

entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

1. The TOWN shall be named as an additional insured on the Commercial General Liability policy, by using endorsement CG2026 or broader;
2. The TOWN shall also be named as an additional insured as to all other applicable coverage save and except the Worker's Compensation Insurance and Professional Liability Insurance;

3. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to TOWN by certified mail to:

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX.

Right to Inspect Records

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

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

X.
Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS CONTRACT, REGARDLESS OF WHETHER SUCH LIABILITY, CLAIMS, SUITS, DEMANDS OR CAUSES OF ACTION IS THE RESULT IN PART OF TOWN'S NEGLIGENCE OR FAULT, AND CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT TOWN AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use

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

XIX. Notice Information

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

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

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

Kristi Norman
Geospatial and Asset Management
Business Development Department Manager
Power Engineers, Inc.
4100 International Plaza, Suite 320
Fort Worth, Texas 76109
817-882-1900 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 Derek France
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Power Engineers, Inc.

By: Kristi Norman
 Name: Kristi Norman
 Title: Department manager
 Date Signed: 6-11-21

State of Texas §
 §
 County of COLLIN §

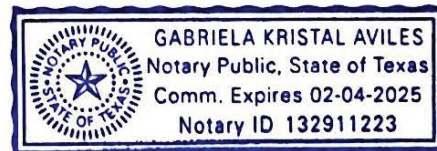
This instrument was acknowledged before me on the 11 day of June, 2021, by Kristi Norman in ~~his~~^{her} capacity as Department manager of POWER Engineers, Inc., a Idaho Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th DAY OF June 2021.

Gabriela Aviles
 Notary Public, State of Texas

My Commission Expires:

02-04-2025



ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: GIS Water Data Improvements

PROJECT UNDERSTANDING

The Town of Flower Mound relies upon its Geographic Information System (GIS) to improve capital project planning, operational efficiency, and asset management. Therefore, it is important that GIS has accurate asset information (e.g. year installed, condition, material, size, location, etc.) in order to support management decisions. The Town of Flower Mound has a considerable amount of data that is crucial for asset management and engineering analysis but is missing in the water GIS data. This project will examine the Town's water as-built record drawings and other data sources in an effort to populate the missing attributes and connect the assets into the GIS water network so the information can be relied upon for future analysis efforts.

SCOPE OF PROFESSIONAL SERVICES

TASK 1: WATER DISTRIBUTION AS-BUILT UPDATES

- A. Update and connect all water mains in GIS based on the information provided by the Town in as-built documents. Diameter, material, and year installed attributes will be populated based on the as-built information if no values are in GIS.
- B. Update and connect all water system valves in GIS based on the information provided by the Town in as-built documents. Diameter and year installed attributes will be populated based on the as-built information if no values are in GIS.
- C. Update and connect all water hydrants in GIS based on the information provided by the Town in as-built documents. Only the year installed attribute will be populated based on the as-built information if no values are in GIS.
- D. Add/Adjust water meter locations. Locate meters at the ROW line of the parcel. Connect each meter to nearest main via service line and a service tap.

TASK 2: WATER UTILITY NETWORK DATA PREPARATIONS

- A. Digitize water storage tanks and associated yard piping similar to that performed during the Utility Network evaluation.
- B. Digitize water pump stations and associated yard piping similar to that performed during the Utility Network evaluation.
- C. Categorize each main segment as either Distribution or Transmission. Place a fitting wherever a Distribution and a Transmission line connect.
- D. Split all mains at valves and fittings.
- E. Create a Service Territory polygon feature class and feature that encompasses all Town water assets.

ASSUMPTIONS

- Either the Town will provide remote access for POWER staff to directly edit the Town's GIS or the Town will provide a file geodatabase to POWER and POWER will perform all edits in the file geodatabase and return it to the Town.
- The Town will provide as-built drawings for water in electronic format.

- POWER will create a polygon feature that represents the extent of the work depicted in each as-built drawing. POWER will then use the information in the polygon to update the install dates for all assets within the polygon that do not have a valid install date.
- POWER will programmatically connect meters to the nearest main with service lines and service taps.
- POWER will manually review the entire service territory at a 1:500 ft scale and verify proper meter locations and meter connections.

**ATTACHMENT B
COMPENSATION**

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

TASK 1 – Water Distribution As-Built Updates	\$66,500
TASK 2 – Water Utility Network Data Preparations	\$5,700
<u>TOTAL</u>	<u>\$72,200</u>



TOWN COUNCIL AGENDA ITEM NO. 12

CONSENT ITEM

DATE: July 19, 2021

FROM: David Bauer, Construction Manager

ITEM: Consider approval of Change Order No. 1 for the construction of the Hound Mound Parking Lot and Restroom project, amending the contract with J.B. & Co., LLC to increase the contract amount by \$51,394.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND INFORMATION: On September 22, 2020 bids were received for the project. A total of 11 bids were tabulated and the lowest qualified bidder was J.B. & Company LLC with a base bid of \$498,945.00. Bid Options totaling \$90,400.00 were awarded for a total award amount of \$589,345.00. The bid options included removing the solar lighting parking lot poles and installing electrified LED lighting to covert the solar powered irrigation controllers to AC powered controls.

Change Order No. 1 provides for design changes to the pedestrian crossing, as well as adding irrigation, trees, bed preparation, mulch and additional concrete around the restroom building. Change Order 1 amends the contract with J.B. & Co, LLC., for an increase to the contract in the amount of \$51,394.00 for a total contract amount of \$640,739.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: Council may approve or deny this item. If denied, the proposed design change improvements will not be executed.

FISCAL IMPACT: \$51,394.00

Proposed Expenditure/(Revenue):

\$51,394.00

Account Number(s):

532-110-90709

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

Total project cost is \$810,000. Funding sources are:

- Other \$ 300,000
- Park Development Fees \$ 510,000

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Change Order No. 1

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

CHANGE ORDER

Effective Date: Effective on the date of execution by the Mayor

Owner: Town of Flower Mound

Contractor: J.B Co. LLC.
2626 Cole Ave. Suite #300
Dallas, TX 75204

Project: Hound Mound Parking Lot and Restroom Project

CHANGE ORDER NO. 1

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

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

Bid Item No.	Description	Add/ Deduct	Quantity	Unit	Price	Extended Amount
3-CO1	Erosion Control SWPPP Plan	ADD	1.00	LS	\$700.00	\$700.00
4-CO1	Irrigation System	ADD	1.00	LS	\$800.00	\$800.00
5-CO1	5-1/2" Concrete Sidewalk Paving	ADD	660.00	SF	\$7.50	\$4,950.00
7-CO1	Premanufactured Restroom Building Changes	ADD	1.00	LS	\$2,100.00	\$2,100.00
8-CO1	Hybrid Bermuda Grass Celebration	ADD	2200.00	SF	\$0.63	\$1,386.00
9-CO1	Metal Edging	ADD	148.00	LF	\$6.00	\$888.00
10-CO1	5 Gallon Plants	DEDUCT	(10.00)	EA	\$33.00	(\$330.00)
11-CO1	3" Hardwood Mulch	ADD	4.50	CY	\$80.00	\$360.00
12-CO1	Bed Preparation/Soil Preparation Including 6" Compost Blended Into the Shrub Bed	ADD	9.00	CY	\$60.00	\$540.00
13-CO1	Electrical Installation	ADD	1.00	LS	\$16,200.00	\$16,200.00
14-CO1	Traffic Control	ADD	1.00	LS	\$1,500.00	\$1,500.00
15-CO1	Vehicle Signage and Signals	DEDUCT	1.00	LS	(\$4,500.00)	(\$4,500.00)
CO1-A	Additional Blue HC Painting Stall, HC Parking Sign & Post in Concrete Footing, OH&P	ADD	1.00	LS	\$6,400.00	\$6,400.00
CO1-B	65 Gallon Nellie R. Stevens Holly Trees	ADD	24.00	EA	\$850.00	\$20,400.00

Original Contract Price	\$589,345.00
Change Order No. 1	\$51,394.00
Revised Contract Price	\$640,739.00

Bid Item No. JUSTIFICATION

3-CO1	Provides additional erosion control per the modified plans
4-CO1	Adds irrigation to cover the additional trees planted on the north side of the parking lot
5-CO1	Changes the layout of the sidewalk to match up with the requested visibility issues that was modified
7-CO1	Provides for additional apron around the restroom building and adds a thickened perimeter toe beam
8-CO1	Provides for additional Bermuda "Celebration" grass as required to stabilize disturbed areas on a slope
9-CO1	Additional metal edging as required by plan revisions for planting additional trees
10-CO1	Removes 5 gallon plants per plan revisions
11-CO1	Provides for additional 3 inch in depth Hardwood Mulch around added trees
12-CO1	Additional bed preparation/soil preparation for the added trees planting beds
13-CO1	Provides for additional electrical conduits, conductors and enclosures per plan revisions
14-CO1	Additional secondary electrical service, RFRB controller, UPS conduit and pull boxes per plan revisions
15-CO1	Removes Traffic Control Devices that the Town of Flower Mound will be purchasing and installing inhouse
CO1-A	Provides for HC parking stall painting, HC parking sign and post and concrete footing for same. It also provides for additional OH&P which includes additional supervision, temporary fencing, porta potty, traffic control insurance and bonding increase.
CO1-B	Provides for additional trees to be planted on north parking lot screening the adjoining neighborhood

Original Substantial Completion Days

Change Order No. 1 Additional Days

Revised Substantial Completion Days

160

45

205

Original Final Completion Days

Change Order No. 1 Additional Days

Revised Final Completion Days

190

45

235

Recommended David Bauer
Construction Manager

Date

6.10.21

Joel Brown 06/10/2021
Contractor Date

Contractor Title

Approved Derek France
Mayor, Town of Flower Mound

Date



TOWN COUNCIL AGENDA ITEM NO. 13

CONSENT ITEM

DATE: July 19, 2021

FROM: Sabrina Zadow, Purchasing Manager

ITEM: Consider approval of the lease of twelve copiers from Xerox Corporation, for an estimated annual expenditure of \$22,930.68, through the Omnia Texas State and local Xerox contract.

BACKGROUND INFORMATION: Thirteen of the Town's copier leases expire this month. One of the copiers is no longer needed and will be returned at the end of the lease. The new lease agreement for the twelve replacement copiers is through the Omnia Texas State and Local Xerox Contract No R150302. OMNIA solicited bids for the lease of copiers and Xerox was awarded the contract. By maintaining a consistent brand of copiers throughout the Town, only one method of accounting for copies and reporting departmental usage is needed. The state's contract price includes installation, training, and consumable supplies excluding paper. Also included is a generous allowance of prints per month so that the Town should not incur any "overage" charges (i.e. paying for prints in excess of the monthly allowance). The attached spreadsheet provides the current costs and the new fees per copier.

Xerox provides repair service at no cost including replacement of all unserviceable parts; all parts are included in service coverage and preventive service when requested. All of the proposed units are network capable (i.e. printing, copying, full-color scanning, etc.).

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES/OPTIONS: N/A

FISCAL IMPACT: \$1,910.89 / month; \$22,930.68 / year

Proposed Expenditure/(Revenue):	Account Number(s):
\$22,930.68 / Year	100-2181 (All Town Funds by using depts)

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Lease Agreement
2. Current Unit versus Proposed Units Comparison Sheet

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

Lease Agreement



Customer: FLOWER MOUND, TOWN OF

BillTo: TOWN OF FLOWER MOUND
ACCOUNTS PAYABLE

2121 CROSS TIMBERS

FLOWER MOUND, TX 75028-2699

Install: TOWN OF FLOWER MOUND
PUBLIC LIBRARY

3030 BROADMOOR LN

FLOWER MOUND, TX 75022-2703

State or Local Government Negotiated Contract : 072816900

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1. B8145H2 (XEROX B8145H2)	- Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M731698 Trade-In as of Payment 61	7/14/2021
2. B7030H2 (XEROX B7030 TNDM OS2)	- Foreign Interface - Office Finisher Lx - Postscript 3 Kit - COIN UP (B70XX-710J) - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M607214 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Meter	Print Charges Volume Band	Per Print Rate	Maintenance Plan Features
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term

Authorized Signature

Customer acknowledges receipt of the terms of this agreement which consists of 11 pages including this face page. Signer: _____ Phone: (972)999-9999 Signature: _____ Date: _____	Thank You for your business! This Agreement is proudly presented by Xerox and Mary Eberhart (940)565-6486 For information on your Xerox Account, go to www.xerox.com/AccountManagement
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Lease Agreement



Monthly Pricing (Cont'd)

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
2. B7030H2	\$209.88	1: Black and White Impressions	1 - 5,000 5,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$381.09	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699
 State or Local Government Negotiated Contract : 072816900

Install: TOWN OF FLOWER MOUND
 ANIMAL SERVICES
 3950 JUSTIN RD
 FLOWER MOUND, TX 75028

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M607258 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$171.21	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement

BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699
 State or Local Government Negotiated Contract : 072816900

Install: TOWN OF FLOWER MOUND
 3911 S BROADWAY AVE
 FLOWER MOUND, TX 75028-1808

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M658418 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$171.21	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699

Install: TOWN OF FLOWER MOUND
 MUNICIPAL COURT
 BACK
 4150 KIRKPATRICK LN
 FLOWER MOUND, TX 75028-1400

State or Local Government Negotiated Contract : 072816900

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M733222 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$171.21	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699
 State or Local Government Negotiated Contract : 072816900

Install: TOWN OF FLOWER MOUND
 POLICE ADMIN
 4150 KIRKPATRICK LN
 FLOWER MOUND, TX 75028-1400

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1. B8145H2 (XEROX B8145H2)	- Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M651466 Trade-In as of Payment 61	7/14/2021
2. B7030H2 (XEROX B7030 TNDM OS2)	- 2/3 Hole Punch - Office Finisher Lx - Postscript 3 Kit - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M732169 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
2. B7030H2	\$128.69	1: Black and White Impressions	1 - 5,000 5,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$299.90	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
ACCOUNTS PAYABLE
2121 CROSS TIMBERS
FLOWER MOUND, TX 75028-2699

Install: TOWN OF FLOWER MOUND
TOWN HALL
DOCUMENT CENTER
2121 CROSS TIMBERS
FLOWER MOUND, TX 75028-2699

State or Local Government Negotiated Contract : 072816900

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M732165 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$171.21	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement

BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699
 State or Local Government Negotiated Contract : 072816900

Install: TOWN OF FLOWER MOUND
 PUBLIC WORKS DEPT
 201 SPINKS RD
 FLOWER MOUND, TX 75028

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M731708 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B8145H2	\$171.21	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$171.21	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699
 State or Local Government Negotiated Contract : 072816900

Install: TOWN OF FLOWER MOUND
 FLEET SERVICES
 1101 DUNCAN LN
 FLOWER MOUND, TX 75028-3488

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B7030H2 (XEROX B7030 TNDM OS2) - 2/3 Hole Punch - Office Finisher Lx - Postscript 3 Kit - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M732167 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B7030H2	\$128.69	1: Black and White Impressions	1 - 5,000 5,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$128.69	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: TOWN OF FLOWER MOUND
 ACCOUNTS PAYABLE
 2121 CROSS TIMBERS
 FLOWER MOUND, TX 75028-2699

Install: TOWN OF FLOWER MOUND
 MUNICIPAL COURT
 FRONT
 4150 KIRKPATRICK LN
 FLOWER MOUND, TX 75028-1400

State or Local Government Negotiated Contract : 072816900

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B405DN (XEROX B405DN) - Stand With Storage - Addtl 550 Sheet Tray - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox WC 3615 S/N A2T023601 Trade-In as of Payment 58	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B405DN	\$65.57	1: Black and White Impressions	1 - 2,500 2,501+	Included \$0.0099	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$65.57	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



Terms and Conditions

INTRODUCTION:

1. NEGOTIATED CONTRACT. The Products are subject solely to the terms in the Negotiated Contract identified on the face of this Agreement, and, for any option you have selected that is not addressed in the Negotiated Contract, the then-current standard Xerox terms for such option.

GOVERNMENT TERMS:

2. REPRESENTATIONS & WARRANTIES. This provision is applicable to governmental entities only. You represent and warrant, as of the date of this Agreement, that: (1) you are a State or a fully constituted political subdivision or agency of the State in which you are located and are authorized to enter into, and carry out, your obligations under this Agreement and any other documents required to be delivered in connection with this Agreement (collectively, the "Documents"); (2) the Documents have been duly authorized, executed and delivered by you in accordance with all applicable laws, rules, ordinances and regulations (including all applicable laws governing open meetings, public bidding and appropriations required in connection with this Agreement and the acquisition of the Products) and are valid, legal, binding agreements, enforceable in accordance with their terms; (3) the person(s) signing the Documents have the authority to do so, are acting with the full authorization of your governing body and hold the offices indicated below their signatures, each of which are genuine; (4) the Products are essential to the immediate performance of a governmental or proprietary function by you within the scope of your authority and will be used during the Term only by you and only to perform such function; and (5) your payment obligations under this Agreement constitute a current expense and not a debt under applicable state law and no provision of this Agreement constitutes a pledge of your tax or general revenues, and any provision that is so construed by a court of competent jurisdiction is void from the inception of this Agreement.

3. FUNDING. This provision is applicable to governmental entities only. You represent and warrant that all payments due and to become due during your current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the Products, and it is your intent to use the Products for the entire term of this Agreement and make all payments required under this Agreement. If your legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources, this Agreement may be terminated. To effect this termination, you must, at least 30 days prior to the beginning of the fiscal year for which your legislative body does not appropriate funds, notify Xerox in writing that your legislative body failed to appropriate funds. Your notice must be accompanied by payment of all sums then owed through the current fiscal year under this Agreement. You will return the Equipment, at your expense, to a location designated by Xerox and, when returned, the Equipment will be to in good condition and free of all liens and encumbrances. You will then be released from any further payment obligations beyond those payments due for the current fiscal year (with Xerox retaining all sums paid to date).

SOLUTION/SERVICES:

4. OVERSIZE PRINTS. Each print made on the following Equipment; B7030H2 and B8145H2, that is larger than 145 square inches (e.g., 11 x 17 = 187 square inches), but less than or equal to 491 mm in length, will register as two (2) prints on the applicable (B&W/color) meter, and, for that Equipment with extra-long print capability, for any impressions greater than 491 mm will register up to four (4) prints on the applicable

(B&W/color) meter.

PRICING PLAN/OFFERING SELECTED:

5. FIXED PRICING. If "Pricing Fixed for Term" is identified in Maintenance Plan Features, the maintenance component of the Minimum Payment and Print Charges will not increase during the initial Term of this Agreement.

6. NON-XEROX PRODUCTS. COIN UP (B70XX-710J) were selected by you and are not sold by Xerox in the normal course of its business ("Non-Xerox Products"). If you signed a purchase contract for Non-Xerox Products, you assign to Xerox your rights but none of your obligations under such purchase contract. Xerox is leasing Non-Xerox Products to you "AS IS, WHERE IS" and XEROX MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND REGARDING NON-XEROX PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT. To the extent permitted to do so, Xerox assigns to you any warranty rights it has to Non-Xerox Products (which rights shall revert to Xerox if you default under this Agreement). Non-Xerox Products are not covered by Maintenance Services, and you will maintain throughout the initial Term a service agreement for Non-Xerox Products with a service provider acceptable to Xerox. You will pay all personal property taxes related to Non-Xerox Products. You assign to Xerox any rights you have to Non-Xerox Products and title will pass or revert to you (subject to any software licenses relating to Non-Xerox Products) upon expiration of the initial Term.

GENERAL TERMS & CONDITIONS:

7. REMOTE SERVICES. Certain models of Equipment are supported and serviced using product information that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment connected to your network ("Remote Product Info") via electronic transmission to a secure off-site location ("Remote Transmission"). Remote Transmission also enables Xerox to transmit Releases of Software to you and to remotely diagnose and modify Equipment to repair and correct malfunctions. Examples of Remote Product Info include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code information. Remote Product Info may be used by Xerox for billing, report generation, supplies replenishment, support services, recommending additional products and services, and product improvement/development purposes. Remote Product Info will be transmitted to and from you in a secure manner mutually agreeable to the parties. Remote Transmission will not allow Xerox to read, view or download the content of any of your documents or other information residing on or passing through the Equipment or your information management systems. You grant the right to Xerox, without charge, to conduct Remote Transmission for the purposes described above. Upon Xerox's request, you will (a) provide contact information for Equipment such as name and address of your contact and IP and physical addresses/locations of Equipment and (b) ensure that any Maintenance Release or Update released by Xerox to provide security patches, releases and/or certificates for the Remote Transmission and/or Software is promptly enabled by Customer upon notification by Xerox or by the Equipment or when otherwise made available on xerox.com. You will enable Remote Transmission via a method mutually agreeable to both parties, and you will provide reasonable assistance to allow Xerox to provide Remote Transmission. Unless Xerox deems Equipment incapable of Remote Transmission, you will ensure that Remote Transmission is maintained at all times Maintenance Services are being performed.

Financial Information

8. REFINANCE. The "Amount Refinanced" is included in the amount financed under this Agreement. If the Amount Refinanced is under an agreement with a third party, you acknowledge you have the right to terminate the agreement and you will provide Xerox with a statement from the third party identifying the equipment at issue, the amount to be paid off and the payee's name and mailing address. If the Amount Refinanced is under an agreement with Xerox, the refinancing will render your prior agreement null and void. If you breach any of your obligations under this Agreement, the full Amount Refinanced will be immediately due and payable.

Item	Finance Activity	Amount Refinanced	Int. Rate	Total Int. Payable
1. B405DN	- Refinance of Xerox Agreement	\$62.00	10%	\$16.60

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Lease Agreement



Customer: FLOWER MOUND, TOWN OF

BillTo: TOWN OF FLOWER MOUND
ATTN ACCTS PAYABLE
RD
2121 CROSS TIMBERS
FLOWER MOUND, TX 75028-2699

Install: TOWN OF FLOWER MOUND
PURCHASING
CAC/PARKS
1200 GERAULT RD
FLOWER MOUND, TX 75028-3405

State or Local Government Negotiated Contract : 072816900

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1.	B8145H2 (XEROX B8145H2) - 1 Line Fax - Office Finisher - 2/3 Hole Punch - Customer Ed - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox 5945 S/N A2M752331 Trade-In as of Payment 61	7/14/2021

Monthly Pricing

Item	Lease Minimum Payment	Meter	Print Charges		Maintenance Plan Features
			Volume Band	Per Print Rate	
1. B8145H2	\$179.59	1: Black and White Impressions	1 - 25,000 25,001+	Included \$0.0045	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$179.59	Minimum Payments (Excluding Applicable Taxes)			

Authorized Signature

Customer acknowledges receipt of the terms of this agreement which consists of 2 pages including this face page.		Thank You for your business! This Agreement is proudly presented by Xerox and Mary Eberhart (940)565-6486 For information on your Xerox Account, go to www.xerox.com/AccountManagement	
Signer: _____	Phone: (972)999-9999		
Signature: _____	Date: _____		

Lease Agreement



Terms and Conditions

INTRODUCTION:

1. NEGOTIATED CONTRACT. The Products are subject solely to the terms in the Negotiated Contract identified on the face of this Agreement, and, for any option you have selected that is not addressed in the Negotiated Contract, the then-current standard Xerox terms for such option.

GOVERNMENT TERMS:

2. REPRESENTATIONS & WARRANTIES. This provision is applicable to governmental entities only. You represent and warrant, as of the date of this Agreement, that: (1) you are a State or a fully constituted political subdivision or agency of the State in which you are located and are authorized to enter into, and carry out, your obligations under this Agreement and any other documents required to be delivered in connection with this Agreement (collectively, the "Documents"); (2) the Documents have been duly authorized, executed and delivered by you in accordance with all applicable laws, rules, ordinances and regulations (including all applicable laws governing open meetings, public bidding and appropriations required in connection with this Agreement and the acquisition of the Products) and are valid, legal, binding agreements, enforceable in accordance with their terms; (3) the person(s) signing the Documents have the authority to do so, are acting with the full authorization of your governing body and hold the offices indicated below their signatures, each of which are genuine; (4) the Products are essential to the immediate performance of a governmental or proprietary function by you within the scope of your authority and will be used during the Term only by you and only to perform such function; and (5) your payment obligations under this Agreement constitute a current expense and not a debt under applicable state law and no provision of this Agreement constitutes a pledge of your tax or general revenues, and any provision that is so construed by a court of competent jurisdiction is void from the inception of this Agreement.

3. FUNDING. This provision is applicable to governmental entities only. You represent and warrant that all payments due and to become due during your current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the Products, and it is your intent to use the Products for the entire term of this Agreement and make all payments required under this Agreement. If your legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources, this Agreement may be terminated. To effect this termination, you must, at least 30 days prior to the beginning of the fiscal year for which your legislative body does not appropriate funds, notify Xerox in writing that your legislative body failed to appropriate funds. Your notice must be accompanied by payment of all sums then owed through the current fiscal year under this Agreement. You will return the Equipment, at your expense, to a location designated by Xerox and, when returned, the Equipment will be to in good condition and free of all liens and encumbrances. You will then be released from any further payment obligations beyond

those payments due for the current fiscal year (with Xerox retaining all sums paid to date).

SOLUTION/SERVICES:

4. OVERSIZE PRINTS. Each print made on the following Equipment; B8145H2, that is larger than 145 square inches (e.g., 11 x 17 = 187 square inches), but less than or equal to 491 mm in length, will register as two (2) prints on the applicable (B&W/color) meter, and, for that Equipment with extra-long print capability, for any impressions greater than 491 mm will register up to four (4) prints on the applicable (B&W/color) meter.

PRICING PLAN/OFFERING SELECTED:

5. FIXED PRICING. If "Pricing Fixed for Term" is identified in Maintenance Plan Features, the maintenance component of the Minimum Payment and Print Charges will not increase during the initial Term of this Agreement.

GENERAL TERMS & CONDITIONS:

6. REMOTE SERVICES. Certain models of Equipment are supported and serviced using product information that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment connected to your network ("Remote Product Info") via electronic transmission to a secure off-site location ("Remote Transmission"). Remote Transmission also enables Xerox to transmit Releases of Software to you and to remotely diagnose and modify Equipment to repair and correct malfunctions. Examples of Remote Product Info include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code information. Remote Product Info may be used by Xerox for billing, report generation, supplies replenishment, support services, recommending additional products and services, and product improvement/development purposes. Remote Product Info will be transmitted to and from you in a secure manner mutually agreeable to the parties. Remote Transmission will not allow Xerox to read, view or download the content of any of your documents or other information residing on or passing through the Equipment or your information management systems. You grant the right to Xerox, without charge, to conduct Remote Transmission for the purposes described above. Upon Xerox's request, you will (a) provide contact information for Equipment such as name and address of your contact and IP and physical addresses/locations of Equipment and (b) ensure that any Maintenance Release or Update released by Xerox to provide security patches, releases and/or certificates for the Remote Transmission and/or Software is promptly enabled by Customer upon notification by Xerox or by the Equipment or when otherwise made available on xerox.com. You will enable Remote Transmission via a method mutually agreeable to both parties, and you will provide reasonable assistance to allow Xerox to provide Remote Transmission. Unless Xerox deems Equipment incapable of Remote Transmission, you will ensure that Remote Transmission is maintained at all times Maintenance Services are being performed.

Town of Flower Mound July Install

Current

Proposed

On Site Location	Model	Serial Number	Financial Install Date	Lease Term	Lease Exp. Date	Average Monthly Page Volume	Included Monthly Impressions	Monthly Payment	Proposed New Model	Speed	Copy	Print	Scan	Fax	BR Booklet Maker FIN	Office Finisher	3Hole Punch	FIDK & Coin Op	Hi-Cap Feeder	Conv. Stapler	Extra tray A4	Stand A4	Onsite Analyst Install Support for IT	Delivery AND Removal No Charge	Included B/W Impressions	B/W Overage Rate	60 Month Lease Payment
Library Staff	5945APT	A2M731698	6/27/2016	60	6/30/2021	3,916	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Animal Services	5945APT	A2M607258	6/21/2016	60	6/30/2021	1,172	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
TSO (Retained Facilities Copier)	5945APT	A2M607315	6/23/2016	60	6/30/2021	2,406	20,000	\$ 164.67	B8145	45	X	X	X	X		X	X					X	X		25000	0.0045	\$0.00
Fire Department	5945APT	A2M658418	6/21/2016	60	6/30/2021	3,829	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Fleet Services	5945APT	A2M732167	6/23/2016	60	6/30/2021	199	20,000	\$ 103.54	B7030H	30	X	X	X			X	X					X	X		5000	0.0045	\$128.69
Library Public (coin-op)	5945APT	A2M607214	6/23/2016	60	6/30/2021	256	20,000	\$ 158.48	B7030H	30	X	X	X			X		X				X	X		5000	0.0045	\$209.88
Municipal Court Back	5945APT	A2M733222	6/23/2016	60	6/30/2021	4,348	20,000	\$ 156.05	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Police Records	5945APT	A2M732169	6/23/2016	60	6/30/2021	658	20,000	\$ 158.54	B7030H	30	X	X	X			X	X					X	X		5000	0.0045	\$128.69
Police Admin	5945APT	A2M651466	6/27/2016	60	6/30/2021	4,518	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Document Center-BW-End	5945APT	A2M732165	6/21/2016	60	6/30/2021	5,441	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Public Works-East Wing	5945APT	A2M731708	6/23/2016	60	6/30/2021	3,184	20,000	\$ 158.54	B8145	45	X	X	X			X	X					X	X		25000	0.0045	\$171.21
Municipal Courts - Front	3615DN	A2T023601	9/19/2016	60	9/19/2021	3,676	20,000	\$ 58.68	B405DN	47	X	X	X								X	X			2500	0.0099	\$65.57
CAC/Parks & Rec	5955APTD	A2M752331	6/23/2016	60	6/23/2021	5,330	20,000	\$ 166.82	B8145	45	X	X	X	X		X	X								25000	0.0045	\$179.59

\$ 1,918.02

\$1,910.89



TOWN COUNCIL AGENDA ITEM NO. 14

REGULAR ITEM

DATE: July 19, 2021

FROM: Claire Barnes, Planner

ITEM: Public Hearing to consider an ordinance granting a Specific Use Permit No. 471 (SUP21-0004– Prairie Plaza Vet) to permit a veterinary hospital (inside pens) use. The property is generally located north of Cross Timbers Road and west of Long Prairie Road. (*The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its July 12, 2021, meeting.*)



SUMMARY DATA:

- Lot Size – 4.76 acres
- Proposed Use – Veterinary Hospital (inside pens)
- Building Size – 8,925 sf
- Current Zoning – PD-150 with Office Uses
- SMARTGrowth – N/A, review not triggered
- Traffic Analysis – N/A, review not triggered
- Exceptions – None
- Incentives – None

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: Alicia Kreh, 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: July 12, 2021

FROM: Claire Barnes, Planner

ITEM: **Public Hearing to consider an ordinance granting a Specific Use Permit No. 471 (SUP21-0004– Prairie Plaza Vet) to permit a veterinary hospital (inside pens) use. The property is generally located north of Cross Timbers Road and west 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. There are no outstanding issues.

This application will require final action by the Town Council.

II. APPLICATION ANALYSIS

The purpose of the application is to request approval of a Specific Use Permit (SUP 471) to permit a veterinary hospital (inside pens) use to occupy an 8,925 square-foot building (Building 1) located on Lot 1, Block A of the Prairie Plaza Addition.

The subject site is approximately 4.76 acres. The property is zoned Planned Development No. 150 with underlying Office zoning. The land use is also Office.

A veterinary hospital (inside pens) use requires approval of a Specific Use Permit (SUP) in Office zoning.

On June 12, 2017, P&Z approved a site plan, SP17-0003 Prairie Plaza, Phase I for Buildings 1-3 of the development. On September 28, 2020, P&Z approved a site plan, SP19-0015 Prairie Plaza Phase 2 for Buildings 4-6 of the development.

Veterinary hospitals (inside pens) use the parking ratio of one (1) space per 250 square feet of floor area. With 8,925 square feet of floor area, the use requires 36 parking spots. Phase 1 consists of 148 parking spots. Overall, 203 parking spots will be constructed on site. Parking will be reviewed with each tenant's certificate of occupancy to verify compliance with Town parking standards. The majority of building one was originally intended for restaurant use. Since restaurant uses have a higher parking demand (1 space per 75 square feet) than veterinary hospitals, Staff does not anticipate any parking compliance issues for building one.

As part of this application, the applicant is proposing to convert the deck area (originally intended for outdoor dining) into a fenced pet yard. This modification would require an amended site plan. Any outdoor lighting would be required to meet Town standards. Per Sec. 98-998, Town code requires that veterinary hospitals (inside pens) be wholly enclosed in a building that is treated acoustically to prevent noise from being perceptible at the property line. The proposed hours of operation are 24 hours a day, seven days a week.

The ordinance for the SUP will include the following conditions for the veterinary hospital (inside pens) use:

1. The Specific Use Permit is limited to Building 1 located on Lot 1 of the Prairie Plaza Addition.
2. An amended site plan application is required to show the removal of the deck and the addition of the pet yard and fencing. Fence details must be submitted with Amended Site Plan.
3. A maximum of 1,900 square feet of fenced yard as shown on the Concept Plan, Exhibit "A" shall be permitted and subject to following conditions.
 - a. Any use of the fenced yard would require a minimum of one employee be present to monitor the use of this area.
 - b. There shall be a limitation of at least 1 employee per 2 animals in the yard.
4. The building must be treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property boundary line as required by Sec. 98-998 of the Code of Ordinances.

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. SUP21-0004 had a total of 29 Property Owner Notifications mailed. At the time this report was written, staff had received no items of correspondence in support or 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. Approved Site Plan, Landscape Plan, and Elevations

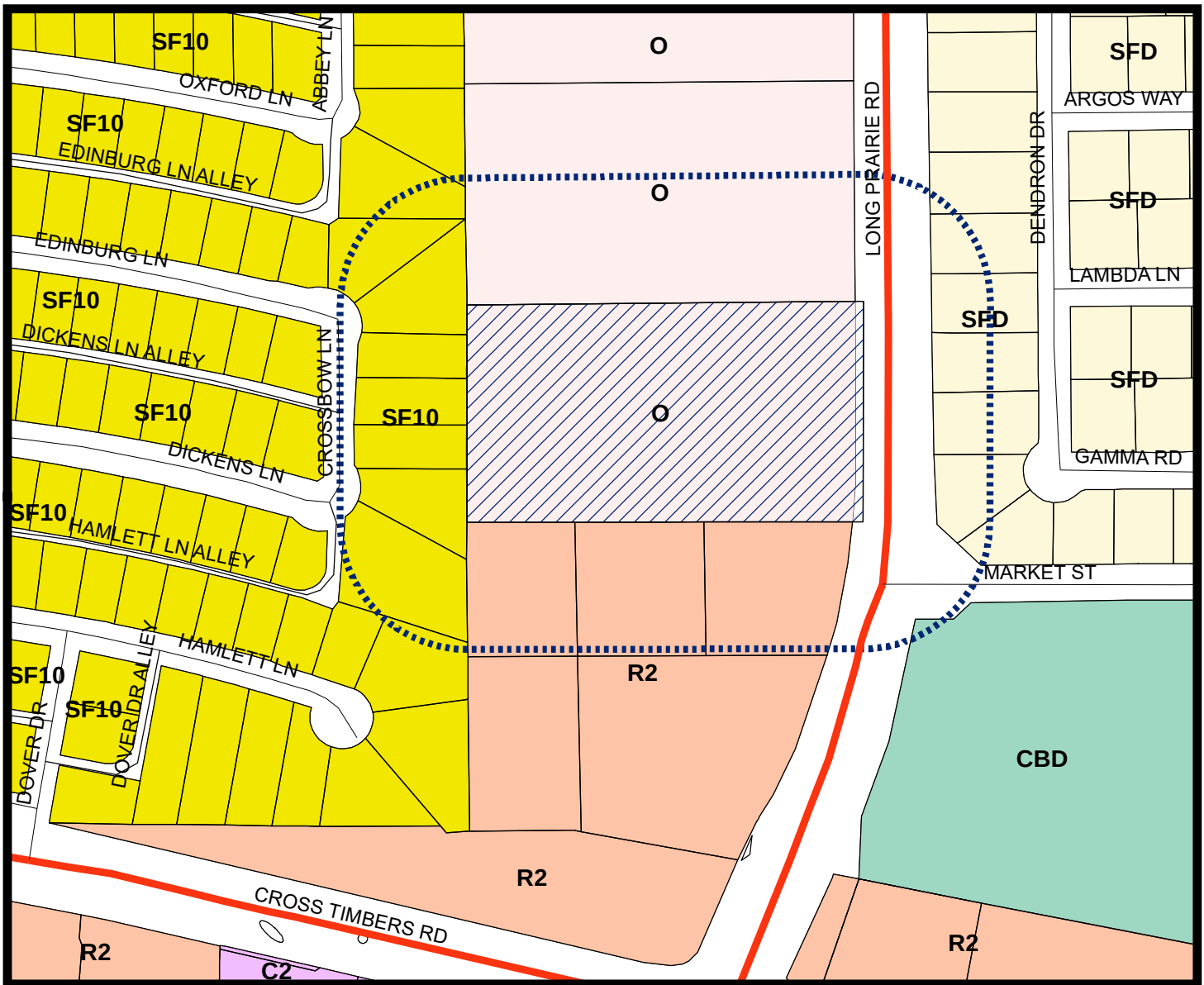
B. Application Details

1. Specific Use Permit Package

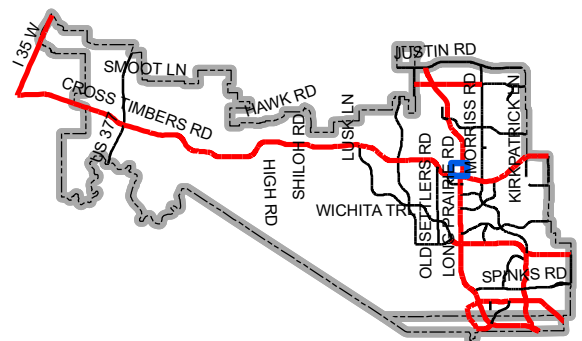
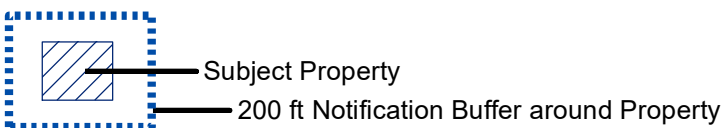


Vicinity Map

Reference Project: SUP21-0004



LEGEND



Map Location



June 22, 2021

Claire Barnes
Planner,
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75022

Dear Ms. Barnes,

On behalf of my clients Southern Veterinary Partners and FMPrairie Properties LLC, I am submitting an application for a Special Use Permit (SUP) to allow for a veterinary hospital with indoor pens.

The proposed veterinary hospital's location would be Building 1 of the development known as Prairie Plaza established by PD-150. Prairie Plaza is approximately 5 acres with the underlying zoning of Office. Building 1 is approximately 8,900 square feet.

More specifically, the project is a proposed specialty and emergency veterinary hospital for Southern Veterinary Partners. The hospital is designed for state-of-the-art veterinary care provided by board certified veterinary specialists, including advanced medical care, surgery, cancer care, dentistry, and critical care.

Animals receiving care at this facility are very ill and would not go to a regular veterinary hospital; thus, the outdoor uses at this facility are not for dog play but rather for walking pets following surgery. This will make this facility a quiet and respectful neighbor to the development. The hospital will provide services that no one else can provide, for pets and pet families, in a compassionate and loving environment. The facility will provide emergency care and will operate 24 hours a day 7 days per week.

The quiet nature of this facility is in substantial conformance with the intent for development established by PD-150. Additionally, the Town Council approved the use with a Special Use Permit on April 5, 2021.

If approved, the veterinary hospital will require slight modifications to the approved site plan. A site plan showing these modifications is included as part of this application for clarity. An application for amended site plan will be submitted once the SUP obtains approval. Modifications that would be needed are limited to Building 1 and include:

- Outdoor space on the northwest corner will be a pet yard separated from the building by a sidewalk. Including sidewalks, the pet yard is approximately 1,600 square feet;
- Lighting in the pet yard will be modified to be more suitable for a pet yard. Lighting is anticipated to be compliant with Flower Mound standards;
- Extension of the previously approved fencing to provide complete enclosure of the pet yard.

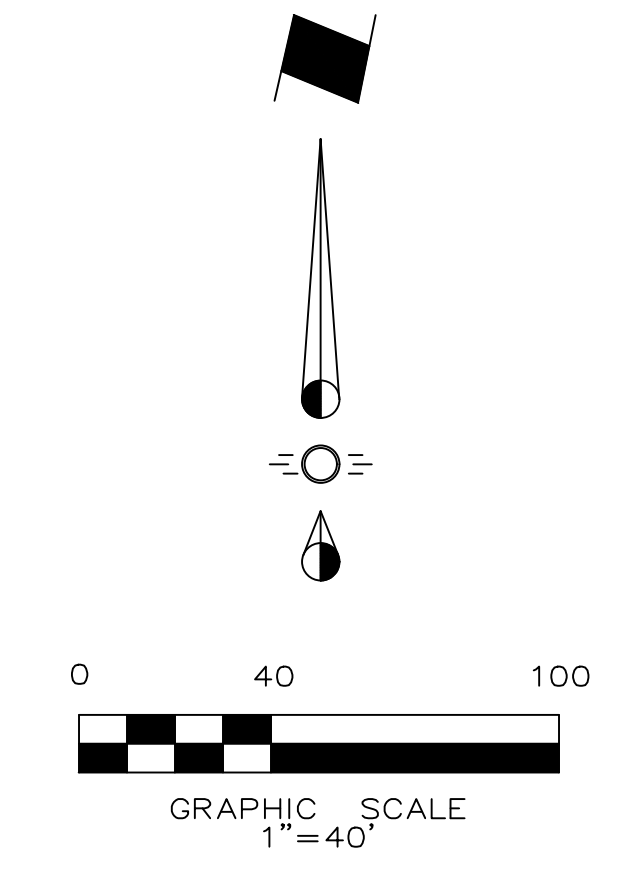
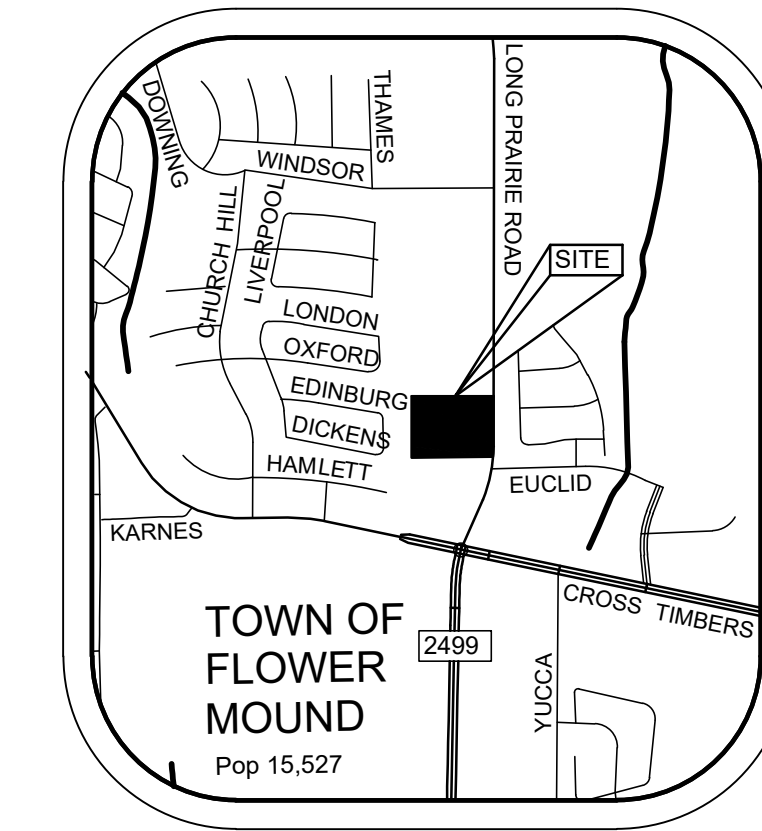
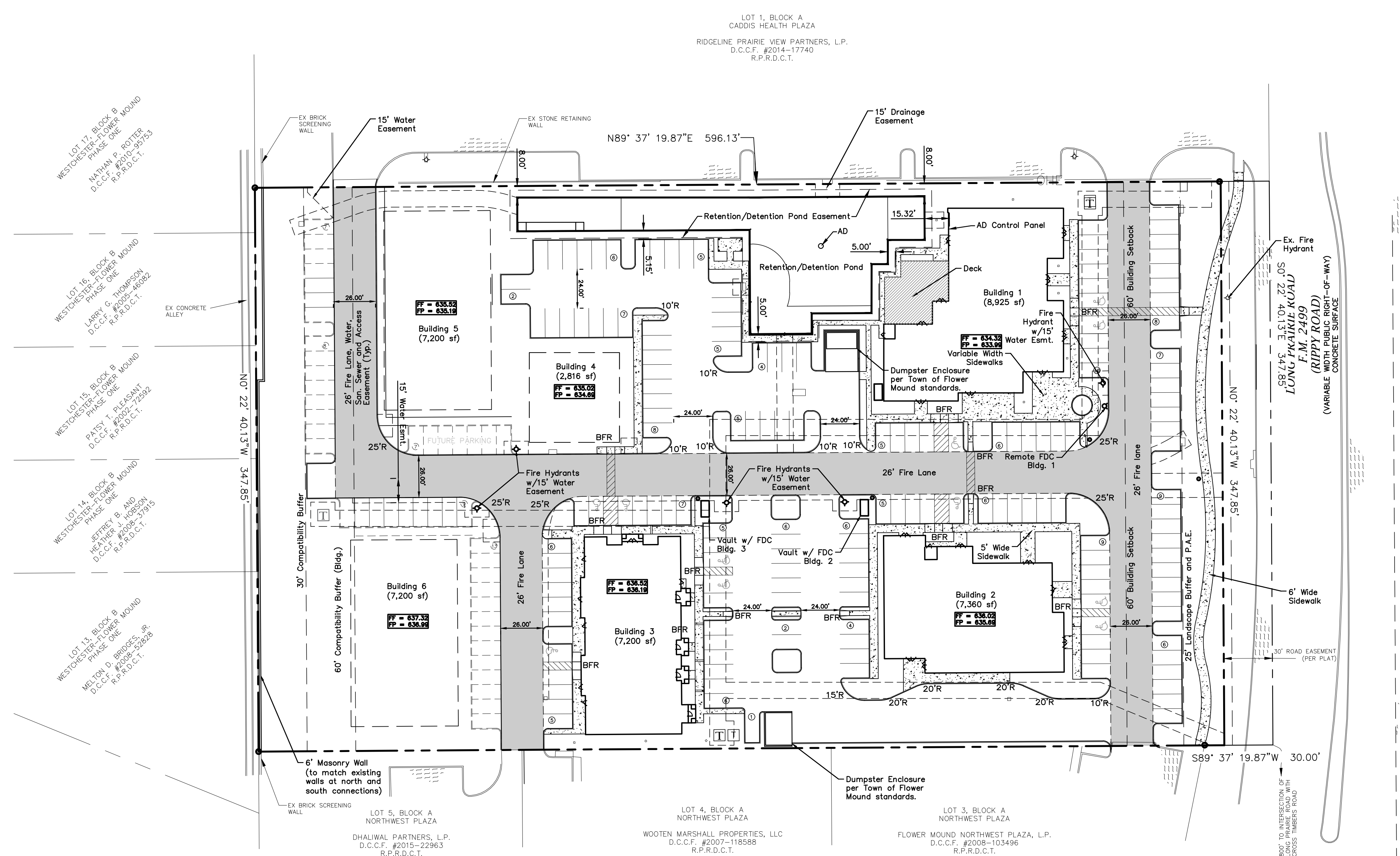
No changes are being proposed for the previously approved landscape plans or building elevations.

Please let me know if you have any questions.

Sincerely,

Kendra Stephenson

Kendra Stephenson,
Principal,
Portmanteau Consulting



LEGEND

- Firelane
- Proposed Sidewalk
- Ex. Concrete
- Proposed Retaining Wall
- Existing Fire Hydrant
- Proposed Fire Hydrant
- BFR Barrier Free Ramp
- Parking Count
- P.A.E. Pedestrian Access Easement
- AD Aeration Device

The Following Plat/Graphic Case Number, ASP20-0039 Was Administratively Approved On Date August 10, 2020

SITE DATA — PHASE I and II

Address:	3901 Long Prairie Road Town of Flower Mound, Texas	
Gross Lot Area:	5.00 Acres (217,799 sf)	
Net Lot Area:	4.7604 Acres (207,364 sf)	
Zoning:	PD-150 with Office uses	
Proposed Use:	Office/Medical Office Uses	
Lot Coverage Data:	Building Coverage Impervious Area Pervious Area	23,485 sf <u>91,104 sf</u> <u>91,710 sf</u>
Site Parking Summary:	Required	Provided
Medical Office	29 Spaces	
App. Office Use (Retail)	27 Spaces	
App. Office Use (Rest.)	129 Spaces	
Building Parking Summary:	Required	Provided
Building 1		
Restaurant 5500sf	73	58
Retail 3425sf	14	11
Building 2		
Restaurant 4200sf	56	45
Retail 3160sf	13	10
Building 3		
Medical Office 7200sf	29	24
Total Parking	185 Spaces	148 Spaces (20% deviation)

Note:
13 Parking spaces constructed with Phase I will be used to satisfy the parking requirements of Phase II development.

OWNER:

FM Prairie Properties, LLC
10325 Mateo Trail
Irving, TX 75063
Phone (214) 208-4160
Contact: Rajeshnani Desari

ENGINEER:

Cross Engineering Consultants, Inc.
131 S. Tennessee St.
McKinney, Texas 75069
Phone (972) 562-4409
Fax (972) 562-4471
Contact: Dwayne Zinn, P.M.

ARCHITECT:

DB Constructors, Inc.
2400 Great Southwest Pkwy.
Fort Worth, TX 76106
Phone (817) 626-7300
Fax (817) 626-9305
Contact: Matthew Peterson

SURVEYOR:

Votex Surveying
10440 N. Central Expressway, Ste. 800
Dallas, TX 75231
Phone (469) 333-8831
Contact: Candy Hone

STANDARD NOTES:

- All Parking Spaces are 9'x18' unless otherwise noted.
- Retention/Detention Pond shall be concrete structural walls with stone clad interior to match buildings. Bottom shall be natural earth and pond shall have aeration device. Top shall have wrought iron fence for safety. Aeration device to be Aqua Control SS2 Display Aerator — Cluster Arch — 1 HP, or approved equal.
- Future phases shall contain Medical Office Buildings. Parking and sidewalks for each shall be constructed at the time of development.
- All infrastructure necessary for the full development of the property to be constructed with Phase I.
- The 30' Road easement shown on Site Plan shall be considered the east Right-of-way line for the purposes of this project. Any areas within the easement shall be considered to be under the jurisdiction of TxDOT.

MASTER PLAN FEATURES	
LAND USE PLAN	OFFICE USE
URBAN DESIGN PLAN	LONG PRAIRIE DISTRICT
PARKS AND TRAILS	FUTURE 8' MULTI-PURPOSE TRAIL TO BE INSTALLED ON THE EAST SIDE OF LONG PRAIRIE
OPEN SPACE PLAN	NOT A CONSERVATION DEVELOPMENT
THOROUGHFARE PLAN	LONG PRAIRIE ROAD — MAJOR ARTERIAL WITH 150' R.O.W. — CROSS ACCESS TO BE PROVIDED WITH LIMITED ACCESS TO LONG PRAIRIE ROAD
WATER PLAN	LONG PRAIRIE DISTRICT—12" WATER ALONG WEST SIDE OF F.M. 2499
WASTEWATER PLAN	LONG PRAIRIE DISTRICT—8" SANITARY SEWER LINE AT THE SOUTHEAST CORNER OF THIS TRACT

NOTES:

- ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO COMPLEMENT THE MATERIALS AND COLORS WITHIN THIS DEVELOPMENT.
- ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
- ALL ROOF-MOUNTED MECHANICAL UNITS AND/OR EQUIPMENT SHALL BE SCREENED FROM VIEW.
- DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
- DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.
- SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN/ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
- ALL FIRE LANES TO BE DEDICATED AS FIRE LANE, WATER, SANITARY SEWER AND ACCESS EASEMENTS.

NOTE:
THE TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHETHER INDICATED ON THESE PLANS OR NOT.

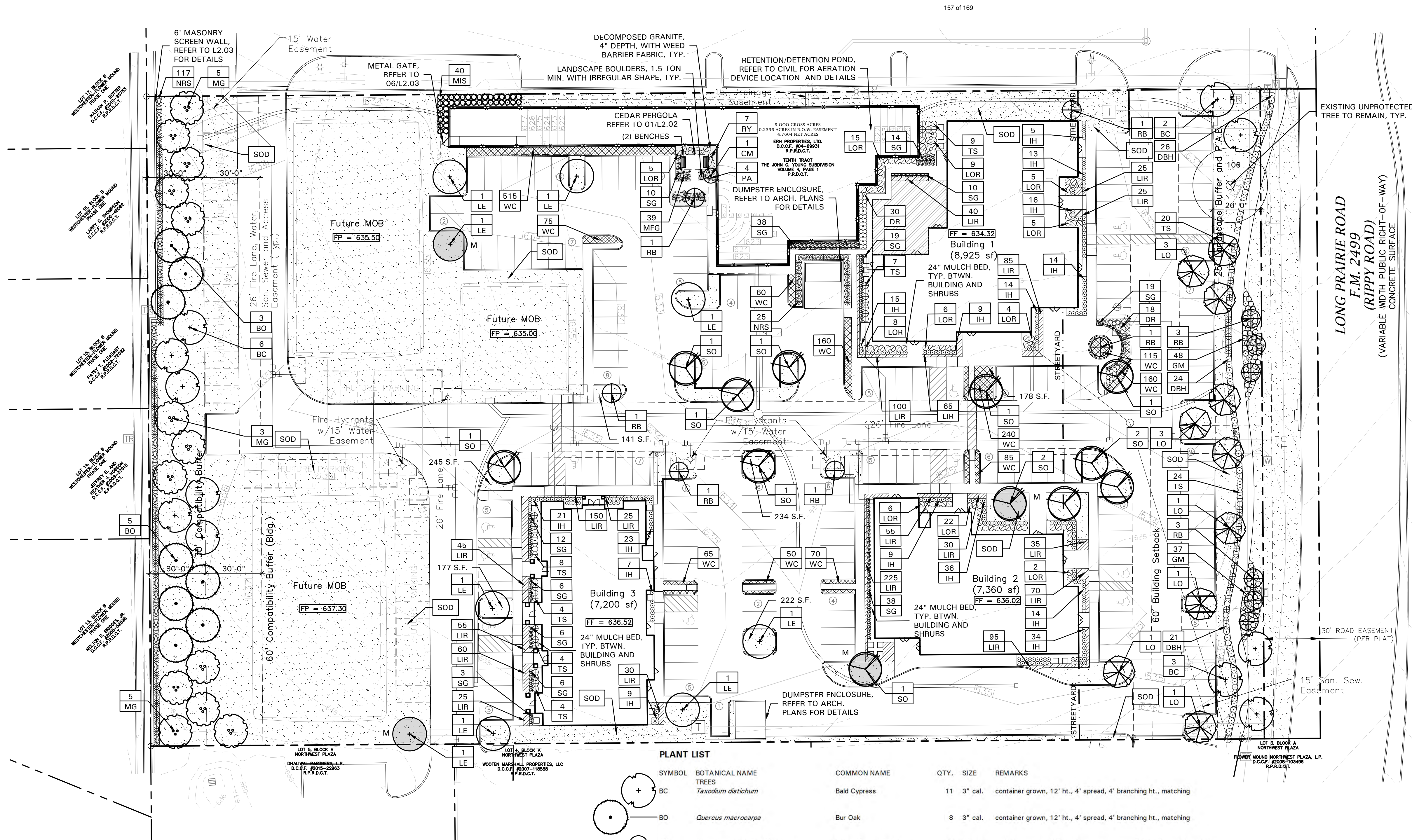
REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Engineering Services Division

Issue Dates:	Revisions:	Date:
1 7-20-2017	1 Water	11/19/19
2	2 Grd, Stm	3/10/20
3	3 Bldg & FL	5/22/20
4		
5		
6		

CROSS ENGINEERING CONSULTANTS
131 S. Tennessee St.
McKinney, Texas 75069
772.562.4409
Texas P.E. Firm No. F-5935

Drawn By: C.E.C.I.
Checked By: C.E.C.I.
Scale: 1" = 40'

SITE PLAN		Sheet No. SP
PRAIRIE PLAZA PHASE 1		
DB Constructors, Inc.		Project No. 16047
Town of Flower Mound, Texas		



STREET YARD LANDSCAPING			
STANDARD	TOTAL STREET YARD	REQUIRED	PROVIDED
Min. 20% of street yard	35,733 s.f. of Street Yard	7,147 s.f. of Street Yard	11,301 s.f. of Street Yard
STREET YARD TREES			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
Above 10,000 s.f. = 10 Trees + 1 Tree for every 2,500 s.f. over 10,000 s.f.	35,733 s.f. of Street Yard	20 Trees (3" cal.)	19 Trees (3" cal.)
			7 Trees (30 gal.)
STREET BUFFER LANDSCAPING			
STANDARD		REQUIRED BUFFER WIDTH	PROVIDED
FM 2499		25 ft.	25 ft.
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 per 30 l.f.	FM 2499 = 348 l.f.	12 Trees (3" cal.)	10 Trees (3" cal.)
			6 Trees (30 gal.)
PARKING AREA LANDSCAPING			
STANDARD	# OF PARK SPACES	REQUIRED	PROVIDED
90 s.f. per 12 spaces	160 Parking Spaces	1,200 s.f.	8,076 s.f.
PARKING AREA TREES			
STANDARD	# OF PARK SPACES	REQUIRED	PROVIDED
1 per 10 parking spaces	160 parking spaces	16 trees (3" cal.)	20 trees (3" cal.)
** All parking spaces to be located within 50 ft. of Parking lot tree.			4 trees (30 gal.)
*** 30% of the required parking lot trees can be small trees.			
PARKING AREA SCREENING			
STANDARD		Landscape berm or screening shrubs	PROVIDED
All head parking to be screened from street view		3' ht. Screen	Screening shrubs (3' ht.)
COMPATIBILITY BUFFER LANDSCAPING			
STANDARD	Square Footage	REQUIRED	PROVIDED
30 ft. Compatibility Buffer Along West Res. Adj.	Not Applicable	30 ft.	30 ft.
One Shade Tree per 400 s.f. of Comp. Buffer	10,435 s.f.	26 Trees (3" cal.)	26 Trees
Min. 6' Masonry Wall	Not Applicable	6 ft.	6 ft. masonry wall
Understory Screening Plants	Not Applicable	6' Screening Shrubs	6' Screening Shrubs
60 ft. Compatibility Buffer Setback	Not Applicable	60 ft.	60 ft.

SYMBOL	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS
BC	<i>Taxodium distichum</i>	Bald Cypress	11	3" cal.	container grown, 12' ht., 4' spread, 4' branching ht., matching
BO	<i>Quercus macrocarpa</i>	Bur Oak	8	3" cal.	container grown, 12' ht., 4' spread, 4' branching ht., matching
CM	<i>Lagerstroemia indica</i> 'Natchez'	Crepe Myrtle 'Natchez'	1	3" cal.	container grown, 3-5 trunk, no cross canes, 8' ht., 4' spread, matching
LE	<i>Ulmus parvifolia</i> 'Sempervirens'	Lacebark Elm	9	3" cal.	container grown, 12' ht., 4' spread, 4' branching ht., matching
LO	<i>Quercus virginiana</i>	Live Oak	10	3" cal.	container grown, 12' ht., 4' spread, 4' branching ht., matching
MG	<i>Magnolia grandiflora</i> 'DD Blanchard'	DD Blanchard Magnolia	13	3" cal.	container grown, full to base, 12' ht., 3' spread, matching
RB	<i>Cercis canadensis</i> 'Oklahoma'	Oklahoma Redbud	12	3" cal.	container grown, 8' ht., 4' spread min.
SO	<i>Quercus shumardii</i>	Shumard Red Oak	12	3" cal.	container grown, 12' ht., 4' spread, 4' branching ht., matching
SHRUBS/GROUND COVER					
DBH	<i>Ilex cornuta</i> 'Burfordii Nana'	Dwarf Burford Holly	71	5 gal.	container full, 24" spread, 36" o.c.
DR	<i>Rosa</i> 'Red Drift'	Red Drift Rose	48	5 gal.	container full, 24" spread, 20" ht., 24" o.c.
GM	<i>Muhlenbergia capillaris</i>	Gulf Muhly	85	5 gal.	container full, 36" o.c.
IH	<i>Raphiolepis indica</i> 'Clara'	Indian Hawthorne 'Clara'	239	5 gal.	container full, 20" spread, 24" o.c.
LIR	<i>Liriope muscari</i> 'Big Blue'	Liriope 'Big Blue'	1,240	4" pots	container full top of container, 12" o.c.
LOR	<i>Loropetalum chinense</i> 'Purple Diamond'	Loropetalum 'Purple Diamond'	87	5 gal.	container full, 20" spread, 24" o.c.
MFG	<i>Nassella tenuissima</i>	Mexican Feathergrass	39	1 gal.	container full, 18" o.c.
MIS	<i>Miscanthus sinensis</i> 'Adagio'	Miscanthus 'Adagio'	40	5 gal.	container full, 36" o.c.
NRS	<i>Ilex spp.</i> 'Nellie R. Stevens'	Nellie R. Stevens Holly	142	15 gal.	container full to base, 36" ht., 36" o.c.
PA	<i>Agave Parryi</i>	Parry's Agave	4	15 gal.	container full, 36" o.c.
RY	<i>Hesperaloe parvifolia</i>	Red Yucca	7	5 gal.	container full, 30" o.c.
SG	<i>Salvia greggii</i> 'Red'	Salvia Greggii 'Red'	181	5 gal.	container full, 20" spread 24" o.c.
TS	<i>Leucophyllum frutescens</i> 'Green Cloud'	Texas Sage 'Green Cloud'	80	5 gal.	container full, 20" spread, 36" o.c.
WC	<i>Euonymus fortunei</i> 'Coloratus'	Wintercreeper	1,595	4" pots	container (3) 12" runners min., 12" o.c.
SOD	<i>Cynodon dactylon</i>	Common Bermudagrass			refer to notes

NOTE: ALL TREES SHALL HAVE STRAIGHT TRUNKS AND BE MATCHING WITHIN VARIETIES.
PLANT LIST IS AN AID TO BIDDERS ONLY. CONTRACTOR SHALL VERIFY ALL QUANTITIES ON PLAN.
ALL HEIGHTS AND SPREADS ARE MINIMUMS. ALL PLANT MATERIAL SHALL MEET OR EXCEED REMARKS AS INDICATED.

TREE MITIGATION

Required
4 trees, 3" cal.

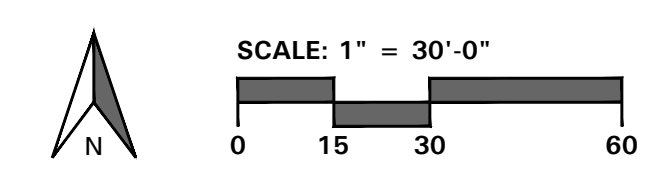
Provided
(3) Shumard Oak, 3" cal.
(1) Lacebark Elm, 3" cal.

*4 MITIGATION TREES PROVIDED IN LIEU OF PAYING INTO TREE FUND

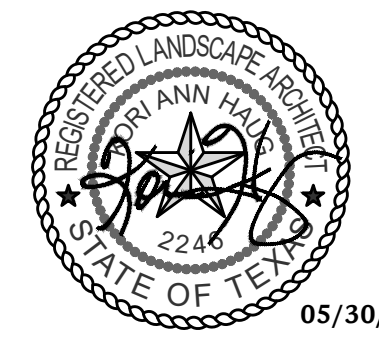
M = MITIGATION TREE

NOTE: ANY TOWN IRRIGATION WITHIN THE R.O.W. THAT MAY BE DAMAGED DURING CONSTRUCTION IS THE CONTRACTOR'S RESPONSIBILITY TO REPAIR PRIOR TO ACCEPTANCE OF THE SITE AND/OR C/O

REVIEWED
TOWN OF FLOWER MOUND
Released for Construction
Date _____
Town of Flower Mound
Engineering Services Division



4245 North Central Expy
Suite 501
Dallas, Texas 75205
214.865.7192 office



3901 Long
Prairie Road
PRAIRIE PLAZA
Flower Mound, Texas

Project Number: 16055
Issue Date: 03.15.17
Drawn By: APL
Checked By: KAH

Revisions	No.	Date:	Detail:
1	03.15.17	City Comments	
2	04.19.17	City Comments	
3	05.17.17	City Comments	
4	05.30.17	City Comments	

Sheet Title:

LANDSCAPE
PLAN

Sheet Number:

L2.01





MATTHEW J. PETERSON, AIA

ARCHITECT / d/b constructors, inc.
2400 GREAT SOUTHWEST PARKWAY
FT. WORTH, TEXAS 76106
817 626-1500

STATUS:
ISSUE FOR PERMIT ; 22 MAY 2020

The Following Plat/Graphic
Case Number **ASP20-0056**
Was Administratively Approved
On Date **August 10, 2020**

CHANGE FROM P&Z
APPROVED PLANS, GABLE
FEATURE ADDED
(AESTHETIC)



CHANGE FROM P&Z
APPROVED PLANS, (1) DOOR
FROM THE DOUBLE DOORS
PREVIOUSLY SHOWN

CHANGE FROM P&Z
APPROVED PLANS, ADDED
A DOOR FOR THE FIRE
RISER ROOM

2 WEST ELEVATION

SCALE: 3/16" = 1'-0"

08-Jul-20

ELEVATIONS : MATERIAL CALCULATIONS TABLE
BUILDING 1

EXTERIOR FINISH MATERIAL SCHEDULE

MATERIAL	MANUFACTURER	PRODUCT NO.	DESCRIPTION		NORTH*	SOUTH*	EAST*	WEST*
ROOF	GAF	Timberline : Weathered Wood	Asphalt Shingles	TOTAL FAÇADE SQUARE FOOTAGE :	1406	1775	2051	1802
TRIM / FASCIA	James Hardie & Co.	Hardie Trim Boards : Khaki Brown	Pre-finished trim and fascia	FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1187	1022	1270	1275
BRICK	ACME	Texas Heritage Modular	Brick	DOORS AND WINDOWS SQ. FT.	219	753	781	527
STONE	Texas Stone Designs	Hickory Stack Stone	Manufactured Stone	PRIMARY MASONRY TOTALS (%)	83.07%	97.26%	98.90%	81.96%
SIDING / PANEL	James Hardie & Co.	Hardie Siding / Panel : Khaki Brown	Siding & Panel (dormers)	BRICK SQ. FT.	600	717	1032	539
WINDOWS	YKK	Storefront Oil Rubbed Bronze	Storefront w/Low-E Tint	STONE SQ. FT.	386	277	224	506
ENTRY DOORS	Adoorings Designs	S-1021 Square	Iron Entry Doors	SECONDARY MASONRY TOTALS (%)	16.93%	2.74%	1.10%	18.04%
EGRESS DOORS	TruDoor	Insulated Hollow Metal Door : Khaki Brown	Rear Egress Doors	FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	201	28	14	230

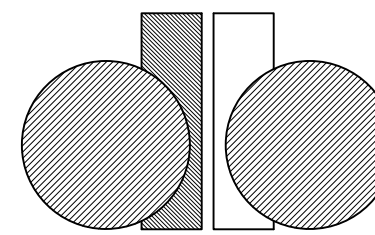
Owner / GC retains the right to match an equivalent manufacturer to that which is listed above

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



1 EAST ELEVATION

SCALE: 3/16" = 1'-0"



d/b constructors inc.

DESIGN-BUILD CONTRACTOR

2400 GREAT SOUTHWEST PARKWAY
FORT WORTH, TEXAS 76106
817 626-1500
817 626-4305 FAX

SHELL RETAIL & OFFICE

for

PRAIRIE PLAZA

3901 LONG PRAIRIE ROAD
FLOWER MOUND, TX

Drawing Number

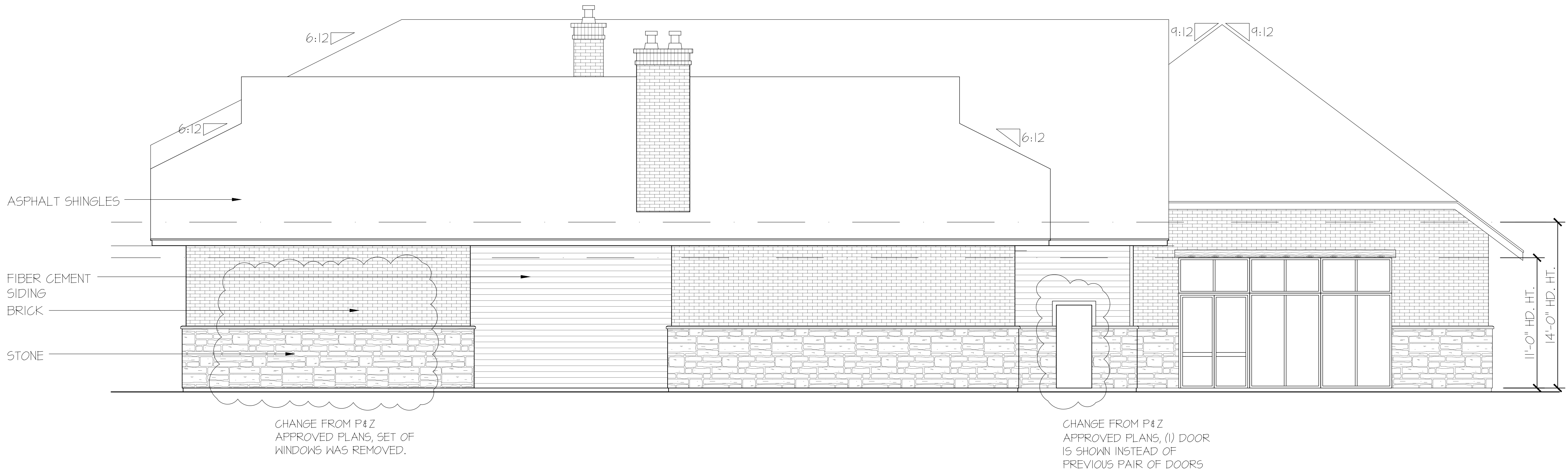
A-101

The Following Plat/Graphic
Case Number ASP20-0056
Was Administratively Approved
On Date August 10, 2020



MATTHEW J. PETERSON, AIA
ARCHITECT / db constructors, inc.
2400 GREAT SOUTHWEST PARKWAY
FT. WORTH, TEXAS 76106
817 626-1500

STATUS:
ISSUE FOR PERMIT ; 22 MAY 2020



2 NORTH ELEVATION

SCALE: 3/16" = 1'-0"

ELEVATIONS : MATERIAL CALCULATIONS TABLE
BUILDING 1

08-Jul-20

EXTERIOR FINISH MATERIAL SCHEDULE

MATERIAL	MANUFACTURER	PRODUCT NO.	DESCRIPTION
ROOF	GAF	Timberline : Weathered Wood	Asphalt Shingles
ROOF	Mueller	AP Panel : Galvalume	Metal accent Roofs
TRIM / FASCIA	James Hardie & Co.	Hardie Trim Boards : Khaki Brown	Pre-finished trim and fascia
BRICK	ACME	Texas Heritage Modular	Brick
STONE	Texas Stone Designs	Hickory Stack Stone	Manufactured Stone
SIDING / PANEL	James Hardie & Co.	Hardie Siding / Panel : Khaki Brown	Siding & Panel (dormers)
WINDOWS	YKK	Storefront Oil Rubbed Bronze	Storefront w/Low-E Tint
ENTRY DOORS	Adoorng Designs	S-1021 Square	Iron Entry Doors
EGRESS DOORS	TruDoor	Insulated Hollow Metal Door : Khaki Brown	Rear Egress Doors

Owner / GC retains the right to match an equivalent manufacturer to that which is listed above

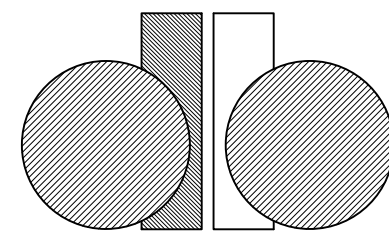
	NORTH*	SOUTH*	EAST*	WEST*
TOTAL FAÇADE SQUARE FOOTAGE :	1406	1775	2051	1802
FACED SQUARE FOOTAGE (EXCLUSIVE OF DOORS/WINDOWS)	1187	1022	1270	1275
DOORS AND WINDOWS SQ. FT.	219	753	781	527
PRIMARY MASONRY TOTALS (%)	83.07%	97.26%	98.90%	81.96%
BRICK SQ. FT.	600	717	1032	539
STONE SQ. FT.	386	277	224	506
SECONDARY MASONRY TOTALS (%)	16.93%	2.74%	1.10%	18.04%
FIBERCEMENT (AKA HARDIPLANK) SQ. FT.	201	28	14	230

*All numbers with the column are in square feet (SQ. FT.), U.N.O.



1 SOUTH ELEVATION

SCALE: 3/16" = 1'-0"



d/b constructors inc.

DESIGN-BUILD CONTRACTOR

2400 GREAT SOUTHWEST PARKWAY
FORT WORTH, TEXAS 76106
817 626-1500
817 626-4305 FAX

SHELL RETAIL & OFFICE

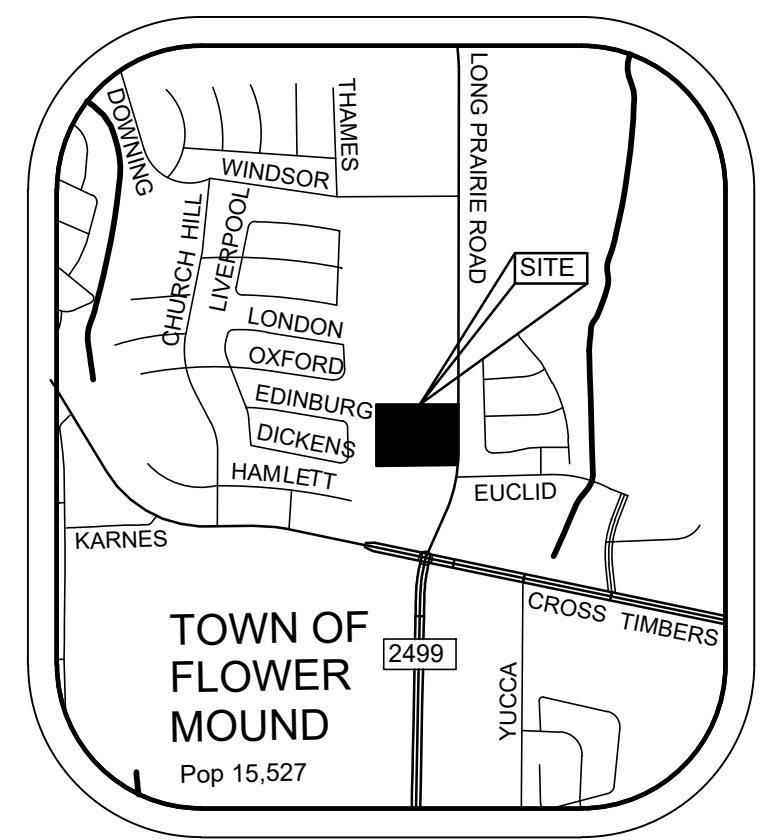
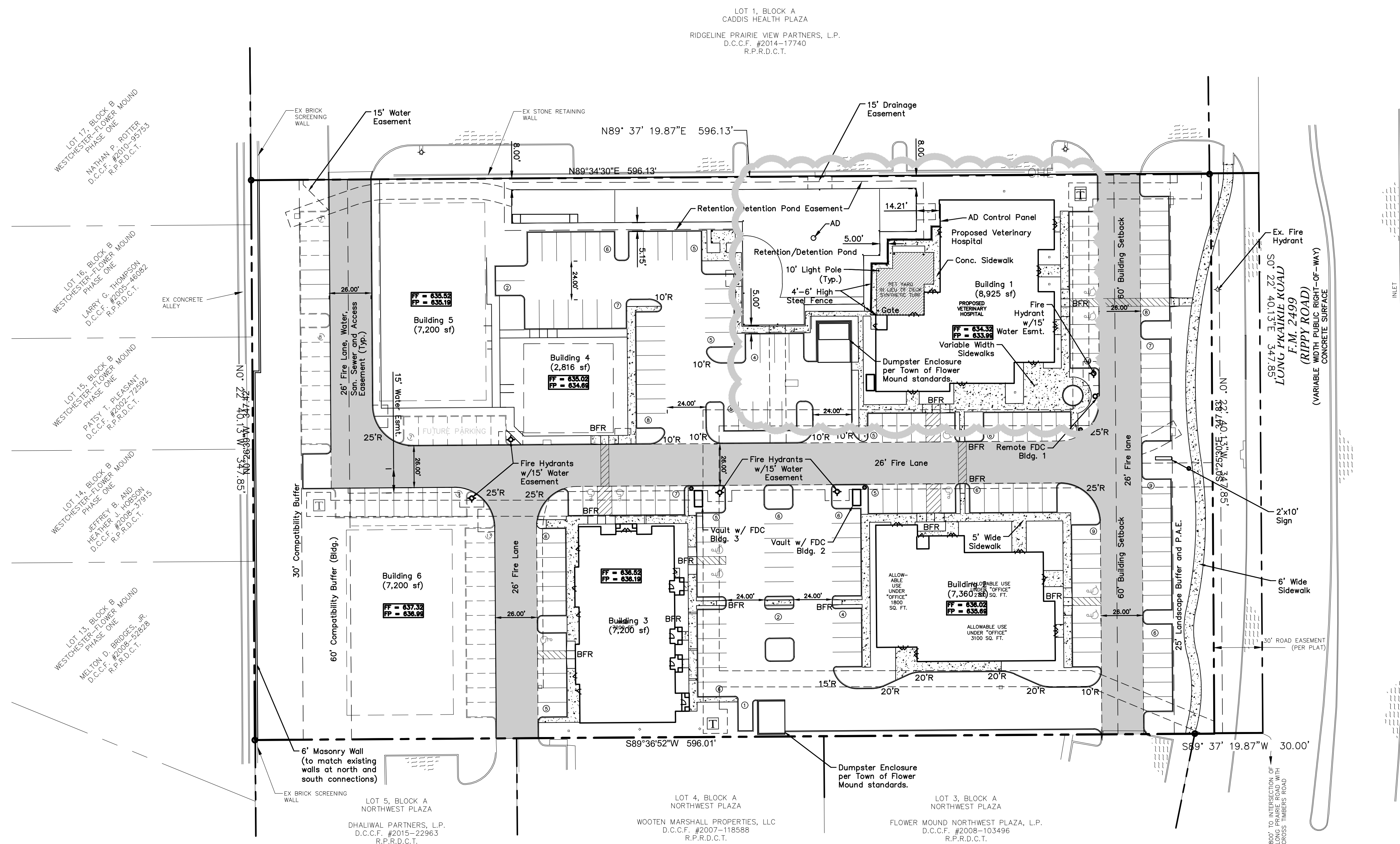
for

PRAIRIE PLAZA

3901 LONG PRAIRIE ROAD
FLOWER MOUND, TX

Drawing Number

A-102



LEGEND

- Firelane
- Proposed Sidewalk
- Ex. Concrete
- Proposed Retaining Wall
- Existing Fire Hydrant
- Proposed Fire Hydrant
- BFR Barrier Free Ramp
- Parking Count
- P.A.E. Pedestrian Access Easement
- AD Aeration Device

STANDARD NOTES:

- All Parking Spaces are 9'x18' unless otherwise noted.
- Retention/Detention Pond shall be concrete structural walls with stone clad interior to match buildings. Bottom shall be natural earth and pond shall have aeration device. Top shall have wrought iron fence for safety. Aeration device to be Aqua Control SS2 Display Aerator - Cluster Arch - 1 HP, or approved equal.
- Future phases shall contain Medical Office Buildings. Parking and sidewalks for each shall be constructed at the time of development.
- All infrastructure necessary for the full development of the property to be constructed with Phase I.
- The 30' Road easement shown on Site Plan shall be considered the east Right-of-way line for the purposes of this project. Any areas within the easement shall be considered to be under the jurisdiction of TxDOT.

NOTES:

- ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO COMPLEMENT THE MATERIALS AND COLORS WITHIN THIS DEVELOPMENT.
- ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
- ALL ROOF-MOUNTED MECHANICAL UNITS AND/OR EQUIPMENT SHALL BE SCREENED FROM VIEW.
- DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
- DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.
- SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN/ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
- ALL FIRE LANES TO BE DEDICATED AS FIRE LANE, WATER, SANITARY SEWER AND ACCESS EASEMENTS.

NOTE: THIS IS NOT A CONSTRUCTION DOCUMENT.
THIS DOCUMENT IS FOR SUP PURPOSES FOR BUILDING 1 ONLY.

Issue Dates:		Revisions:	Date:	CROSS ENGINEERING CONSULTANTS 131 S. Tennessee St. McKinney, Texas 75069 972.562.4409 Texas P.E. Firm No. F-3935			SUP EXHIBIT		Sheet No. SUP		
1	7-20-2017	1	Water								11/19/19
2		2	Grd, Stm	3/10/20	Drawn By: C.E.C.I. Checked By: C.E.C.I. Scale: 1" = 40'			PRAIRIE PLAZA PHASE 1		Project No. 16047	
3		3	Bldg & FL	5/22/20							
4		4						DB Constructors, Inc.			
5		5						Town of Flower Mound, Texas			
6		6									

3901 LONG



4245 North Central Expy
Suite 501
Dallas, Texas 75205
214.865.7192 office

3901 Long
Prairie Road
Phase 2
PRAIRIE PLAZA
Flower Mound, Texas

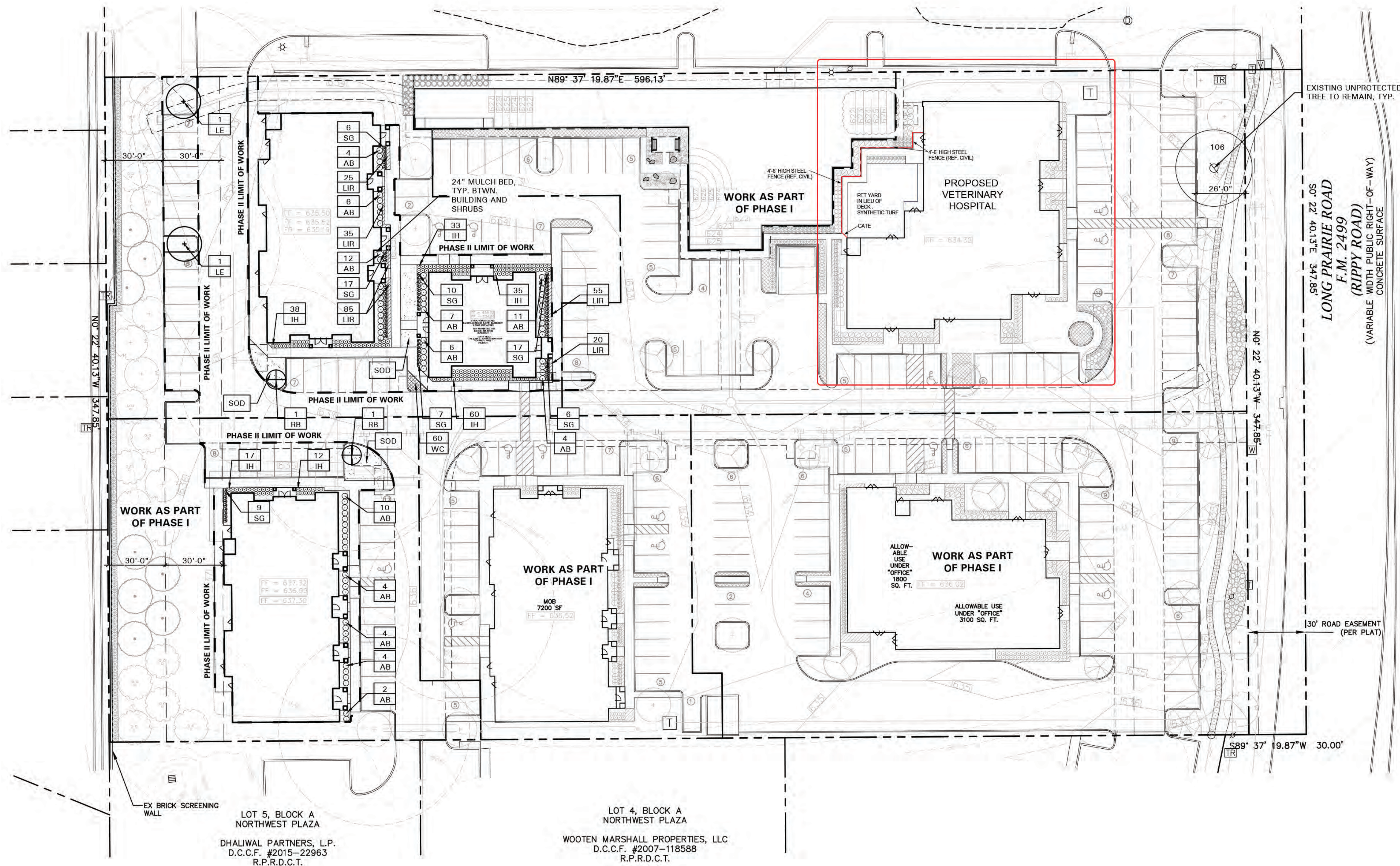
FOR SUP SUBMITTAL ONLY

Sheet Title:

LANDSCAPE
PLAN

Sheet Number:

L1.01



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 APPROVING SPECIFIC USE PERMIT NO. 471 (SUP-471) FOR A VETERINARY HOSPITAL (INSIDE PENS) USE ON CERTAIN PROPERTY DESCRIBED AS 4.7568 ACRES OF LAND AND BEING ALL OF LOT 1, BLOCK A OF THE PRAIRIE PLAZA ADDITION AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 150 (PD-150) WITH OFFICE USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; 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 municipality 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 4.7568 acres of land and being all of Lot 1, Block A of the Prairie Plaza Addition, Denton County, Texas has filed an application for a Specific Use Permit to allow a veterinary hospital (inside pens) use; and,

WHEREAS, the Planning and Zoning Commission of the Town of Flower Mound, Texas held a public hearing on July 12, 2021, and the Town Council of the Town of Flower Mound, Texas, held a public hearing on July 19, 2021, 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 described herein; 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

Ordinance No. _____**Page 2**

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:

4.7568 acres of land, being all of Lot 1, Block A of the Prairie Plaza Addition, Denton County, Texas and zoned Planned Development District No. 150 (PD-150) With Office Uses.

Specific Use Permit No. 471 is granted to allow a veterinary hospital (inside pens) use as more fully described in the exhibits attached hereto and incorporated herein, subject to the following conditions:

1. The Specific Use Permit is limited to Building 1 located on Lot 1, Block A of the Prairie Plaza Addition.
2. An amended site plan application is required to show the removal of the deck and the addition of the pet yard and fencing. Fence details must be submitted with Amended Site Plan.
3. A maximum of 1,900 square feet of fenced yard as shown on the Concept Plan, attached hereto as Exhibit "A," shall be permitted and subject to following conditions:
 - a. Any use of the fenced yard requires a minimum of one employee be present to monitor the use of this area.
 - b. There shall be a ratio of at least 1 employee per 2 animals in the yard.
4. The building must be treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property boundary line as required by Sec. 98-998 of the Code of Ordinances.

SECTION 2

The conceptual site plan and conceptual landscape plan of the proposed veterinary hospital (inside pens) use, attached hereto as Exhibits "A" and "B" and incorporated herein for all purposes allowed by law, are hereby approved as the conceptual site plan and conceptual landscape plan 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.

Ordinance No. _____

Page 3

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 including the regulations contained in Planned Development District-150 (PD-150).

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.

Ordinance No. _____

Page 4

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

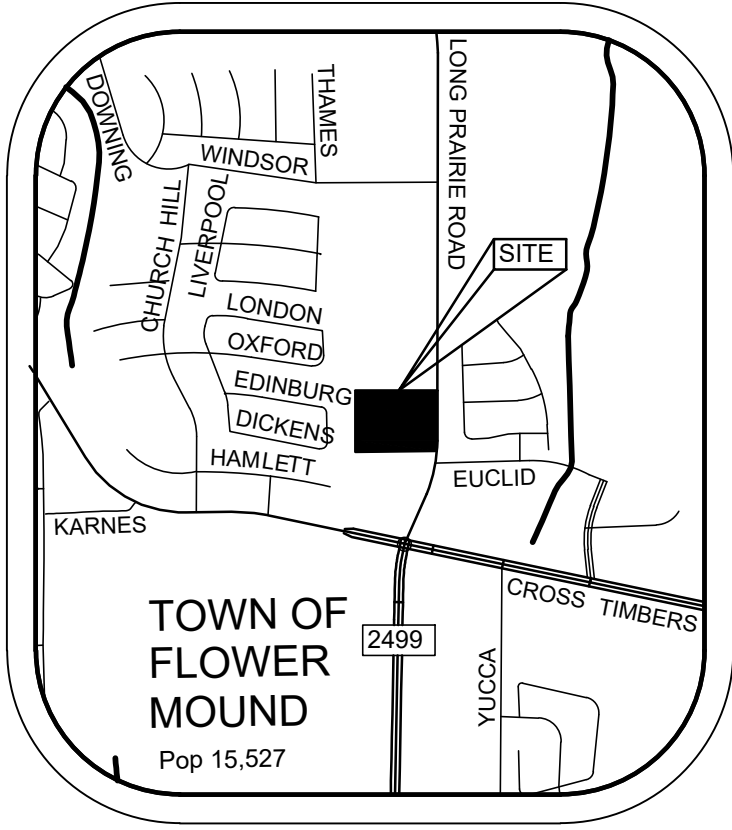
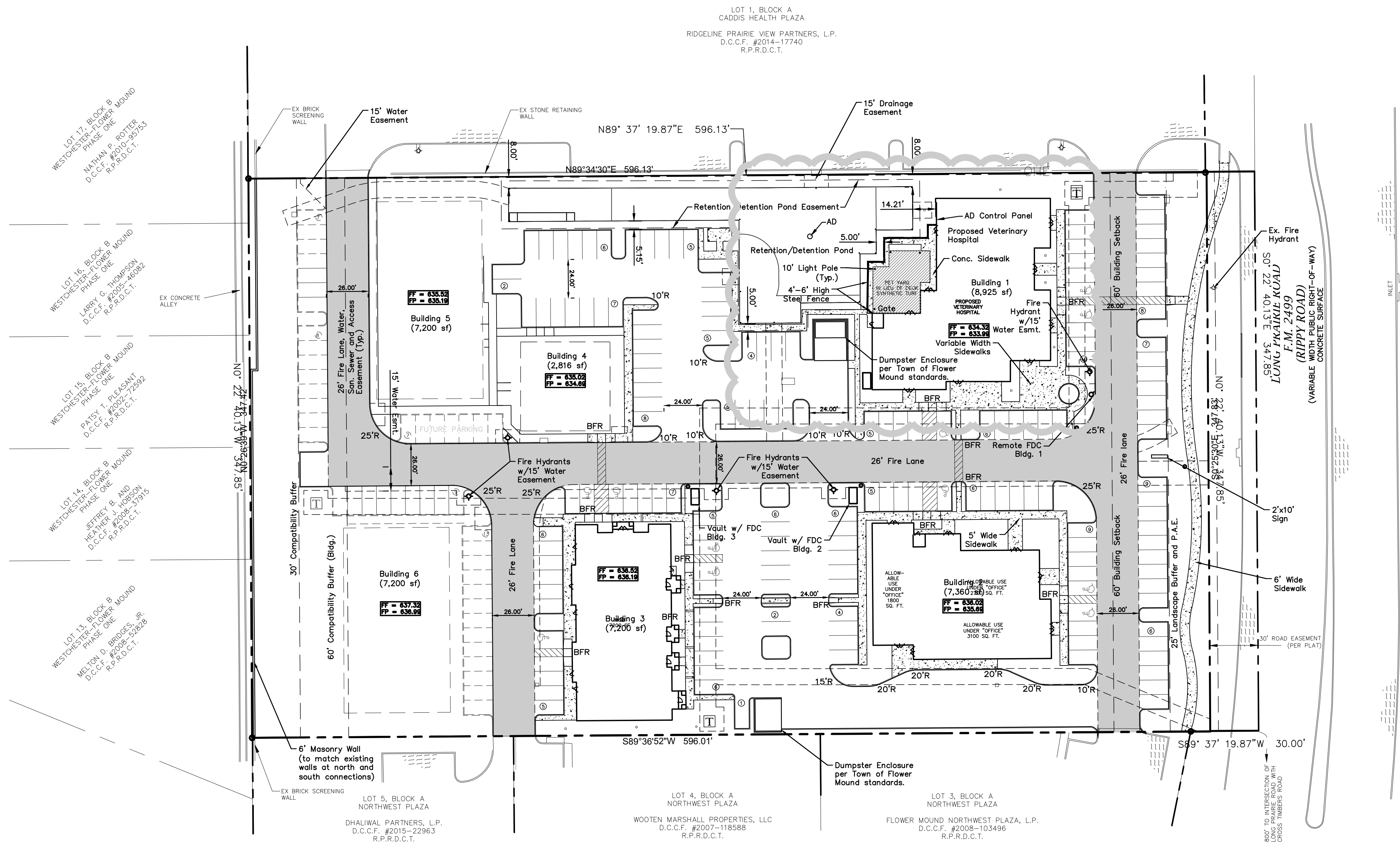
This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE 19TH DAY OF JULY, 2021.

APPROVED:

Derek France, MAYOR**ATTEST:**

Theresa Scott, TOWN SECRETARY



LEGEND

- Firelane
- Proposed Sidewalk
- Ex. Concrete
- Proposed Retaining Wall
- Existing Fire Hydrant
- Proposed Fire Hydrant
- BFR Barrier Free Ramp
- Parking Count
- P.A.E. Pedestrian Access Easement
- AD Aeration Device

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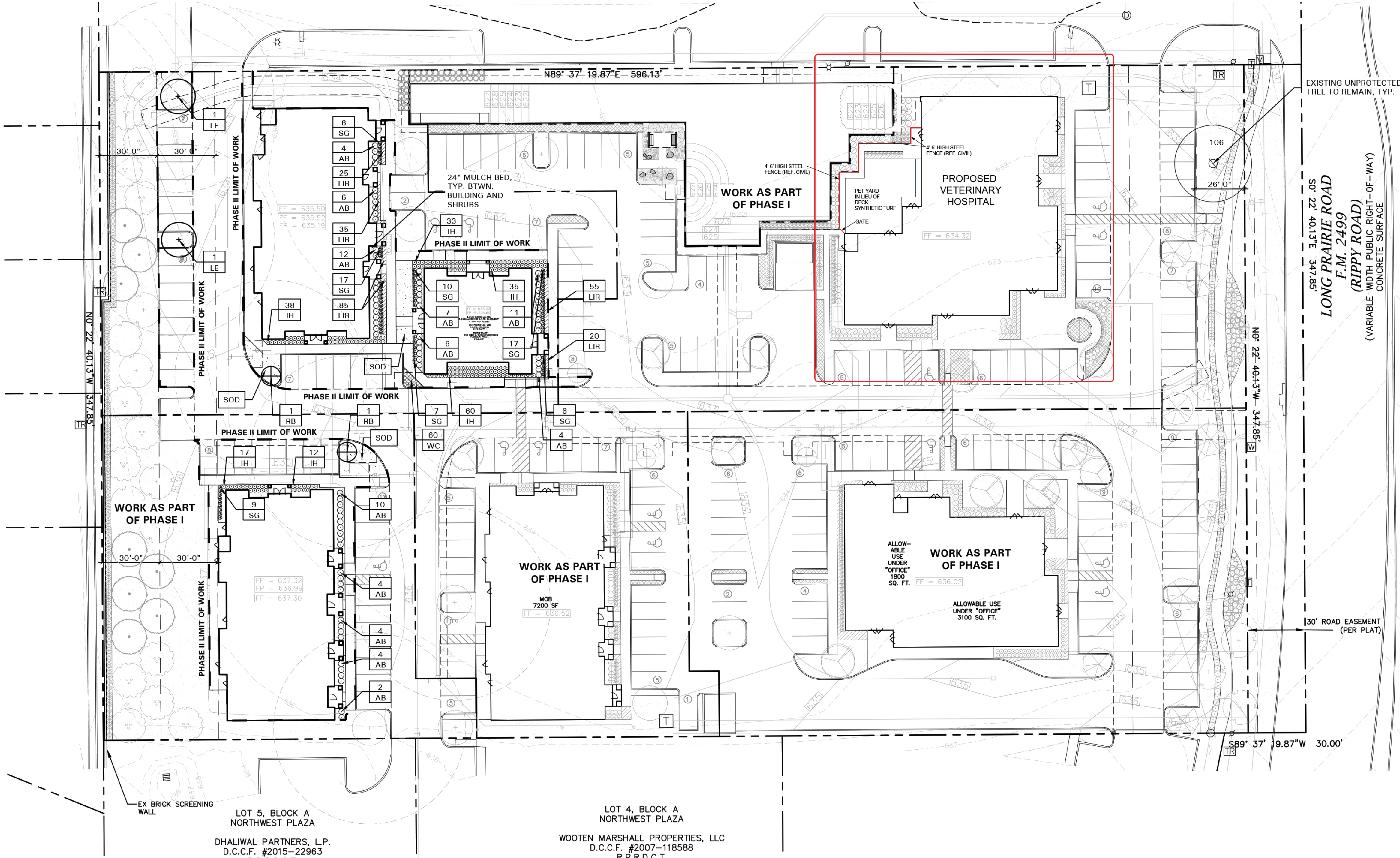
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THIS DOCUMENT IS FOR SUP PURPOSES FOR BUILDING 1 ONLY.

Issue Dates:	Revisions:	Date:	CROSS ENGINEERING CONSULTANTS		
1 7-20-2017	1 Water	11/19/19	131 S. Tennessee St. McKinney, Texas 75069 972.562.4409 Texas P.E. Firm No. F-3935		
2	2 Grd, Stm	3/10/20			
3	3 Bldg & FL	5/22/20			
4	4				
5	5		Drawn By:	Checked By:	Scale:
6	6		C.E.C.I.	C.E.C.I.	1" = 40'

SUP EXHIBIT	
PRAIRIE PLAZA PHASE 1	
DB Constructors, Inc.	
Town of Flower Mound, Texas	

Sheet No.	SUP
Project No.	
16047	



LANDSCAPE NOTES

1. CONTRACTOR SHALL VERIFY ALL EXISTING AND PROPOSED SITE ELEMENTS AND NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES. SURVEY DATA OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS.
2. CONTRACTOR SHALL LOCATE ALL EXISTING UNDERGROUND UTILITIES AND NOTIFY LANDSCAPE ARCHITECT OF ANY CONFLICTS. CONTRACTOR SHALL EXERCISE CAUTION WHEN WORKING IN THE VICINITY OF UNDERGROUND UTILITIES.
3. CONTRACTOR SHALL PROVIDE A MINIMUM 2% SLOPE AWAY FROM ALL STRUCTURES.
4. CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS AS INDICATED. LEAVE AREAS TO RECEIVE TOPSOIL 3" BELOW FINAL FINISHED GRADE IN PLANTING AREAS AND 1" BELOW FINAL FINISHED GRADE IN LAWN AREAS.
5. ALL PLANTING BEDS AND LAWN AREAS SHALL BE SEPARATED BY STEEL EDGING. NO STEEL EDGING SHALL BE INSTALLED ADJACENT TO BUILDINGS, WALKS, OR CURBS. CUT STEEL EDGING AT 45 DEGREE ANGLE WHERE IT INTERSECTS WALKS AND CURBS.
6. TOP OF MULCH SHALL BE 1/2" MINIMUM BELOW THE TOP OF WALKS AND CURBS.
7. ALL LAWN AREAS SHALL BE SOLID SOD BERMUDAGRASS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.
8. ALL REQUIRED LANDSCAPE AREAS SHALL BE PROVIDED WITH AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM WITH RAIN AND FREEZE SENSORS AND EVAPOTRANSPIRATION (ET) WEATHER-BASED CONTROLLERS AND SAID IRRIGATION SYSTEM SHALL BE DESIGNED BY A QUALIFIED PROFESSIONAL AND INSTALLED BY A LICENSED IRRIGATOR.
9. CONTRACTOR SHALL PROVIDE BID PROPOSAL LISTING UNIT PRICES FOR ALL MATERIAL PROVIDED.
10. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL REQUIRED LANDSCAPE AND IRRIGATION PERMITS.

MAINTENANCE NOTES

1. THE OWNER, TENANT AND THEIR AGENT, IF ANY, SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE MAINTENANCE OF ALL LANDSCAPE.
2. ALL LANDSCAPE SHALL BE MAINTAINED IN A NEAT AND ORDERLY MANNER AT ALL TIMES. THIS SHALL INCLUDE MOWING, EDGING, PRUNING, FERTILIZING, WATERING, WEEDING AND OTHER SUCH ACTIVITIES COMMON TO LANDSCAPE MAINTENANCE.
3. ALL LANDSCAPE AREAS SHALL BE KEPT FREE OF TRASH, LITTER, WEEDS AND OTHER SUCH MATERIAL OR PLANTS NOT PART OF THIS PLAN.
4. ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY AND GROWING CONDITION AS IS APPROPRIATE FOR THE SEASON OF THE YEAR.
5. ALL PLANT MATERIAL WHICH DIES SHALL BE REPLACED WITH PLANT MATERIAL OF EQUAL OR BETTER VALUE.
6. CONTRACTOR SHALL PROVIDE SEPARATE BID PROPOSAL FOR ONE YEAR'S MAINTENANCE TO BEGIN AFTER FINAL ACCEPTANCE.

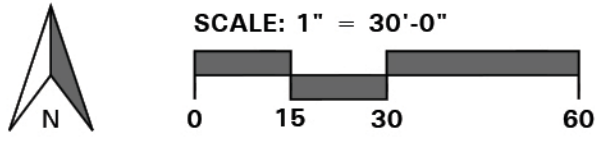
GENERAL LAWN NOTES

1. CONTRACTOR SHALL COORDINATE OPERATIONS AND AVAILABILITY OF EXISTING TOPSOIL WITH ON-SITE CONSTRUCTION MANAGER.
2. CONTRACTOR SHALL LEAVE LAWN AREAS 1" BELOW FINAL FINISHED GRADE PRIOR TO TOPSOIL INSTALLATION.
3. CONTRACTOR SHALL FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS AS INDICATED ON CIVIL PLANS. ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE UNIFORM ROUNDING AT TOP AND BOTTOM OF SLOPES AND OTHER BREAKS IN GRADE. CORRECT IRREGULARITIES AND AREAS WHERE WATER MAY STAND.
4. ALL LAWN AREAS SHALL BE FINE GRADED, IRRIGATION TRENCHES COMPLETELY SETTLED AND FINISH GRADE APPROVED BY THE OWNER'S CONSTRUCTION MANAGER OR LANDSCAPE ARCHITECT PRIOR TO LAWN INSTALLATION.
5. CONTRACTOR SHALL REMOVE ALL ROCKS 3/4" DIAMETER AND LARGER, DIRT CLOUDS, STICKS, CONCRETE SPOILS, ETC. PRIOR TO PLACING TOPSOIL AND LAWN INSTALLATION.
6. CONTRACTOR SHALL MAINTAIN ALL LAWN AREAS UNTIL FINAL ACCEPTANCE. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO: MOWING, WATERING, WEEDING, CULTIVATING, CLEANING AND REPLACING DEAD OR BARE AREAS TO KEEP PLANTS IN A VIGOROUS, HEALTHY CONDITION.
7. CONTRACTOR SHALL GUARANTEE ESTABLISHMENT OF ACCEPTABLE TURF AREA AND SHALL PROVIDE REPLACEMENT FROM LOCAL SUPPLY IF NECESSARY.

SOLID SOD NOTES

1. PLANT SOD BY HAND TO COVER INDICATED AREAS COMPLETELY. ENSURE EDGES OF SOD ARE TOUCHING. TOP DRESS JOINTS BY HAND WITH TOPSOIL TO FILL VOIDS.
2. ROLL GRASS AREAS TO ACHIEVE A SMOOTH, EVEN SURFACE, FREE FROM UNNATURAL UNDULATIONS.
3. WATER SOD THOROUGHLY AS SOD OPERATION PROGRESSES.
4. IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1 AND MARCH 1, OVER-SEED BERMUDAGRASS SOD WITH WINTER RYEGRASS, AT A RATE OF FOUR (4) POUNDS PER ONE THOUSAND (1000) SQUARE FEET.

NOTE: ANY TOWN IRRIGATION WITHIN THE R.O.W. THAT MAY BE DAMAGED DURING CONSTRUCTION IS THE CONTRACTOR'S RESPONSIBILITY TO REPAIR PRIOR TO ACCEPTANCE OF THE SITE AND/OR C/O



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3901 Long
Prairie Road
Phase 2
PRAIRIE PLAZA
Flower Mound, Texas

FOR SUP SUBMITTAL ONLY

Sheet Title:

LANDSCAPE
PLAN

Sheet Number:

L1.01



Town Council Future Agenda Items



SCHEDULED	8/2/2021	Consent	Consider approval of a resolution authorizing the adoption of the Program Year 2021 Action Plan for the Community Development Block Grant Program and authorizing the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.
		Consent	Placeholder: Tree caliper per inch fee increase
		Presentation	Presentation of the Cultural Arts Center Business Plan.
		Presentation	Placeholder: KFMB annual update
		Regular	Public Hearing to consider an application for a tree removal permit (TRP21-0012) for forty-eight (48) specimen trees on property proposed for development as Silveron Flower Mound Duke. The property is generally located north of Long Prairie Road and east of Silveron Boulevard. (The Environmental Conservation Commission recommended approval by a vote of 7 to 0 at its July 6, 2021, meeting).
		Regular	Placeholder: ATFM Resolution
		Regular	Public Hearing to consider a request for a Comprehensive Sign Package (CSP21-0001 - My Garage Self Storage) for My Garage Self Storage. The property is generally located north of Canyon Falls Drive and east of Stonecrest Road. (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its July 26, 2021, meeting.)
		Regular	Public Hearing to consider an ordinance for a Master Plan Amendment (MPA21-0005 - Silveron Flower Mound Duke) to amend Section 1.0, Land Use Plan and Section 2.0, Area Plans, of the Master Plan by changing the current land use designation within the Lakeside Business District Area Plan from Campus Commercial uses to Campus Industrial uses. The property is generally located north of International Parkway and east of Silveron Boulevard. (At their July 12, 2021 meeting, the Planning and Zoning Commission made a motion to table this item to their July 26, 2021 meeting. The motion passed by a vote of 6 to 0.) (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its July 26, 2021, meeting.)

SCHEDULED	8/2/2021	Regular	Public Hearing to consider an ordinance amending the zoning (ZPD21-0003 - Silveron Flower Mound Duke) from Planned Development District No. 31 (PD-31) with Campus Commercial District (CC) uses to Planned Development District No.181 (PD-181) with Campus Industrial District (CI) uses, with certain waivers, exceptions and modifications to the Code of Ordinances including but not limited to an exception to Section 98-147, "Topographical Slope Protection", and an exception to Section 82-302, Compatibility buffer. The property is generally located north of International Parkway and east of Silveron Boulevard. (At their July 12, 2021 meeting, the Planning and Zoning Commission made a motion to table this item to their July 26, 2021 meeting. The motion passed by a vote of 6 to 0.) (The Planning and Zoning Commission recommended approval/denial by a vote of 0 to 0 at its July 26, 2021, meeting.)
	8/16/2021	Consent	Consider approval of a second amendment to a Tower/Ground Lease Agreement between the Town and Verizon located at 3911 S Broadway Avenue
	8/23/2021	Consent	Consider approval of a Service Agreement for Demand Response Transit Service with SPAN, Inc., in an amount not-to-exceed \$_____, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.
		Consent	Rheudasil Park Improvements CO2
		Consent	Bruton-Orand @ FM 1171 Right Turn Lane - Construction Award
	9/20/2021	Consent	Hillside Water Line Connection - Construction Award
		Consent	Bruton-Orand @ FM 1171 Right Turn Lane - Testing Award