

Town Council Regular Meeting

October 16, 2023

Town Hall

2121 Cross Timbers Road

Flower Mound, TX 75028

6:00 p.m.

Comments regarding any agenda item can be sent to the Town Council by emailing towncouncil@flower-mound.com or by calling 972.874.6005 and leaving a message.

AGENDA

A. CALL 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. PRESENTATION(S)

1. Presentation on Town Of Flower Mound Automated External Defibrillator Program

E. PUBLIC COMMENT

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

In accordance with the Texas Open Meetings Act, the Town Council is restricted from discussing or acting on items not listed on the agenda.

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

- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired, and times may be adjusted by the mayor
- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
 - a. Health Science Feasibility Study
3. Organizational Updates
 - a. National Community Planning Month

H. FUTURE AGENDA ITEM(S)

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 that a consensus of Council is needed in order for that item to be placed on a future agenda and in accordance with the Town Council Agenda Setting Policy (Ord. 65-15).

I. COORDINATION OF CALENDARS

1. October 19 - Work session
2. November 6 - Regular meeting
3. The November 20 meeting has been canceled - November 16 may be a combo regular meeting and work session.

J. CONSENT ITEM(S)

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 - 10/2 & 10/11 - Consider approval of the minutes from a regular meeting held on October 2 and a special meeting on October 11.
2. Twin Coves Ph. 2 - Preliminary Design - Consider approval of the Professional Services Agreement with MHS Planning & Design, LLC, for the design services associated with the Twin Coves Ph. 2 - Preliminary Design, in the amount of \$19,950.00; and authorization for the Mayor to execute same on behalf of the Town.
3. Debt Reimbursement Resolution - Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.
4. DebtBook agreement - Consider approval of an agreement with DebtBook for subscription management of governmental accounting standards compliance and management of outstanding debt.
5. Updated SRO agreement - Consider approval of the updated School Resource Officer Interlocal Agreement with Lewisville Independent School District.
6. Water/Wastewater Security - Phase 1 - Consider approval of an agreement with Knight Security Systems, to provide surveillance equipment and installation at the Wastewater Treatment Plant and other sites, as part of the Water and Wastewater System Security Implementation Phase 1 project, in the amount of \$235,670.44; and authorization for the Mayor to execute same on behalf of the Town.

7. Agreement with Double Oak-Emergency Medical Services - Consider approval of a renewal agreement with the Town of Double Oak to provide emergency medical services to the citizens of Double Oak, and authorization for the Mayor to execute same on behalf of the Town.
8. Holiday Decorations and Lighting - Consider approval of a Service Contract with The Christmas Light Company, Inc., in an annual amount not-to-exceed \$69,900, to provide holiday lighting services at the Town Hall and Community Activity Center; and authorization for the Mayor to execute same on behalf of the Town.
9. Economic Development Strategic Plan - Consider approval of a Professional Services Agreement with TIP Strategies, Inc. for an Economic Development Strategic Plan in Flower Mound, in an amount not to exceed \$160,000; and authorization for the Mayor to execute same on behalf of the Town.

K. REGULAR ITEM(S)

1. SP23-0004 - Dragon Kim's Tae Kwon Do - Consider a Site Plan (SP23-0004 – Dragon Kim's Tae Kwon Do) to develop a health or athletic club, with a request for a waiver to Architectural Standards in the Town's Urban Design Plan for roof pitch. The property is generally located east of Jernigan Road and north of Justin Road along Bryce Lane. (PZ recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.)
2. ZPD23-0005 - Embree 2499 - Public Hearing to consider an ordinance for rezoning (ZPD23-0005– Embree 2499) to amend Planned Development District No. 186 (PD-186) with Retail-2 District (R-2) and Office District (O) uses to modify phasing and maintenance requirements and to request certain modifications and exceptions to the Code of Ordinances. The property is generally located south of Sagebrush Drive and west of Long Prairie Road. (PZ recommended denial by a vote of 5 to 1 at its October 9, 2023, meeting.)
3. ZPD23-0009 - Townlake Phase Four (PD-166) Text Amendment - Public Hearing to consider a request for rezoning (ZPD23-0009 – Townlake Phase Four (PD-166) Text Amendment) to amend Planned Development District No. 166 (PD-166) for a cluster development by adding a Public Park or Playground as a permitted use. The property is generally located south of Cross Timbers Road and east of Flower Mound Road. (PZ recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.)

L. BOARDS/COMMISSIONS

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Capital Improvements Advisory Committee, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission Task Force, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (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 Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as follows:

1. Consultation with Town Attorney.
 - a. La Estancia Investments, L.P. v. Town of Flower Mound, Texas, et al
2. Discuss and consider purchase, exchange, lease or value of real property for parks, public rights-of-way, and/or other municipal purposes and all matters incident and related thereto.
3. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, Community Development Corporation, and Planning and Zoning Commission.
4. Discuss and consider economic development incentives, including retail centers, grocers, corporate relocation/expansion/retention, hospitality projects, performance related to certain incentive agreements, and proposed Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, PID, MMD, and MUD.
5. Annual Performance of Town Manager.

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.

N. RECONVENE

O. ADJOURN

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: October 13, 2023, at 11:30 a.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 accommodation or interpretive services must be made 48 hours prior to this meeting by contacting Town Hall at 972.874.6000. Additional time limits will be provided for members of the public that need to address the Town Council through a translator.

To preview upcoming items of business that may appear on future agendas click [HERE](#).

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



October 2, 2023
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

DRAFT MINUTES

A. CALL TO ORDER

Mayor France called the meeting to order at 6:00 p.m. with the following members present:

Derek France, Mayor
Jim Engel, Mayor Pro Tem
Ann Martin, Deputy Mayor Pro Tem
Adam Schiestel, Councilmember Place 1
Chris Drew, Councilmember Place 2
Brian Taylor, Councilmember Place 3

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

Theresa Scott, Town Secretary
James W. Childers, Town Manager
Gerard Pruitt, Town Attorney
Tommy Dalton, Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
Shane Jennings, Assistant Chief of Police
Jose Mendez, Director of Information Technology

B. INVOCATION

Chaplain Will Langstaff led the 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."

Mayor France led the pledges.

D. PRESENTATION(S)

1. Proclamation and presentation of Hometown Hero banner to Justin Suttle.

- Mayor France recited the proclamation and Justin's parents accepted it on his behalf.
2. Proclamation for Cybersecurity Awareness Month
Mayor France recited the proclamation and presented it to Jose Mendez, Director of IT Services.

E. PUBLIC COMMENT

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- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired, and times may be adjusted by the mayor
- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

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.	Joe Bernard, 10605 Sunrise Cir with donated time from: Terri S.W. Linn, 10612 Sunrise Cir, Argyle	Public Comment
2.	Matthew Hurst, 4158 Meadowview Dr, Argyle	Public Comment

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
Mayor and Councilmembers gave announcements regarding:
 - new online tennis scheduling option
 - open houses: Fire and Police Department
 - North Texas eco-friendly vehicle fair

G. TOWN MANAGER'S REPORT

No report.

1. Capital Improvement Projects
2. Economic Development Projects

3. Organizational Updates

a. 2023/24 Fiscal Year Updates

H. FUTURE AGENDA ITEM(S)

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 that 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).

Councilmember Drew requested a future item for the purpose of clarifying and simplifying regulations regarding business signage for those with a secondary front. There was Council consensus to place that topic on a future agenda.

I. COORDINATION OF CALENDARS

There was some discussion about the possibility of canceling the November 20 meeting date due to being the week of Thanksgiving.

1. October 16 - Regular meeting

October 19 - Work session

Mayor France confirmed that everyone plans to attend the October 16 and 19 meetings.

J. CONSENT ITEM(S)

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.

ACTION: Mayor Pro Tem Jim Engel moved to approve Consent items 1 - 6 as presented in the agenda captions. Councilmember Brian Taylor seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

1. Minutes 9/18, 9/19, & 9/21 - Consider approval of the minutes from a regular meeting held on September 18, and the Board & Commission interview meetings held on September 19 & 21.
2. Glenwick Park Restroom Addition - Consider approval of a Construction Agreement with AUI Partners, LLC, for the Glenwick Park Restroom Addition project, in the amount of \$375,333.87; and authorization for the Mayor to execute the same on behalf of the Town.

3. Cortadera Park Playground Replacement - Consider approval of the purchase and installation of equipment for the 2022-2023 Playground Replacements project, for Cortadera Park Playground, from Whirlix Design, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$69,345.00.
4. Cortadera Park Playground - Artificial Turf Surfacing - Consider approval of the purchase and installation of artificial turf surfacing for the 2022-2023 Playground Replacements project, for Cortadera Park Playground, from We Build Fun, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$180,819.67.
5. Agreement with IonWave Technologies for Town's e-procurement system - Consider approval of the Master License and Services Agreement with IonWave Technologies, LLC for the Town's e-procurement system; and authorization for the Mayor to execute the same on behalf of the Town.
6. 2023 NPSOT Trinity Forks Grant Program - Consider approval of a resolution authorizing the acceptance of grant funds from the Trinity Forks Native Plant Society of Texas, which will be used to extend the current Town Hall Monarch Waystation.

RESOLUTION NO. 25-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE TRINITY FORKS NATIVE PLANT SOCIETY OF TEXAS FOR THE PURPOSE OF EXPANDING THE TOWN HALL MONARCH WAYSTATION; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE GRANT PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

K. REGULAR ITEM(S)

1. Repeal Curfew Ordinance - Consider approval of an Ordinance repealing the Town of Flower Mound juvenile curfew ordinance in response to H.B. 1819, effective 9/1/2023.
Mayor France indicated he requested this item be moved from consent to regular to understand the legal consequences for not moving forward with this item. Mr. Jennings, Ms. Scott, or Mr. Pruitt responded to questions or comments from Council regarding:
 - if other cities that have a curfew ordinance are challenging this new legislation
 - the impact of not having the curfew ordinance as a tool for contact with a young person
 - consequences should the Town not adopt legislation to take it off the books

- at what age could someone raise concerns regarding a young person

ACTION: Councilmember Adam Schiestel moved to approve item K.1 as presented in the agenda caption. Councilmember Brian Taylor seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

ORDINANCE NO. 40-23

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, CHAPTER 50 "OFFENSES", ARTICLE III. "OFFENSES REGARDING MINORS", DIVISION 2. "CURFEW", IN ITS ENTIRETY; AND PROVIDING AN EFFECTIVE DATE.

2. TIRZ #2 Resolution - Consider a resolution setting a public hearing under section 311.003 of the Texas tax code for the creation of a tax increment reinvestment zone containing approximately 3,962 acres of land generally located at the intersection of FM 1171 and US 377 and being wholly located within the corporate limits of the Town of Flower Mound.

Mr. Childers outlined the purpose of this agenda item and he introduced Mary Petty, P3 Works. Ms. Petty gave a presentation identifying or noting:

- P3 background information
- purpose of tonight's agenda item, including Tax Increment Reinvestment Zone (TIRZ) overview
- introduction to TIRZ
- big picture considerations
- life span of the TIRZ
- TIRZ goals overview, creation process, board, final project and finance plan, boundary
- estimated non-project costs
- map of public improvements
- project costs
- feasibility study
- TIRZ economic development powers
- next steps
- TIRZ: a common development tool

and she, or Mr. Childers responded to questions or comments from Council regarding:

- public communication process
- financing
- interest in identifying the no bonded indebtedness plan
- timing for having a discussion on the merits of a TIRZ

ACTION: Councilmember Brian Taylor moved to approve item K.2 as presented in the agenda caption. Mayor Pro Tem Jim Engel seconded the motion.

AYES: Chris Drew, Jim Engel, Brian Taylor, Ann Martin

NAYS: Adam Schiestel

ABSTAIN: None

RESULT: 4 : 1

RESOLUTION NO.26-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, SETTING A PUBLIC HEARING UNDER SECTION 311.003 OF THE TEXAS TAX CODE FOR THE CREATION OF A TAX INCREMENT REINVESTMENT ZONE CONTAINING APPROXIMATELY 3,962.176 ACRES OF LAND GENERALLY LOCATED NORTH AND SOUTH OF THE INTERSECTION OF FM 1171 AND US 377, EXPANDING WEST TO PROPERTY LOCATED ADJACENT TO I-35W, AND EAST TO WHITES BRANCH AND BEING WHOLLY LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF FLOWER MOUND, TEXAS; AUTHORIZING THE ISSUANCE OF NOTICE BY THE TOWN SECRETARY OF THE TOWN OF FLOWER MOUND, TEXAS, REGARDING THE PUBLIC HEARING; AND DIRECTING THE TOWN OF FLOWER MOUND, TEXAS TO PREPARE A PRELIMINARY REINVESTMENT ZONE FINANCING PLAN.

3. ZPD22-0001 - Lakeside Center - Public Hearing to consider an ordinance for rezoning (ZPD22-0001 – Lakeside Center) to amend Planned Development No. 169 (PD-169) with Campus Commercial uses for both residential and non-residential uses to modify PD-169 boundary to include additional acreage, to modify development standards, and to request certain exceptions, modifications and waivers to the Code of Ordinances. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended denial by a vote of 6 to 0 at its September 25, 2023, meeting.)

Mayor France opened items 3 - 6 at the same time.

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- PD 153 and PD 169 (existing and proposed boundary)

- land use and zoning
- land use plan and map
- approved concept plan for PD 153
- proposed concept plan for PD 169
- waiver modifications requested (parking, meritorious design exceptions)
- comprehensive sign package (CSP), including the approved CSP for PD 169
- site photos
- concept landscape plan and open space plan
- elevations
- tree survey PD 169
- additional amendments to PD 153
- concept elevations (building 2)
- approved elevations
- PD 153 pictures
- tree survey PD 153
- correspondence received

and she responded to questions from council regarding:

- trees
- clarification regarding final acceptance
- intent of existing town homes
- what buildings are currently part of PD 153, and any maximum height allowances

Applicant Presentation

Jimmie Archie, Realty Capital

Mr. Archie gave a presentation identifying or noting:

- background information about the Lakeside area and past project history
- request to formally withdraw their application for rezoning ZPD22-0001 (Lakeside Center), along with the tree removal applications (TRP 22-0021 (Lakeside Center) and TRP 22-0022 (Lakeside Crossing))
- while we are withdrawing the application, he indicated they would like to request that Council consider the second zoning request with respect to the revised building elevations for lot 2 and the amended parking calculations only
- for the back two lots they will go back to the drawing board

Mr. Pruitt responded to questions from mayor or council regarding:

- legal process necessary to address the application withdrawal request

ACTION: Deputy Mayor Pro Tem Ann Martin moved to approve the applicant's request to withdraw items K. 3, 4, and 6. Mayor Pro Tem Jim Engel seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

4. TRP22-0021 - Lakeside Center - Public Hearing to consider an application for a tree removal permit (TRP22-0021) for six (6) specimen trees on property proposed for development as Lakeside Center Phase II. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (The Environmental Conservation Commission recommended denial for all six (6) specimen trees by a vote of 6-0-0 at its January 3, 2023, meeting.)
Applicant requested the item be withdrawn. See item 3 for Council motion to accept.
5. ZPD223-0003 - Lakeside Crossing - Public Hearing to consider an ordinance for rezoning (ZPD22-0003 – Lakeside Crossing) to amend Planned Development No. 153 (PD-153) with Campus Commercial uses for both residential and non-residential uses to modify PD-153 boundary to exclude acreage, to modify development standards, and to request certain exceptions, modifications and waivers to the Code of Ordinances. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended approval only for the Building 2 Elevations and Split Parking Ratios by a vote of 6 to 0 at its September 25, 2023, meeting.)

Mayor France opened the public hearing at 7:50 p.m.

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	OPPOSITION	QUESTIONS OR COMMENTS ONLY
1.		Clare Harris, 416 Northwood Dr with donated time from: Alex Hanashian, 2920 Cromwell Way	

2.		George Karatzis, 408 Northwood Dr with donated time from: Ethan Karatzis, 408 Northwood	
3.		Kevin Hutchens, 370 Northwood with donated time from: Chris Roberts, 354 Northwood	
4.		Mary-Jo Lengnick, 1701 Marble Pass Dr ** with donated time from: Stephanie Lengnick, 5325 Ponder Place	
5.		Rebecca Karatzis, 408 Northwood Dr ** with donated time from: Kaitlyn Karatzis, 408 Northwood	
6.		Julie Hutchens, 370 Northwood ** with donated time from: Meghan Charboneau, 400 Northwood Dr	
7.		James Harris, 416 Northwood Dr ** with donated time from: Elizabeth Bankhead, 420 Northwood Dr	
8.		Luchana Keith, 382 Northwood Dr*	
9.		Gabriela Arellano, 366 Northwood Dr*	
10.		Armando Garcia, 366 Northwood Dr*	
11.		Mary Jennifer Beesley, 2920 Cromwell Way*	
12.		Patrick McNeeley, 1805 (address not legible)*	
13.		Allison Batts, 404 Northwood Dr*	

** Indicates person did not wish to speak*

*** submitted a speaker card; however, opted not to speak after applicant withdrew items 3, 4, & 6*

Mayor France closed the public hearing at 8:02 p.m.

ACTION: Mayor Pro Tem Jim Engel moved to approve item K.5. as presented. Councilmember Chris Drew seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

ORDINANCE NO. 41-23

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 25-17 AS AMENDED BY ORDINANCE NOS. 03-18 AND 22-21, WHICH ESTABLISHED AND LATER AMENDED PLANNED DEVELOPMENT DISTRICT NO. 153 (PD-153) ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 10.91 ACRES OF LAND AND BEING ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, AND 8X, BLOCK A, LAKESIDE CROSSING ADDITION, BY MODIFYING DEVELOPMENT STANDARDS RELATED TO PARKING AND AMENDING THE CONCEPT ELEVATION FOR BUILDING NO. 2 OF LAKESIDE CROSSING; 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.

6. TRP22-0022 - Lakeside Crossing - Public Hearing to consider an application for a tree removal permit (TRP22-0022) for one (1) specimen tree on property proposed for development as Lakeside Crossing. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (The Environmental Conservation Commission recommended denial by a vote of 6-0-0 at its January 3, 2023, meeting.) Applicant requested the item be withdrawn. See item 3 for Council motion to accept.
7. MPA23-0004 - Urban Design Plan and Area Plans Refresh - Public Hearing to consider an ordinance amending the Master Plan (MPA23-0004 – Urban Design Plan and Area Plans Refresh) by amending Section 2 “Area Plans,” and Section 4 “Urban Design Plan,” for the purpose of merging all area plan elements in one component of the Master Plan and to refresh the Urban Design Plan. (PZ recommended approval, with the recommendation gray be added to the proposed matrix, by a vote of 6 to 0 at its September 11, 2023, meeting.)

Mayor France opened items 7 and 8 at the same time.

Ms. Murphy gave a presentation identifying or noting:

- background information
- urban design plan
- fresh look samples and illustrations
- minor amendments
- amendments
- introduction
- facade materials, colors
- parking garages (new)

and she responded to questions from Council regarding:

- egress discharge/stairwell
- landscaping (use of maybe)
- meritorious design exceptions

- types of Master Plan amendments
- inclusion of business identifying signage
- possibility of a number system or formula for colors
- accent colors and special elements
- Long Prairie District
- area plans
- median and ROW design guidelines
- element maps
- typical street segments
- other graphics
- flexible street yard
- MPA summary
- ordinance update

and she responded to questions or comments from Council regarding:

- windows (strategies to make them more bird friendly)
- appreciation for the work done to bring this forward

Mayor France opened the public hearing for items 7 and 8 at 8:42 p.m. No one spoke. Mayor France closed the public hearing at 8:43 p.m.

ACTION: Deputy Mayor Pro Tem Ann Martin moved to approve item K.7 as presented in the agenda caption. Councilmember Brian Taylor seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

ORDINANCE NO. 39-23

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE FLOWER MOUND 2001 MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, WHICH ADOPTED THE MASTER PLAN, BY REPEALING AND REPLACING SECTIONS 2.0, “AREA PLANS,” AND 4.0, “URBAN DESIGN PLAN”; PROVIDING THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

8. LDR23-0002 - Nonresidential Design - Public Hearing to consider an ordinance amending the Land Development Regulations (LDR23-0002 – Nonresidential Design) by amending Chapter 98 “Zoning,” of the Town's Code of Ordinances to amend nonresidential exterior design standards. (PZ recommended approval by a vote of 6 to 0 at its September 11, 2023, meeting.)

ACTION: Deputy Mayor Pro Tem Ann Martin moved to approve item K.8 as presented in the agenda caption. Councilmember Brian Taylor seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

ORDINANCE NO. 42-23

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 98, "ZONING," OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY AMENDING NONRESIDENTIAL DEVELOPMENT STANDARDS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

9. DCAD Board of Directors Nomination - Town Council to consider approval of a resolution to nominate individuals to be voted on by taxing jurisdictions for the Board of Directors for the Denton Central (DCAD) Appraisal District.

Ms. Scott outlined the purpose of this item, and she responded to comments or questions from Council regarding:

- what happens if no Council action is taken in bringing a name forward

No Council action was taken on this item.

L. BOARDS/COMMISSIONS

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Capital Improvements Advisory Committee, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission Task Force, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Transportation Commission, and Veterans Liaison Board.

Ms. Scott pointed out the timing of appointing individuals to serve on the CDC and TIRZ Boards.

ACTION: Councilmember Adam Schiestel moved to appoint or reappoint: Mark Hargreaves, Place 1
Jim Engel, Place 3
and with terms beginning January 1, 2024 and ending December 31, 2025

Tim Whisenant, Place 2
and with a term effective immediately and ending December 31, 2024.

Deputy Mayor Pro Tem Ann Martin seconded the motion.
AYES: Ann Martin, Adam Schiestel, Brian Taylor, Chris Drew
NAYS: Jim Engel
ABSTAIN: None
RESULT: 4 : 1

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 Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as follows:

Mayor France announced that the Town Council is convening into a closed meeting at 8:50 p.m. on October 2, 2023, 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.

1. Consultation with Town Attorney.

a. La Estancia Investments, L.P. v. Town of Flower Mound, Texas, et al

No action taken.

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

No action taken.

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

ACTION: For the Community Development Corporation, Councilmember Chris Drew moved to appoint or reappoint William Koenig, Director, Place 1, TK Kumaran, Director, Place 3, Ash Puri, Director, Place 5, and Tamera Bennett, Director, Place 7 with a term beginning January 1, 2024 for Directors 1, 3, and effective immediately for Directors 5, 7 and all with terms ending December 31, 2025.
Councilmember Brian Taylor seconded the motion.

AYES: Chris Drew, Adam Schiestel, Jim Engel, Brian Taylor, Ann Martin
NAYS: None
ABSTAIN: None
RESULT: 5 : 0

4. Discuss and consider economic development incentives, including retail centers, corporate relocation/expansion/retention, hospitality projects, performance related to certain incentive agreements, and proposed Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, PID, MMD, and MUD.
No action taken.
5. Annual Performance Review of Town Secretary.
No action taken.

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.

N. RECONVENE

The Town Council reconvened into an open meeting at 9:47 p.m. on October 2, 2023, to take action or no action on the above items.

O. ADJOURN

Mayor France adjourned the meeting at 9:49 p.m.

TOWN OF FLOWER MOUND, TEXAS

DEREK FRANCE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

Town Council Special Meeting



October 11, 2023
Town Hall
2121 Cross Timbers Road
Room 124 - Large Conference Room
Flower Mound, TX 75028

7:30 p.m.

In accordance with section 551.127 of the Texas Government Code (Open Meeting Act) this meeting will be an in-person meeting with a single member of Town Council participating by video conference. The public meeting location will be Flower Mound Town Hall, 2121 Cross Timbers Rd Flower Mound, Texas. The Mayor, as presiding officer of Town Council, and a quorum of the Town Council will be physically present at this location. The location where the Mayor is physically present shall be open to the public during the open portions of the meeting.

DRAFT MINUTES

A. CALL TO ORDER

Mayor France opened the meeting at 7:31 p.m. with the following members present:

Derek France, Mayor
Ann Martin, Deputy Mayor Pro Tem
Adam Schiestel, Councilmember Place 1
Chris Drew, Councilmember Place 2
Brian Taylor, Councilmember Place 3

with the following member(s) absent:
Jim Engel, Mayor Pro Tem

constituting a quorum with the following members of the Town Staff participating:
Theresa Scott, Town Secretary
James W. Childers, Town Manager
Bryn Meredith, Town Attorney
Tommy Dalton, Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
Ray Watson, Director of Economic Development

B. PUBLIC COMMENT

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

In accordance with the Texas Open Meetings Act, the Town Council is restricted from discussing or acting on items not listed on the agenda.

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

- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired, and times may be adjusted by the mayor
- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

No one spoke.

C. CLOSED MEETING

The Town Council convened into a closed meeting at 7:31 p.m. on October 11, 2023, pursuant to Texas Government Code Chapter 551.071 for consultation with attorney.

1. Consultation with Town Attorney.

- a. La Estancia Investments, L.P. v. Town of Flower Mound, Texas, et al
No action taken.

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.

D. RECONVENE

The Town Council reconvened into an open meeting at 8:58 p.m. on October 11, 2023, to take action or no action on the above items.

E. ADJOURN

Mayor France adjourned the meeting at 8:58 p.m. on Wednesday, October 11, 2023.

TOWN OF FLOWER MOUND, TEXAS

DEREK FRANCE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



TOWN COUNCIL AGENDA J.2. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider approval of the Professional Services Agreement with MHS Planning & Design, LLC, for the design services associated with the Twin Coves Ph. 2 - Preliminary Design, in the amount of \$19,950.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: In 2010, the Town entered into a 25-year lease with the United States Army Corp of Engineers for the operation and maintenance of Twin Coves Park on Grapevine Lake. In 2013, Pros Consulting developed the Twin Coves Park Feasibility Study which evaluated the park and identified needed improvements that met the Town Council's expectations. Subsequently, MHS Planning & Design, LLC (MHS) was commissioned in December of 2013 to prepare a master plan for the 243-acre Twin Cove Park. The purpose of the master plan was to refine the vision for the park as outlined in the Twin Coves Park Feasibility Study. The park's master plan was approved by the Town Council on August 18, 2014. The master plan was used as the basis for the design and development of Phase I for the park, MHS once again served as the consultant for the development of these construction plans.

Phase I was completed in 2017 and added the following amenities:

- RV Sites
- Roads & Parking
- Day use area
- Two Picnic Pavilions
- Cabins
- Playground
- Kayak/Boat Launch
- All Related Infrastructure for the above Amenities

Phase II will look to add amenities from the original master plan that were excluded from Phase I due to costs or other constraints. These items could include:

- New park lodge & store
- Additional restrooms
- Gazebo
- Additional RV camping spots
- 2 Park Host sites
- Landscaping and trees
- Roadway Improvements

If approved, the proposed preliminary design study will investigate the feasibility of the Phase II items based on available space & regulatory codes. The scope of work includes developing an aesthetic & visual theme for the lodge, specific survey work, preliminary grading plan, drainage and utility analysis, preliminary site plan, and providing an opinion of probable cost for the full design and construction of Phase II.

BOARD REVIEW/CITIZEN FEEDBACK: The park master plan was presented to the Parks, Arts, & Library Services Board on August 7, 2014 and approved by Town Council during the August 18, 2014 regular meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: \$19,950.00

Proposed Expenditure/(Revenue)
\$19,950.00

Account Number(s):
317-110-90841-6070

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

ATTACHMENTS:

1. Professional Services Agreement
2. Form 1295

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
MHS PLANNING & DESIGN, LLC.**

This contract is entered into on this 2 day of October, 2023, 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 **MHS PLANNING & DESIGN, LLC.**, (“hereinafter referred to as “CONSULTANT”) whose address is 212 W. 9th Street, Tyler, TX 75701.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Twin Coves Phase 2 – Preliminary Design 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 Twin Coves Phase 2 – Preliminary Design project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment “A” hereto entitled “Scope of Work” (hereafter referred to as the “Project”). Attachment “A” is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment “A” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Nineteen Thousand Nine-Hundred Fifty and No/100 Dollars (\$19,950.00). 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 “A”; provided however that this Contract shall control in the event of any conflict between the language in Attachment “A” and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

Each month CONSULTANT will submit to TOWN an invoice for 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:

Brennon Peltier
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6278 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

IX.

Right to Inspect Records

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

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

Brennon Peltier
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6278 Telephone

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

William H. Spencer, P.E.
President & Professional Engineer
MHS PLANNING & DESIGN, LLC
212 W. 9th Street
Tyler, Texas 75701
903-597-6606
whs@mhsplanning.com

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: _____

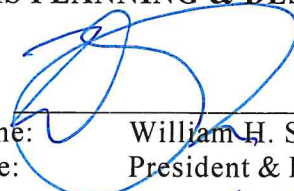
The Honorable Derek France
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

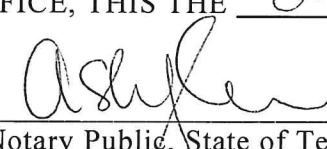
CONSULTANT:
MHS PLANNING & DESIGN, LLC

By: 
Name: William H. Spencer, P.E.
Title: President & Professional Engineer
Date Signed: 9/8/23

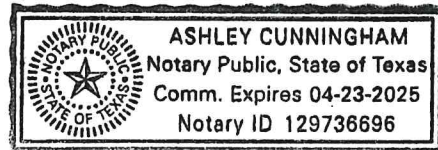
State of Texas §
County of Smith §

This instrument was acknowledged before me on the 8th day of September, 2023, by William H. Spencer in his capacity as President & Professional Engineer of MHS Planning & Design, LLC, a Limited Liability 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 MHS Planning & Design, LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 8th DAY OF 09, 2023.


Notary Public, State of Texas

My Commission Expires:
04-23-2025





March 27, 2023

Chuck Jennings
 Director of Parks & Recreation
 Town of Flower Mound
 Via Email: chuck.jennings@flower-mound.com

RE: Twin Coves Phase 2 – Preliminary Design

Dear Chuck,

It is my pleasure to submit this proposal for professional services for your property located in Flower Mound, TX as shown in Exhibit 'A'. Our scope of services for this project is as follows:

1) Preliminary Reporting Phase

a) Preliminary Architectural Design

- i) Prepare a Program of Spaces
- ii) Review regulatory codes that impact space design
- iii) Prepare preliminary, diagrammatic plans
- iv) Prepare a preliminary layout
- v) Develop a visual theme and aesthetic for the building
- vi) Develop floor plans and exterior views of the building
- vii) Review with Owner

b) Preliminary Civil Design

- i) Perform one day of survey verification for the impact areas of this analysis. (Lodge and Additional RV Space Area)
- ii) Update preliminary site plan based on the proposed architectural layout, the above-mentioned survey information, and coordination/feedback with the Town.
- iii) Preliminary grading plan, drainage, and utility analysis (water and wastewater) of the two impact areas.
- iv) Prepare an opinion of probable cost for the proposed preliminary design.

Preparation of the following items and any other items not listed have been excluded from this proposal but can be provided in an additional service agreement.

Geotechnical Testing	Structural Engineering	Wetland Delineation	3-Way Contracts w/ City
Detention	Off-Site Roadway Design	Lake Permitting	TxDOT Permits
Flood Studies	Traffic Impact Analysis	404 Permitting	Bidding & Permitting

Based on this scope of services, our lump sum fee for the project is \$19,950. This fee excludes reimbursables such as reproductions, permits, mileage, etc. and will be invoiced based on the attached rate sheet. This proposal is subject to the general terms and conditions described in Exhibit 'B'. If you find this proposal meets your needs, please have the appropriate party sign below, retain one copy for your file and return one to us. Once we receive the signed proposal, we will begin work. If you have any questions or need us to modify our proposal, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. H. Spencer', written in a cursive style.

William H. Spencer, P.E.
President & Professional Engineer

2023 Hourly Rates

Engineering

Senior Professional Engineer	\$195.00 per hour
Professional Engineer	\$140.00 per hour
Graduate Engineer	\$95.00 per hour
Civil Engineering Intern	\$75.00 per hour

Landscape Architecture

Senior Landscape Architect	\$195.00 per hour
Landscape Architect	\$135.00 per hour
Landscape Designer	\$85.00 per hour
Landscape Intern	\$70.00 per hour

Planning

Senior Planner	\$160.00 per hour
Planner	\$85.00 per hour
Planning Intern	\$70.00 per hour

Graphic Design

Senior Graphics Designer	\$125.00 per hour
Graphics Designer	\$85.00 per hour

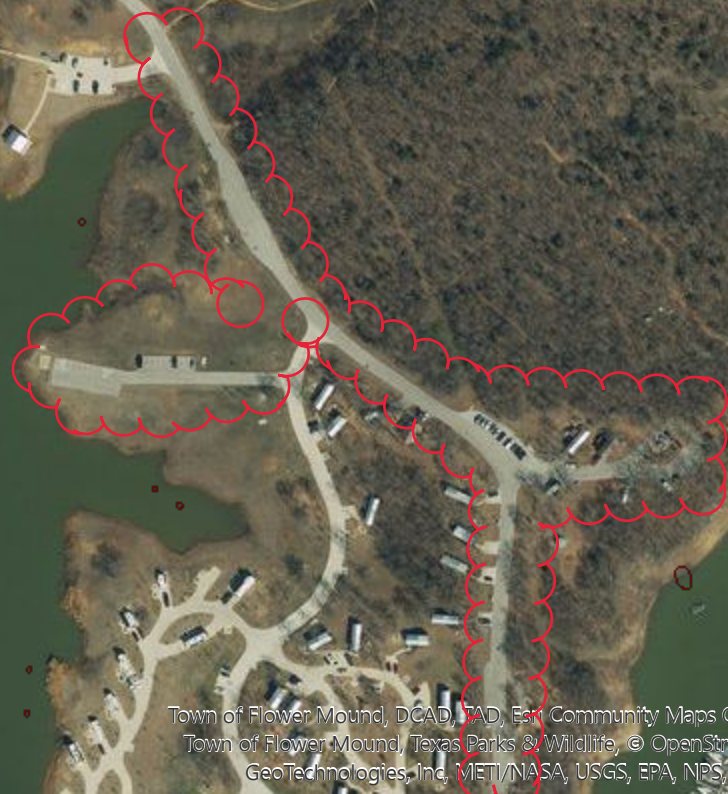
Drafting

Senior CAD Designer	\$125.00 per hour
CAD Designer	\$105.00 per hour
CAD Drafter	\$85.00 per hour

Office Admin

Word Processing/Clerical	\$70.00 per hour
Mileage	\$0.655 per mile
Reproduction, Aerial photography, etc.	Cost plus 15%

A service charge of 1.5% per month (18% annual rate) will be added to all balances 30 days past due and will continue each month until the past due amount is received.





TOWN COUNCIL AGENDA J.3. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Julie Taylor, Director of Treasury Operations
ITEM: **Consider approval of a resolution declaring expectation to reimburse expenditures with proceeds of future debt and authorizing the preparation of the documents associated with the issuance, sale, and delivery of the debt obligations; and providing an effective date.**

BACKGROUND:

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

The Town plans to issue debt during fiscal year 2023-24 to fund improvements to streets, the water and sewer system within the Town and fund the costs of issuance, as included on the fiscal year 2023-24 Five-Year Capital Improvement Program ("CIP") and as listed on Exhibit A of the reimbursement resolution.

The proposed reimbursement resolution provides the funding source to satisfy the procurement requirements for projects in order to begin the projects prior to the issuance of debt. Funds will be borrowed from the General Fund fund balance and the working capital fund balance of the Utility Fund and repaid upon issuance of the obligations in 2024.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$9,125,000

Proposed Expenditure/(Revenue)
\$9,125,000

Account Number(s):

To satisfy the funding requirements and begin the capital projects prior to the issuance of debt under federal tax law.

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

ATTACHMENTS:

1. Certificates of Obligation 2024 Reimbursement Resolution

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. ____-23

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

WHEREAS, the Town of Flower Mound, Texas, (the "Town") intends to issue debt for the construction and improvement of the projects listed on **Exhibit A** (collectively, the "Projects"); and further intends to make certain capital expenditures with respect to the Projects and currently desires and expects to reimburse the capital expenditures with proceeds of such debt; and

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

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

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

SECTION 1

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

SECTION 2

The Town reasonably expects to reimburse capital expenditures with respect to the Projects with proceeds of debt hereafter to be incurred by the Town, and that this Resolution shall constitute a declaration of official intent under the Regulation. The maximum principal amount of obligations expected to be issued for the Project is \$9,125,000.

SECTION 3

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

SECTION 4

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, ON THIS 16th DAY OF OCTOBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT A**General Capital Project****Street Project:**

Scenic Road (Walsingham Drive to FM 1171)	\$ 400,000
---	------------

Utility Capital Projects**Water Projects:**

Stonehill Pump Station Motor Replacement	
Timber Valley and Fairfield Lane Water Line Replacement	
	\$ 3,660,000

Wastewater Projects:

Glen Chester Lift Station Rehabilitation	
Kirkpatrick Lane and Stapleton Street Sanitary Sewer Rehabilitation	
Timber Creek Park Collector Rehabilitation (Hanover Drive to Timber Creek Road)	
Timber Valley and Fairfield Lane Sewer Line Replacement	
Upper Timber Interceptor (Morriss Road to One Place Lane)	
	\$ 4,950,000

Total Utility	\$ 8,610,000
----------------------	---------------------

\$ 9,010,000

Estimated Financing Costs

\$ 115,000

Grand Total of Debt Issuance

\$ 9,125,000



TOWN COUNCIL AGENDA J.4. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Julie Taylor, Director of Treasury Operations
ITEM: **Consider approval of an agreement with DebtBook for subscription management of governmental accounting standards compliance and management of outstanding debt.**

BACKGROUND: Governmental Accounting Standards Board Statement Numbers 87 for Leases and 96 for Subscription-based Information Technology Arrangements was implemented for fiscal year 2021-2022 and 2022-2023, respectively. These are complicated new standards that require capitalizing leases and subscription-based software and amortizing them over the life of the assets created.

This software assists with:

- ensuring that the Statements for leases and software subscriptions are interpreted correctly,
- building inventories of our leases and software subscriptions,
- building schedules of amortizations,
- make accounting for lease modifications more manageable,
- establishing a uniform method for future accounting, and
- management of the Town's outstanding debt.

Debt Book was originally contracted for their service on December 13, 2022, to ensure the Town received the benefit of the vendor's technical expertise implementing both new standards in our first year. The current agreement expires December 12, 2023. The attached agreement is for a three-year term effective December 13, 2023 with the following payment plan:

- \$11,000 due December 13, 2023 for service period December 12, 2023 – December 12, 2024
- \$12,000 due December 13, 2024 for service period December 12, 2024 – December 12, 2025
- \$13,000 due December 13, 2025 for service period December 12, 2025 – December 12, 2026

This software is independent from the Town's auditor.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$11,000.00 FY 23-24

Proposed Expenditure/(Revenue)
\$11,000.00

Account Number(s):
100-650-51000-5130

LEGAL REVIEW: No alteration to the legal content of this agreement was made, which had originally been approved by Taylor, Olson, Adkins, Sralla, & Elam L.L.P.

ATTACHMENTS:

1. DebtBook Agreement

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

RENEWAL ORDER FORM

Fifth Asset, Inc., d/b/a DebtBook (“**DebtBook**”) is pleased to provide Flower Mound, TX (“**Customer**”) with the Services subject to the terms established in this Order Form, including DebtBook’s Price Quote attached as **Exhibit A** and incorporated herein by this reference (the “**DebtBook Quote**”).

On and after the Effective Date listed below, this Order Form supersedes and replaces the Order Form previously executed and delivered by DebtBook and the Customer (the “**Original Order Form**”). This Order Form may be modified or replaced from time to time by a subsequent Order Form duly executed and delivered by each party in connection with any Renewal Term.

The Services are subject to DebtBook’s General Terms & Conditions, which were provided to Customer in connection with the execution and delivery of the Original Order Form (the “**Terms & Conditions**”), and the Incorporated Documents referenced in the Terms & Conditions. Each capitalized term used but not defined in this Order Form has the meaning given in the Terms & Conditions.

Order Form Details	
Effective Date: 12/13/2023	Billing Frequency: Annually
Initial Term End Date: 12/12/2026	Payment Terms: Net 30
Initial Pricing Tier: 2	See the DebtBook Quote for more details

Services. Subject to the terms described in this Order Form, DebtBook will grant Customer access to the Application Services during the Initial Term described above and, if applicable, each subsequent Renewal Term. As part of the onboarding process, DebtBook will provide Customer with the Onboarding Services and, if requested, the Implementation Services. DebtBook will also provide Customer with the Support Services throughout the Term.

Fees. DebtBook will charge Customer (1) a recurring Subscription Fee for Customer’s access to the Onboarding Services, the Application Services, and the Support Services and (2) if applicable, an Implementation Fee for the Implementation Services, in each case as set forth in the DebtBook Quote and this Order Form.

Generally, DebtBook sets Fees using its standard pricing schedule for the Services based on the Customer’s applicable Pricing Tier, which is based on the total number and amount of the Customer’s Application Obligations at the time of determination. DebtBook’s current pricing schedule and Pricing Tiers are set forth in the DebtBook Quote, which will remain in effect with respect to Customer throughout the Initial Term.

The Initial Pricing Tier indicated above is based on Customer’s good faith estimate of its Application Obligations as of the Effective Date. The Subscription Fees to be charged as provided in the DebtBook Quote will not change during the Initial Term, regardless of any change to the actual number or amount of the Customer’s Application Obligations during the Initial Term.

Implementation Services. At Customer’s request, DebtBook will provide Implementation Services to Customer for a 12-month period, with each such period beginning, if applicable, on the Effective Date and on each anniversary of the Effective Date thereafter (each, an “**Implementation Period**”). Customer may request Implementation Services at any time during the Term.

If Implementation Services are requested for any Implementation Period, then the Implementation Fee will be based on the aggregate number and amount of the Customer’s Application Obligations at the beginning of such Implementation Period. The Implementation Fee will be due and payable at the later of (1) the beginning of the applicable Implementation Period or (2) the date on which Customer requests Implementation Services for such Implementation Period, and will entitle Customer, in each case, to Implementation Services at the applicable Pricing Tier through the end of the Implementation Period then in effect.

For any Implementation Period, if the total number or amount of Customer’s Application Obligations implemented causes Customer’s applicable Pricing Tier to increase, then DebtBook will charge Customer an additional Implementation Fee such that the total Implementation Fee charged for such Implementation Period equals the Implementation Fee applicable to the increased Pricing Tier as set forth in the DebtBook Quote.

Billing. Unless otherwise provided in the Order Form or the Customer Terms, all Fees will be due and payable in advance on the terms indicated above, and each invoice will be emailed to the Customer's billing contact indicated below.

Renewal Term. The Agreement is subject to renewal on the terms set forth in the Terms & Conditions. The Pricing Tier applicable for each Renewal Term will be determined based on the aggregate number and amount of the Customer's Application Obligations at the time of renewal.

Termination. The Agreement is subject to early termination on the terms set forth in the Terms & Conditions.

Entire Agreement. By executing this Order Form, each party agrees to be bound by this Order Form, the Terms & Conditions, the Incorporated Documents, and any Customer Terms.

This Order Form, the Customer Terms, the Terms & Conditions, and the Incorporated Documents constitute the complete "Agreement" between the parties and supersede any prior discussion or representations regarding the Customer's purchase and use of the Services.

Intellectual Property. Except for the limited rights and licenses expressly granted to Customer under this Order Form and the Terms & Conditions, nothing in the Agreement grants to Customer or any third party any intellectual property rights or other right, title, or interest in or to the DebtBook IP.

Important Disclaimers & Limitations. EXCEPT FOR THE WARRANTIES SET FORTH IN THE TERMS & CONDITIONS, DEBTBOOK IP IS PROVIDED "AS IS," AND DEBTBOOK DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. IN ADDITION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES' LIABILITIES UNDER THE AGREEMENT ARE LIMITED AS SET FORTH IN THE TERMS & CONDITIONS.

Notices. Any Notice delivered under the Agreement will be delivered to the address below each party's signature below.

Authority; Execution. Each of the undersigned represents that they are authorized to (1) execute and deliver this Order Form on behalf of their respective party and (2) bind their respective party to the terms of the Agreement. This Order Form and any other documents executed and delivered in connection with the Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. To the extent permitted by applicable law, electronic signatures may be used for the purpose of executing the Order Form by email or other electronic means. Any document delivered electronically and accepted is deemed to be "in writing" to the same extent and with the same effect as if the document had been signed manually.

FIFTH ASSET, INC., D/B/A DEBTBOOK

FLOWER MOUND, TEXAS

By: Tyler Traudt
Name: Tyler Traudt
Title: CEO

By: _____
Name: _____
Title: _____

Notice Address

PO Box 667950
Charlotte, NC 28266
Attention: Chief Executive Officer
account-management@debtbook.com

Notice Address

2121 Cross Timbers Road
Flower Mound, TX 75028
Attention: Derek France

Billing Contact

2121 Cross Timbers Road
Flower Mound, TX 75028
Attention: Mary Huning
mary.huning@flower-mound.com

Exhibit A
DebtBook Quote

[See attached.]



DebtBook Quote

Flower Mound, TX

2121 Cross Timbers Road
Flower Mound, TX 75028

Mary Huning

Director of Accounting Services
mary.huning@flower-mound.com
(972) 874-6023

Prepared By:

DebtBook
Erin Williams
Customer Success Manager
erin.williamas@debtbook.com

Notice Address:

PO Box 667950
Charlotte, NC 28266

Products & Services

Description	Qty	Annual Fee	Discount	Total
Implementation Charge: Tier 2 This represents the cost of our Premium GASB-96 Implementation process for your organization.	1	\$2,000 Year 1	100%	\$0 Year 1 Cost
Subscription Charge: Tier 2 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$13,000 Year 1	15%	\$11,000 Year 1 Cost
Subscription Charge: Tier 2 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$13,000 Year 2	8%	\$12,000 Year 2 Cost
Subscription Charge: Tier 2 This represents the annual subscription charge your organization pays for access to the DebtBook platform. There are no additional charges - this covers unlimited users, external sharing, support and training.	1	\$13,000 Year 3	-	\$13,000 Year 3 Cost

Total 3 Year Renewal Cost:

\$36,000



TOWN COUNCIL AGENDA J.5. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Kendall Leonard, Captain CID
ITEM: **Consider approval of the updated School Resource Officer Interlocal Agreement with Lewisville Independent School District.**

BACKGROUND: With the additional personnel approved in budget, the agreement has been revised and updated to reflect two additional officer positions. This consists of one supervising Lieutenant and one elementary School Resource Officer and the funding percentages of their positions.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: To not fulfill agreed upon budgeted positions and partnership growth with LISD.

FISCAL IMPACT: \$(163,075)

Proposed Expenditure/(Revenue)
\$(163,075)

Account Number(s):
100-4605 Intergovernmental Revenues

LEGAL REVIEW: No alteration to the legal content of this agreement was made, which had originally been approved by Taylor, Olson, Adkins, Sralla, & Elam L.L.P.

ATTACHMENTS:

1. Updated SRO interlocal agreement

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

STATE OF TEXAS

§
§
§

COUNTY OF DENTON

SCHOOL RESOURCE OFFICER INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT, made and entered into on the Effective Date, by and between the **LEWISVILLE INDEPENDENT SCHOOL DISTRICT** in Denton County, Texas (referred herein to as “District” or “School District”), acting by and through its Board of Trustees, and the Town of Flower Mound, Texas (referred herein to as “Town”), acting by and through its Town Council, is for the purpose of establishing a School Resource Officer (referred herein as to SRO) Program in the School District, in the Town of Flower Mound, Texas.

WITNESSETH:

WHEREAS, the Texas State Legislature has authorized the use of Interlocal cooperation agreements between and among governmental entities; and

WHEREAS, this Interlocal Cooperation Agreement (“Agreement”) is made under the authority granted by and pursuant to the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended and as otherwise provided herein, relative to the joint authorization by the School District and the Town to provide a governmental service or function for which each party is authorized to perform individually; and

WHEREAS, the governing bodies find that the performance of this Agreement is in the common public interest of both parties, and the School District and the Town will mutually benefit from the SRO Program to combat juvenile delinquency, to personally assist students with various problems involving potential involvement with law enforcement, to develop and maintain positive relations between students and Town police officers and to assist the School District in maintaining a safe, orderly, and secure environment to learning; and

WHEREAS, the parties, in paying for the performance of governmental functions or in performing such governmental functions, shall make payments therefor only from current revenues legally available to each party; and

WHEREAS, the School District and the Town intend to provide law enforcement education and related services to the public schools of the School District in the Town as hereafter described; and

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein, the parties do hereby agree as follows:

ARTICLE I

TERM OF AGREEMENT

The initial term of this Agreement shall begin on the Effective Date, and shall continue through September 30, 2023. This Agreement shall automatically renew for one (1) year terms, beginning on October 1, 2023, unless terminated by either party in accordance with the terms contained herein. The Effective Date of this Agreement is October 1, 2023.

ARTICLE II

OBLIGATIONS OF THE TOWN

The obligations of the Town shall be fulfilled by the Flower Mound Police Department under the direction of the Chief of Police ("Chief") or his designee.

The obligations of the Chief and the School Resource Officers (SROs) are as follows:

A. Provision of School Resource Officers.

Unless otherwise indicated below, the Chief shall assign ten (10) regularly employed police officer(s) as SROs, one (1) Sergeant and one (1) Lieutenant (50% of time) assigned as the SRO supervisors.

Officers will be assigned to the elementary, middle, 9th grade, and high school campuses. Although the SROs will be assigned to the campuses listed above, the SROs can serve as a resource to all campuses within Flower Mound in cooperation with LISD.

B. Selection of School Resource Officers.

The Chief or his designee shall select the SROs considering the following evaluation criteria and may change or replace an SRO with another officer who also meets the criteria below:

1. The SROs must have the ability to deal effectively with students. The ages, socioeconomic, cultural and racial composition of the students of the particular school should be considered in making this evaluation.
2. The SROs must present a positive image and be an appropriate symbol of the entire police department. A goal of the SRO program is to foster a positive image of police officers among young people. Therefore, the personality, grooming, and communication skills of the SROs should be of such a nature that a positive image of the police department is reflected.

3. The SROs must have the ability to provide good quality information and educational services in the area of law enforcement.
4. The SROs must have the desire and ability to work cooperatively with the School District staff, Principals, the administrative staff and school officials.
5. The SROs must be State Certified Law Enforcement Officers.
6. The SROs must complete an education and training program as required by Texas Occupations Code § 1701.263 and 37 Texas Administrative Code § 221.43 within 120 days of placement in the District or a campus of the District.
7. The Chief or his designee may change or replace an SRO with another officer who also meets the criteria. Campus Principals will be allowed to meet the candidates for any new SRO assignments and provide their feedback.
8. The SROs must meet any other criteria the Chief deems appropriate.

C. Normal duty hours of School Resource Officers.

The SROs shall perform his or her duties during regular school days and regular school hours, not including official school holidays or summer school or required training. When not performing such duties, the Chief may assign the officers to other duties.

SROs will notify the Campus Principal or his designee via email in advance of a planned leave if such leave or time off would conflict with school duties. The Town will provide a substitute SRO, at no additional charge, in the event a SRO cannot perform his or her duties for School District for more than five (5) or more consecutive days. The Town will make all reasonable efforts to minimize discretionary leave by SROs during school days.

D. Duties of School Resource Officers.

While on duty, SROs shall perform the following duties:

1. Speak to classes on the law, including search and seizure, criminal law, motor vehicle laws, and other topics.
2. Act as a resource person in the area of law enforcement education.
3. Conduct or assist in criminal investigations of violations of law on school property.
4. Provide a law enforcement resource when necessary to maintain the peace on School District property.
5. Make arrests and referrals of criminal law violators using his/her discretion.

6. Provide information or assistance to students at the request of the school staff, at the request of a student or parent or when the SRO feels it is in the best interest of the student. In the event the request relates to such things as depression, addiction, family counseling matters or other non-police related matters, the student should be referred to the School Counselor.
7. Make appropriate referrals to social services agencies.
8. Wear an official police uniform which shall be provided at Flower Mound Police Department's expense; however, civilian attire may be worn on some occasions with prior approval by the Chief.
9. Perform other duties mutually agreed upon by the Superintendent and the Chief, provided the performance of such duties is legitimately and reasonably related to the SRO Program as described in this Agreement, and such duties are consistent with state and federal law and the policies and procedures of the School District and the Town.
10. Any off-campus activity requiring the services of the SROs shall be contingent on the approval of the Chief or his designee.
11. Follow and conform to all School District policies and procedures that do not conflict with the policies or procedures of the Town. The parties to this Agreement shall abide by all rules, regulations and procedures as authorized by state or federal laws.
12. Coordinate with school administrators, staff, other law enforcement agencies and courts to promote order on school campuses.
13. Make presentations to civic groups.
14. Participate, upon request and with approval of the Chief or his designee, with school/student committees.
15. Serve on campus threat assessment teams.
16. Any other duties as directed by the Chief or designee.

E. Support Services to be provided by the Town.

The Town, acting through its Police Department, shall continue to provide police services to the School District with the positions of the SROs as an enhancement.

ARTICLE III

OBLIGATIONS OF THE DISTRICT

The School District shall provide the SROs, in each school to which an SRO is assigned, the following materials and facilities:

1. Access to a private office to be used for general business purposes which is air conditioned and properly lighted.
2. A locking file cabinet and location for files and records which can be properly locked and secured.
3. A desk with drawers, a chair, worktable, and office supplies (*i.e.*, paper, pencil, pens, etc.).
4. A computer connection that allows for network access to police records management and report writing portals.
5. A telephone.
6. Secure a safe, provided by the police department, to the floor of the assigned office for the storage of a rifle, and other essential equipment.

ARTICLE IV

EMPLOYEE STATUS OF SRO

The SROs shall be employees of the Town and not employees of the School District. The Town shall be solely responsible for the hiring, training, discipline, and dismissal of Town personnel. The Town and its SROs shall be deemed independent contractors with the School District, and not an agent or representative of the School District. However, when an assigned SRO or substitute is serving in the capacity of SRO, he or she is considered a "school official" pursuant to the Family Educational Rights and Privacy Act and its implementing regulations (34 Code of Federal Regulations Part 99). The SRO supervision will meet with the leadership of the assigned campuses to review the performance of each SRO by the end of each school year. The results will be communicated to the Chief or his designee. The Director of Safety and Security will

meet with the Divisional Commander over the SRO program and review the performance of the SRO supervision.

The supervisory personnel of the SRO who are responsible for his or her direct supervision shall be available at all reasonable times to report to and confer with designated officials of the School District.

ARTICLE V

PAYMENT

In consideration of the services provided herein, the Town shall invoice the School District, and the School District shall pay the Town fifty percent (50%) of the costs of salary and benefits for the SROs' and Lieutenant. Seventy five percent (75%) for the SRO elementary officer and SRO Sergeant. The School District shall bear no other expenditures. Payment shall be in three (3) equal payments as compensation for the contracted services of the ten (10) SROs, one (1) SRO Sergeant and one (1) Lieutenant made on December 1, March 1, and June 1 of each Fiscal Year. In the event the School District and the Town determine there is a need for an additional assignment, the Town shall provide an additional SRO, as staffing allows, under the same terms and conditions as described herein. The cost to the School District for any additional SRO shall be pro-rated on a per month, per officer basis for the remainder of the Town's Fiscal Year. The pro-rated amount shall apply to any partial budget year upon enactment of this Agreement as well.

ARTICLE VI

INDEMNITY

TO THE EXTENT ALLOWED BY LAW, THE TOWN SHALL INDEMNIFY, SAVE AND DEFEND AND HOLD HARMLESS THE SCHOOL DISTRICT OF AND FROM ANY AND ALL CLAIMS, DEMANDS, SUITS, ACTIONS, ATTORNEY FEES AND COSTS, CAUSES OF ACTION AND LIABILITY, OF ANY KIND WHATSOEVER, IN LAW OR EQUITY, ARISING FROM OR CONNECTED DIRECTLY OR INDIRECTLY TO ANY ALLEGED MISCONDUCT, NEGLIGENCE, INJURY, WORKERS COMPENSATION CLAIM, ACTION, INACTION, OR OTHER ACTIVITY BY THE SROS ALLEGED BY ANY PERSON OR ENTITY TO HAVE ANY CONNECTION WHATSOEVER TO THE SCHOOL DISTRICT.

THE OBLIGATIONS PROVIDED IN THIS ARTICLE SHALL SURVIVE TERMINATION OR COMPLETION OF THE TERM OF THIS AGREEMENT, OR ANY EXTENSIONS HEREOF.

ARTICLE VII

CHANGES TO AGREEMENT

Changes in the terms of this Agreement may be accomplished only by formal amendment in writing approved by both the Town and the School District.

ARTICLE VIII

PROBLEM RESOLUTION

Unforeseen difficulties or questions shall be resolved by negotiation between the Superintendent of the School District and the Chief of Police of the Town, or their designees.

ARTICLE IX

TERMINATION OF AGREEMENT

This Agreement shall thereafter automatically extend and renew for additional one-year periods, as discussed in Article I above, unless written notice of intent to terminate the Agreement is given by either party at least one hundred eighty (180) days in advance of termination, except that both entities may mutually agree to terminate this Interlocal Agreement without one hundred eighty (180) days advance notice if approved by Flower Mound Town Council and the Lewisville Independent School District Board of Trustees. Notice shall be given to the Parties at the following addresses:

If to Town:

Chief of Police
Town of Flower Mound
4150 Kirkpatrick Lane
Flower Mound, Texas 75028

If to School District:

Superintendent of Schools
Lewisville Independent School District
1565 W. Main Street,
Lewisville, Texas 75067

Termination of this Agreement may only be accomplished as provided herein.

In the event this Agreement is terminated, compensation shall be made to the Town for all services performed to the date of termination.

ARTICLE X

GENERAL PROVISIONS

A. This Agreement contains the entire agreement of the parties and supersedes any prior agreements and negotiations. As of the Effective Date, this Agreement will replace the SRO Interlocal Agreement between the School District and the Town with dated December 18, 2018, and said 2018 Interlocal Agreement is terminated, as of the Effective Date, and shall be of no further force or effect. No verbal or other written promises or representations not specifically reduced to writing and contained herein shall be effective or binding. No modification, amendment, waiver or change of any provision herein shall be effective unless reduced to writing and approved by the governing body of both parties hereto.

B. This Agreement is performable in Denton County, Texas, and exclusive venue for any dispute between the parties shall be a court of competent jurisdiction in Denton County. This Agreement is governed by and construed according to the laws of the State of Texas.

C. This Agreement is not assignable by either party, and shall be binding on the parties, their officers and employees, and any successors in interest.

D. This Agreement is effective only when signed and approved by both parties.

AGREED TO:

TOWN OF FLOWER MOUND, TEXAS

**LEWISVILLE INDEPENDENT
SCHOOL DISTRICT**

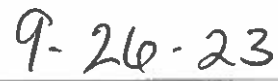
By: _____
MAYOR, Town of Flower Mound

By:  _____
SUPERINTENDENT, LISD

ATTEST:

TOWN SECRETARY

Date Signed

 _____
Date Signed



TOWN COUNCIL AGENDA J.6. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Manuel Palacios, Assistant Director of Public Works
ITEM: **Consider approval of an agreement with Knight Security Systems, to provide surveillance equipment and installation at the Wastewater Treatment Plant and other sites, as part of the Water and Wastewater System Security Implementation Phase 1 project, in the amount of \$235,670.44; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The surveillance equipment and installation is part of the capital improvement project, Water and Wastewater System Security Implementation, to provide access security enhancements to the Town's water and wastewater facilities. The Town's water and wastewater facilities do not have standardized access security. Although all sites are visited daily, the sites are not manned by dedicated staff. This proposal is to install security cameras that can be managed by Town staff remotely. These security improvements are needed to properly secure the Town's water and wastewater facilities and meet the guidelines of the Department of Homeland Security National Water Sector Infrastructure Protection Plan. These security enhancements are also the top recommendations from the EPA required Water System Risk & Resiliency Assessment conducted in 2020 for compliance with the America's Water Infrastructure Act. The Town has 24 remote sites. This is phase I of this project, which includes the wastewater treatment plant and four utility sites.

Knight Security has been selected as the vendor for this project due to being a current vendor for the Town's surveillance cameras and is also under the State of Texas Department of Information Resources (DIR) contract number DIR-CPO-4494.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$235,670.44

Proposed Expenditure/(Revenue)

\$117,835.22

\$117,835.22

Account Number(s):

630-960-98940-6170

630-970-98940-6180

LEGAL REVIEW: N/A

ATTACHMENTS:

1. 25108-4-0-Town of Flower Mound PTP - Phase 1 Rev1

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



Proposal: 25108-4-0

Town of Flower Mound PTP - Phase 1

Prepared for:

Manny Palacios Jr.

Town of Flower Mound

,

Prepared by:

Michael Lee

214-577-4374

mlee@knightsecurity.com

501 Duncan Perry Road
Arlington, TX 76011

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 / MCA, Inc., except where required by law.

Proposal Issued:
10/5/2023

Proposal Valid To:
12/5/2023

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

DESCRIPTION

CLIENT INFORMATION

Name: Town of Flower Mound	Billing	Contact
Site	Accounts Payable, 2121 Cross	Manny Palacios Jr., Asst. Director of
,	Timbers Rd	Public Works
	Flower Mound, TX 75028	P (972) 874-6414
		E Manuel.Palacios@flower-mound.com

PROJECT INVESTMENT

Water Treatment Plant		\$74,430.84
	Equipment Subtotal	\$49,397.76
	Labor Subtotal	\$23,433.08
	Misc. Items Subtotal	\$1,600.00
	Water Treatment Plant SubTotal	\$74,430.84
Pintail Water Storage		\$69,943.38
	Equipment Subtotal	\$47,229.18
	Labor Subtotal	\$21,114.20
	Misc. Items Subtotal	\$1,600.00
	Pintail Water Storage SubTotal	\$69,943.38
Southside Life Station		\$23,401.10
	Equipment Subtotal	\$13,802.10
	Labor Subtotal	\$8,699.00
	Misc. Items Subtotal	\$900.00
	Southside Life Station SubTotal	\$23,401.10
Garden Ridge Lift Station		\$14,951.13
	Equipment Subtotal	\$9,869.97
	Labor Subtotal	\$4,181.16
	Misc. Items Subtotal	\$900.00
	Garden Ridge Lift Station SubTotal	\$14,951.13
Freight		\$3,472.22



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Misc. Items Subtotal \$3,472.22
Freight SubTotal \$3,472.22

Fire Station 6 \$9,706.57

Equipment Subtotal \$6,540.18
Labor Subtotal \$3,166.39
Fire Station 6 SubTotal \$9,706.57

Water Treatment Parking Yard \$31,803.50

Equipment Subtotal \$28,514.54
Labor Subtotal \$3,288.96
Water Treatment Parking Yard SubTotal \$31,803.50

Western Pump Station \$7,961.70

Equipment Subtotal \$6,164.66
Labor Subtotal \$1,797.04
Western Pump Station SubTotal \$7,961.70

SecurePlan

Investment Summary

Total Equipment \$161,518.39
Total Labor \$65,679.83
Total Miscellaneous Items \$8,472.22
Total Proposal Amount \$235,670.44

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 / MCA will provide the proposed system as described in this proposal for the sum of: \$235,670.44

For security purposes, the Town of Flower Mound has a copy of full proposal including details of material and camera locations.



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

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 / MCA is hereby authorized to perform the work as specified.

Knight Security Systems / MCA	Town of Flower Mound
By: _____	By: _____
Signature	Signature
ISR	
_____	_____
Title	Title
Michael Lee	
_____	_____
Print Name	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 / MCA, Inc., except where required by law.



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

TERMS & CONDITIONS

SEE PURCHASING CONTRACT

DIR-CPO-4494

FOR TERMS AND CONDITIONS.

Web Access:

<https://dir.texas.gov/contracts/dir-cpo-4494>



TOWN COUNCIL AGENDA J.7. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Paul Henley, Fire Chief
ITEM: **Consider approval of a renewal agreement with the Town of Double Oak to provide emergency medical services to the citizens of Double Oak, and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Town of Flower Mound has contracted with the Town of Double Oak to provide emergency medical service to its residents. The current agreement has been in place since 2016 at the original contracted rate. The Town of Double Oak has agreed to a new contract with a rate increase for the period of October 1, 2023, through September 30, 2024. This rate will be reviewed by both parties prior to renewal in 2024.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$(59,000.00)

Proposed Expenditure/(Revenue)
\$(59,000.00)

Account Number(s):
100-4605

LEGAL REVIEW: Ashley D. Dierker, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., reviewed the agreement as to form and legality in 2016. The new agreement is identical with the exception of dates, contracted rate, and signature parties.

ATTACHMENTS:

1. Double Oak 2023 EMS Agreement
2. Double Oak 2016 EMS Agreement

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

**EMERGENCY MEDICAL SERVICES AGREEMENT BETWEEN
THE TOWN OF FLOWER MOUND, TEXAS AND
THE TOWN OF DOUBLE OAK, TEXAS**

**THE STATE OF TEXAS §
 §
COUNTY OF DENTON §**

WHEREAS, The Town of Flower Mound, ("Flower Mound") and the Town of Double Oak, Texas ("Double Oak") have a lengthy history of mutually beneficial cooperative efforts; and

WHEREAS, pursuant to Chapter 791 of the Texas Government Code, the Texas Interlocal Cooperation Act, Flower Mound and Double Oak desire to continue these cooperative efforts whereby Flower Mound agrees to provide certain emergency medical services to the Town of Double Oak, Denton County, Texas ("Emergency Medical Services"); and

WHEREAS, Double Oak deems it necessary and desirable to enter into an agreement with Flower Mound for the provision of Emergency Medical Services; and

WHEREAS, Flower Mound and Double Oak desire to specify the terms and conditions of the agreement for Emergency Medical Services as set out herein ("Agreement"); and

NOW, THEREFORE, Flower Mound and Double Oak do hereby agree as follows:

Article I
Definitions

Section 1.01 Definitions of Terms. In addition to the definitions stated in the preamble hereof, the terms and expressions as hereafter used in this Agreement, unless the context clearly indicates otherwise, shall have the following meanings:

HIPAA means Health Insurance Portability & Accountability Act of 1996.

MICU means mobile intensive care unit as described by the Texas Department of State Health Services, Texas Health & Safety Code, Title 9 Safety, Subtitle B. Emergencies, Chapter 773 Subchapter A, Section 773.044.

First Response means the utilization of the closest emergency medical vehicle to the scene to begin administration of care.

Article II
Effective Date and Term

Section 2.01 Effective Date. This Agreement shall become effective October 1, 2023.

Page 1 of 7

Section 2.02 Term. This Agreement shall continue in force through September 30, 2024 and shall thereafter be automatically renewed for successive one year terms unless either party elects to terminate the Agreement as provided in section 5.03.

Article III **Providing of Services by Flower Mound**

Section 3.01 Services.

(a) Flower Mound will provide Emergency Medical Services to Double Oak inside all areas of the corporate boundary of Double Oak. Flower Mound will provide, manage, operate and maintain twenty-four (24) hour First Response and transport medical services on an as needed basis for Double Oak. Flower Mound will maintain all reports and medical records in accordance with all state and federal regulations related to said medical records. Flower Mound will follow all HIPAA-related policies in releasing medical information.

(b) Double Oak agrees to provide Flower Mound with a service area map that is compatible and customary in most global information systems (GIS). Double Oak further agrees to provide Flower Mound any updated or new streets that should be added to the service area map.

Section 3.02 Services Standards.

(a) Flower Mound will determine, in its sole discretion, the manner in which to perform and deliver the Emergency Medical Services. All calls shall be received at the Flower Mound Fire Department, and all alarm procedures shall be wholly under the Flower Mound Fire Department's control.

(b) Emergency Medical Services will be provided in accordance with standard operating procedures of the Flower Mound Fire Department, in conformance with Flower Mound's rules, regulations and ordinances relating to provision of such services. Flower Mound agrees that the Emergency Medical Services provided will meet or exceed all standards related to equipment and service as required by law for operations of MICU.

Article IV **Consideration**

Section 4.01 Payments & Special Considerations.

(a) Double Oak agrees to tender to Flower Mound the annual sum of fifty-nine thousand dollars and no cents (\$59,000) for the term of this Agreement. The first payment will be made on the execution of this Agreement and shall be twenty-nine thousand five hundred dollars (\$29,500.00), which is 50% of the total amount owed to Flower Mound. The second payment of twenty-nine thousand five hundred dollars (\$29,500.00) will be made to Flower Mound by March 1st, 2024. Hereafter, for each successive term of the Agreement, the first 50% payment shall be made by October 1 and the second 50% payment shall be made by March 1 of the following year.

Notwithstanding anything to the contrary herein, Flower Mound shall be entitled to examine the cost of providing the services as agreed to herein and in its sole discretion, shall be entitled to increase the amount due as appropriate, provided that Double Oak shall be provided notice of any such increase at least ninety (90) days before the October 1st payment is due.

(b) Flower Mound agrees to bill the citizens of Double Oak using its normal procedures through Flower Mound's contracted billing company and the citizens of Double Oak shall be offered the same rates and relief as Flower Mound citizens in accordance with the Town's Code of Ordinances whereby the amount charged for expenses and services related to EMS transports will be billed to the appropriate insurance company and any remaining balance will be written off by the Town of Flower Mound.

Article V

General Provisions

Section 5.01 Insurance. The Fire Department will carry insurance for such purpose and in such amounts as are determined by the Fire Department to be necessary or advisable.

Section 5.02 Regulatory Bodies. Both parties shall comply with all Federal, State, and Flower Mound statutes, ordinances, and regulations applicable to the performance of the services under this Agreement.

Section 5.03 Termination. Either party may terminate this Agreement by giving ninety (90) days written notice of termination to the other party.

This Agreement shall terminate in the event that the governing body of either party shall fail to appropriate sufficient funds to satisfy any obligation of that party hereunder. Termination shall be effective as of the last day of the fiscal period for which sufficient funds were appropriated or upon expenditure of all appropriated funds, whichever comes first. Termination pursuant to this non-appropriation clause shall be without further penalty or expense to either party.

Section 5.04 Personnel. All persons employed by Flower Mound Fire Department that provide Emergency Medical Services under this Agreement will, at the time of such performance, be considered employees of Flower Mound for purposes of personnel and employee benefits, including any claims for workers' compensation or retirement benefits.

Section 5.05 Independent Contractor. Each Party shall operate under this Agreement as an independent contractor, and not as an agent, representative, servant, or employee of the other Party. Subject to the terms of this Agreement, each Party shall have the right to control the details of its performance hereunder.

Section 5.06 Non-Waiver of Immunities and Defenses. It is expressly understood and agreed that, in the execution of this Agreement, neither Party waives, nor shall be deemed hereby to

waive, any immunity or defense that would otherwise be available to it against third-party claims arising in the exercise of governmental powers and functions.

Section 5.07 Notices. Unless otherwise provided herein, all notices required or permitted by this Agreement shall be made to the following addresses:

Town of Flower Mound
Attn: James Childers, Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

With a copy to:

Taylor, Olson, Adkins, Sralla, & Elam, LLP
Attn: Bryn Meredith, Town Attorney
6000 Western Place, Ste. 200
Fort Worth, Texas 76107

Town of Double Oak
Attn: Eileen Kennedy, Town Secretary
320 Waketon Road
Double Oak, Texas 75077

With a copy to:

Nichols, Jackson, Dillard, Hager & Smith, LLP
Attn: David M. Berman
1800 Ross Tower
500 N. Akard Street
Dallas, Texas 75201

Section 5.08 Payments.

(a) Any and all payments arising under this Agreement for the performance of governmental functions or services must be made from current revenues available to the paying party.

(b) All payments provided to be made hereunder by one party to the other shall be such amounts as to fairly compensate the other party for the services or functions performed hereunder.

Section 5.09 No Assignment. This Agreement is not assignable by either party and any attempt to assign it is void.

Section 5.10 Amendment. This Agreement may be amended at any time by mutual consent of the parties. Any such amendment shall be in writing, attached hereto, and filed with the Town Secretaries or other appropriate official of the parties.

Section 5.11 Entirety. This writing with its attachments and with any amendments, per the foregoing paragraph, constitutes the entire Agreement between Flower Mound and Double Oak, and no oral or written Agreement exists elsewhere to modify same.

Section 5.12 Severability. The provisions of this Agreement are severable. Should any portion of it be adjudged invalid by a court of competent jurisdiction, the remainder of its provisions are to be given full force and effect as if the offending portion did not exist.

Section 5.13 No Third-Party Beneficiaries. The provisions and conditions of this Agreement are solely for the benefit of Flower Mound and Double Oak, and any lawful successor or assign, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

Section 5.14 Force Majeure. It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; fires; strikes; lock-outs, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

Section 5.15 Entire Agreement. This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

Section 5.16 Waiver. No waiver of performance by either party shall be construed as or operate as a waiver of any subsequent default or breach of any term, covenant, or condition of this Agreement. The payment or acceptance of fees for any period after a default or breach shall not be deemed a waiver of any right or acceptance of defective performance.

Section 5.17 Governing Law And Venue. This Agreement is performable in Denton County, Texas. If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Denton

County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

Section 5.18 Construction. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

Section 5.19 Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

Section 5.20 Authority. Each party represents and warrants that the undersigned officer or agent of the party has been properly authorized by that party's governing body to execute this Agreement and that any necessary resolutions extending such authority have been duly passed and are now in effect.

Article VI **Liability**

Section 6.01 Liability. Pursuant to Texas Government Code section 791.006(a), the parties to this inter-local Agreement hereby assign liability for any civil liability that arises from the furnishing of services under this Agreement as follows:

To the extent that immunity from suit is waived by the Texas Tort Claims Act, the governmental unit that would have been responsible for furnishing the services in the absence of this Agreement is responsible for any civil liability that arises from the furnishing of those services. However, each party shall be solely responsible for any and all benefits applicable to its own employees, including but not limited to wage, salary, pension, worker's compensation, disability, and medical expenses.

The assignment of liability provided by this Agreement is intended to be the same as the liability assigned under Texas Government Code section 791.006(a) which provides that the governmental unit that would have been responsible for furnishing the services in the absence of the Agreement is responsible for any civil liability that arises from the furnishing of those services.

Double Oak agrees to waive rights of subrogation against Flower Mound, its agents, servants, successors, officers and employees, for any loss or damages to persons or property or claims or causes of action resulting from or caused by the rendering of services under the terms of this Agreement.

Executed this ____ day of _____, 2023.

THE TOWN OF FLOWER MOUND, TEXAS:

By: _____
Name: Derek France
Mayor, Town of Flower Mound

STATE OF TEXAS §
 §
COUNTY OF DENTON §

This instrument was acknowledged before me on this the ____ day of _____, 2023 by Derek France, Mayor of the Town of Flower Mound, Texas, on behalf of the Town of Flower Mound, Texas.

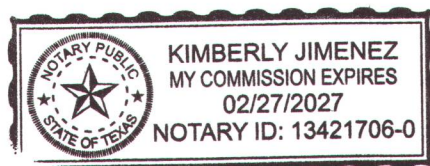
Notary Public, State of Texas

THE TOWN OF DOUBLE OAK, TEXAS:

By: _____
Name: Patrick Johnson
Mayor, Town of Double Oak

STATE OF TEXAS §
 §
COUNTY OF DENTON §

This instrument was acknowledged before me on this the 28th day of September, 2023 by Patrick Johnson, Mayor of the Town of Double Oak, Texas, on behalf of the Town of Double Oak, Texas.



Notary Public, State of Texas

**EMERGENCY MEDICAL SERVICES AGREEMENT BETWEEN
THE TOWN OF FLOWER MOUND, TEXAS AND
THE TOWN OF DOUBLE OAK, TEXAS**

**THE STATE OF TEXAS §
 §
COUNTY OF DENTON §**

WHEREAS, The Town of Flower Mound, ("Flower Mound") and the Town of Double Oak, Texas ("Double Oak") have a lengthy history of mutually beneficial cooperative efforts; and

WHEREAS, pursuant to Chapter 791 of the Texas Government Code, the Texas Interlocal Cooperation Act, Flower Mound and Double Oak desire to continue these cooperative efforts whereby Flower Mound agrees to provide certain emergency medical services to the Town of Double Oak, Denton County, Texas ("Emergency Medical Services"); and

WHEREAS, Double Oak deems it necessary and desirable to enter into an agreement with Flower Mound for the provision of Emergency Medical Services; and

WHEREAS, Flower Mound and Double Oak desire to specify the terms and conditions of the agreement for Emergency Medical Services as set out herein ("Agreement"); and

NOW, THEREFORE, Flower Mound and Double Oak do hereby agree as follows:

**Article I
Definitions**

Section 1.01 Definitions of Terms. In addition to the definitions stated in the preamble hereof, the terms and expressions as hereafter used in this Agreement, unless the context clearly indicates otherwise, shall have the following meanings:

HIPAA means Health Insurance Portability & Accountability Act of 1996.

MICU means mobile intensive care unit as described by the Texas Department of State Health Services, Texas Health & Safety Code, Title 9 Safety, Subtitle B. Emergencies, Chapter 773 Subchapter A, Section 773.044.

First Response means the utilization of the closest emergency medical vehicle to the scene to begin administration of care.

**Article II
Effective Date and Term**

Section 2.01 Effective Date. This Agreement shall become effective October 1, 2016.

Section 2.02 Term. This Agreement shall continue in force through September 30, 2017 and shall thereafter be automatically renewed for successive one year terms unless either party elects to terminate the Agreement as provided in section 5.03.

Article III
Providing of Services by Flower Mound

Section 3.01 Services.

(a) Flower Mound will provide Emergency Medical Services to Double Oak inside all areas of the corporate boundary of Double Oak. Flower Mound will provide, manage, operate and maintain twenty-four (24) hour First Response and transport medical services on an as needed basis for Double Oak. Flower Mound will maintain all reports and medical records in accordance with all state and federal regulations related to said medical records. Flower Mound will follow all HIPAA-related policies in releasing medical information.

(b) Double Oak agrees to provide Flower Mound with a service area map that is compatible and customary in most global information systems (GIS). Double Oak further agrees to provide Flower Mound any updated or new streets that should be added to the service area map.

Section 3.02 Services Standards.

(a) Flower Mound will determine, in its sole discretion, the manner in which to perform and deliver the Emergency Medical Services. All calls shall be received at the Flower Mound Fire Department, and all alarm procedures shall be wholly under the Flower Mound Fire Department's control.

(b) Emergency Medical Services will be provided in accordance with standard operating procedures of the Flower Mound Fire Department, in conformance with Flower Mound's rules, regulations and ordinances relating to provision of such services. Flower Mound agrees that the Emergency Medical Services provided will meet or exceed all standards related to equipment and service as required by law for operations of MICU.

Article IV
Consideration

Section 4.01 Payments & Special Considerations.

(a) Double Oak agrees to tender to Flower Mound the annual sum of twenty nine thousand and seventy five dollars and no cents (\$29,075.00) for the term of this Agreement. The first payment will be made on the execution of this Agreement and shall be fourteen thousand five hundred and thirty seven dollars and fifty cents (\$14,537.50), which is 50% of the total amount owed to Flower Mound. The second payment of fourteen thousand five hundred and thirty seven dollars and fifty cents (\$14,537.50) will be made to Flower Mound by March 1st, 2017. Hereafter, for each successive term of the Agreement, the first 50% payment shall be made by

October 1 and the second 50% payment shall be made by March 1 of the following year. Notwithstanding anything to the contrary herein, Flower Mound shall be entitled to examine the cost of providing the services as agreed to herein and in its sole discretion, shall be entitled to increase the amount due as appropriate, provided that Double Oak shall be provided notice of any such increase at least ninety (90) days before the October 1st payment is due.

(b) Flower Mound agrees to bill the citizens of Double Oak using its normal procedures through Flower Mound's contracted billing company and the citizens of Double Oak shall be offered the same rates and relief as Flower Mound citizens in accordance with the Town's Code of Ordinances whereby the amount charged for expenses and services related to EMS transports will be billed to the appropriate insurance company and any remaining balance will be written off by the Town of Flower Mound.

Article V

General Provisions

Section 5.01 Insurance. The Fire Department will carry insurance for such purpose and in such amounts as are determined by the Fire Department to be necessary or advisable.

Section 5.02 Regulatory Bodies. Both parties shall comply with all Federal, State, and Flower Mound statutes, ordinances, and regulations applicable to the performance of the services under this Agreement.

Section 5.03 Termination. Either party may terminate this Agreement by giving ninety (90) days written notice of termination to the other party.

This Agreement shall terminate in the event that the governing body of either party shall fail to appropriate sufficient funds to satisfy any obligation of that party hereunder. Termination shall be effective as of the last day of the fiscal period for which sufficient funds were appropriated or upon expenditure of all appropriated funds, whichever comes first. Termination pursuant to this non-appropriation clause shall be without further penalty or expense to either party.

Section 5.04 Personnel. All persons employed by Flower Mound Fire Department that provide Emergency Medical Services under this Agreement will, at the time of such performance, be considered employees of Flower Mound for purposes of personnel and employee benefits, including any claims for workers' compensation or retirement benefits.

Section 5.05 Independent Contractor. Each Party shall operate under this Agreement as an independent contractor, and not as an agent, representative, servant, or employee of the other Party. Subject to the terms of this Agreement, each Party shall have the right to control the details of its performance hereunder.

Section 5.06 Non-Waiver of Immunities and Defenses. It is expressly understood and agreed that, in the execution of this Agreement, neither Party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against third-party claims arising in the exercise of governmental powers and functions.

Section 5.07 Notices. Unless otherwise provided herein, all notices required or permitted by this Agreement shall be made to the following addresses:

Town of Flower Mound
Attn: Jimmy Stathatos, Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

With a copy to:

Taylor, Olson, Adkins, Sralla, & Elam, LLP
Attn: Bryn Meredith, Town Attorney
6000 Western Place, Ste. 200
Fort Worth, Texas 76107

Town of Double Oak
Attn: Charlotte Allen, Town Secretary
320 Waketon Road
Double Oak, Texas 75077

With a copy to:

Nichols, Jackson, Dillard, Hager & Smith, LLP
Attn: David M. Berman
1800 Ross Tower
500 N. Akard Street
Dallas, Texas 75201

Section 5.08 Payments.

(a) Any and all payments arising under this Agreement for the performance of governmental functions or services must be made from current revenues available to the paying party.

(b) All payments provided to be made hereunder by one party to the other shall be such amounts as to fairly compensate the other party for the services or functions performed hereunder.

Section 5.09 No Assignment. This Agreement is not assignable by either party and any attempt to assign it is void.

Section 5.10 Amendment. This Agreement may be amended at any time by mutual consent of the parties. Any such amendment shall be in writing, attached hereto, and filed with the Town Secretaries or other appropriate official of the parties.

Section 5.11 Entirety. This writing with its attachments and with any amendments, per the foregoing paragraph, constitutes the entire Agreement between Flower Mound and Double Oak, and no oral or written Agreement exists elsewhere to modify same.

Section 5.12 Severability. The provisions of this Agreement are severable. Should any portion of it be adjudged invalid by a court of competent jurisdiction, the remainder of its provisions are to be given full force and effect as if the offending portion did not exist.

Section 5.13 No Third-Party Beneficiaries. The provisions and conditions of this Agreement are solely for the benefit of Flower Mound and Double Oak, and any lawful successor or assign, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

Section 5.14 Force Majeure. It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; fires; strikes; lock-outs, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

Section 5.15 Entire Agreement. This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

Section 5.16 Waiver. No waiver of performance by either party shall be construed as or operate as a waiver of any subsequent default or breach of any term, covenant, or condition of this Agreement. The payment or acceptance of fees for any period after a default or breach shall not be deemed a waiver of any right or acceptance of defective performance.

Section 5.17 Governing Law And Venue. This Agreement is performable in Denton County, Texas. If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Denton County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

Section 5.18 Construction. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

Section 5.19 Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

Section 5.20 Authority. Each party represents and warrants that the undersigned officer or agent of the party has been properly authorized by that party's governing body to execute this Agreement and that any necessary resolutions extending such authority have been duly passed and are now in effect.

Article VI

Liability

Section 6.01 Liability. Pursuant to Texas Government Code section 791.006(a), the parties to this inter-local Agreement hereby assign liability for any civil liability that arises from the furnishing of services under this Agreement as follows:

To the extent that immunity from suit is waived by the Texas Tort Claims Act, the governmental unit that would have been responsible for furnishing the services in the absence of this Agreement is responsible for any civil liability that arises from the furnishing of those services. However, each party shall be solely responsible for any and all benefits applicable to its own employees, including but not limited to wage, salary, pension, worker's compensation, disability, and medical expenses.

The assignment of liability provided by this Agreement is intended to be the same as the liability assigned under Texas Government Code section 791.006(a) which provides that the governmental unit that would have been responsible for furnishing the services in the absence of the Agreement is responsible for any civil liability that arises from the furnishing of those services.

Double Oak agrees to waive rights of subrogation against Flower Mound, its agents, servants, successors, officers and employees, for any loss or damages to persons or property or claims or causes of action resulting from or caused by the rendering of services under the terms of this Agreement.

Executed this 22 day of SEPTEMBER, 2016.

THE TOWN OF FLOWER MOUND, TEXAS:

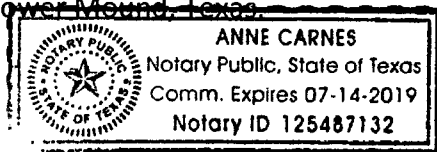
By: [Signature]
Name: Thomas E. Hayden KEVIN BRYANT
Mayor, Town of Flower Mound
PRO TEM

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on this the 22 day of SEPTEMBER, 2016 by Thomas E. Hayden, Mayor of the Town of Flower Mound, Texas, on behalf of the Town of Flower Mound, Texas.



[Signature]
Notary Public, State of Texas

THE TOWN OF DOUBLE OAK, TEXAS:

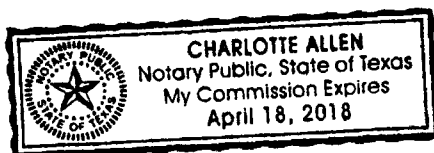
By: [Signature]
Name: Mike Donnelly
Mayor, Town of Double Oak

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on this the 10th day of October, 2016 by Mike Donnelly, Mayor of the Town of Double Oak, Texas, on behalf of the Town of Double Oak, Texas.



[Signature]
Notary Public, State of Texas



TOWN COUNCIL AGENDA J.8. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Chuck Jennings, Director of Parks and Recreation
ITEM: **Consider approval of a Service Contract with The Christmas Light Company, Inc., in an annual amount not-to-exceed \$69,900, to provide holiday lighting services at the Town Hall and Community Activity Center; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: Since the loss of the Pecan tree at the Community Activity Center (CAC), the Town has annually contracted with a company to provide a 50-foot lighted artificial Christmas tree, an eight-foot lighted wreath, and build roof line LED lights for the holiday season. The vendor also provides a decorative 20ft artificial tree inside of Town Hall and lights the roof line with LED lights. The proposed contract is a lease option and is good for one year with (4) four, one-year renewable options. The contract includes the items previously mentioned plus set-up, storage, take down, and the vendor assumes all risk and liability. The Town Council originally approved annual funding for the holiday decorations during the FY 20-21 budget process.

At the CAC, the 50-foot commercial grade branched tree will have 101,000 LED mini-lights, 600 six and eight-inch acrylic ball ornaments, and a five foot "3-D Starburst" tree topper. The eight-foot wreath will come with 3,500 LED mini-lights and a three-foot red bow with gold trim. The Town Hall tree will resemble a Rocky Mountain Pine tree and will include 9,000 LED mini-lights of various colors, a 3 foot, 3-D Starburst tree topper, 300 ornaments ranging from 4 to 8 inches, and floral spray.

The Christmas Light Company has been in business for over 25 years and provides quality commercial lighting for many retail developments, municipalities, HOA's, public thoroughfares, and downtown areas. The Christmas Light Company has provided the holiday lighting decorations for the Town the past three years.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$69,900 annually

Proposed Expenditure/(Revenue)

\$55,100

\$14,800

Account Number(s):

100-630-34200-5110

100-655-59200-5110

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

ATTACHMENTS:

1. Contract No. 2024-4-A - Holiday Lighting Services
2. Quote_The Christmas Light Company

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

**TOWN OF FLOWER MOUND
STANDARD TERMS & CONDITIONS FOR SERVICES/PRODUCTS**

This Contract is made by the Town of Flower Mound, Texas, a Municipal Corporation (“Town”) and The Christmas Light Company, LLC (“Contractor”). The Town and Contractor agree:

1. **EMPLOYMENT OF THE CONTRACTOR.** The Town agrees to retain the Contractor, and the Contractor agrees to provide services relative to: Holiday Lighting Services at the Community Activity Center (CAC) & Town Hall (hereinafter referred to as “Services”) in connection with the terms and conditions as set forth in the Contract Documents, attached hereto and incorporated by reference.

2. **SCOPE OF SERVICES.** The Services to be performed are specified in the solicitation. Deviations from the scope of work may be authorized from time to time by the Town in writing.

3. **SCHEDULE OF WORK.** The Contractor agrees to begin work upon receipt of written authorization from the Town. Time is of the essence for this Contract and work is to commence immediately.

4. **CONTRACT PERIOD.** The initial contract period will be one year, with four (4) optional one-year renewal periods from date of award of contract. All pricing is to remain firm during the contract period. This agreement may be terminated by either party with written notice at least ninety (90) days prior to the current term renewal date, indicating their intent not to renew.

5. **COMPENSATION.** Contractor’s total compensation for products or services to be performed and expenses to be incurred is specified in the Contractor’s Pricing Sheet or Criteria.

6. **PAYMENTS.** Payments will be processed monthly with payment available within 30 days after receipt of the invoice for the previous month’s service.

7. **PRICING ESCALATION:** Unless otherwise stated in the specification herein, prices must remain firm for the initial term of the contract. The contracted vendor may request an adjustment at the time of contract renewal by submitting a request in written form to the Purchasing Manager. Basis for price escalation should be based on the consumer price index for the most recent twelve-month period reported for the Dallas-Fort Worth area. The contracted vendor shall provide the Town with copies of the appropriate indices for verification purposes. The Town of Flower Mound reserves the right to approve or reject all request for price escalations.

8. **PRICE REDUCTION:** If during the life of the contract, the contracted vendor's net prices to other customers for the same goods or services or lower than the Town of Flower Mound's contracted prices, an equitable adjustment shall be made in the contract price in favor of the Town.

9. **INVOICING.** Invoices should be prepared and submitted to the Town for payment in accordance with the Contract Documents. Invoices should be mailed to Accounts Payable, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028 or accountspayable@flower-mound.com.

10. **RIGHTS OF WITHHOLDING.** The Town may withhold any payment or partial payment otherwise due the Contractor on account of unsatisfactory performance by the Contractor. The amount to be withheld will be calculated based on the work not performed and the impact to the Town. Any payment or partial payment that may be withheld for unsatisfactory performance can be used to remedy the lack of performance and will not be paid to the Contractor.

11. **INFORMATION PROVIDED BY THE TOWN.** Although every effort has been or will be made to furnish accurate information, the Town does not guarantee the accuracy of information it furnishes to Contractor.

12. **TRANSFER OF INTEREST.** Neither Town nor Contractor may assign or transfer their interests in the Contract without the written consent of the other party. Such consent shall not be unreasonably withheld. This Contract is binding on Town, Contractor, and their successors and assigns. Nothing herein is to be construed as creating a personal liability on the part of any Town officer, employee, or agent.

13. **AUDITS AND RECORDS.** At any time during normal business hours and as often as the Town may deem necessary, the Contractor shall make available to the Town for examination all its records with respect to all matters covered by the Contract and will permit the Town to audit, examine, and make copies, excerpts, or transcripts from such records. The Town may also audit all contracts, invoices, payroll records of personnel, conditions of employment and other data relating to the Contract.

14. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such actions shall include, but not be limited to the following: employment, promotions, demotion, transfers, recruitment or recruitment advertising, layoffs, terminations, selection for training (including apprenticeships), and participation in recreational activities.

a. The Contractor agrees to post in conspicuous places, accessible to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

b. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Contract so that such provisions will be binding upon each subcontractor, except that the foregoing provisions shall not apply to contracts or subcontracts for customary office supplies.

c. The Contractor shall keep records and submit reports concerning the racial and ethnic origin(s) of applicants for employment and employees as the law may require.

15. TERMINATION OF CONTRACT. Town may terminate this contract upon ninety (90) days written notice to Contractor, except in the event (i) Contractor is in breach of this Contract or (ii) Contractor fails to comply with the terms of TBD. If either of the foregoing conditions exists, Town shall notify Contractor and Contractor shall be given two (2) days to cure such breach. Should Contractor fail to cure to the satisfaction of the Town, Town may terminate this Contract upon written notice.

a. Furthermore, the Town retains the right to terminate this Contract at the expiration of each Town budget period (September 30) during the term of this Contract, even without prior notice as described in the preceding sentence.

b. In the event of any termination hereunder, the Contractor consents to Town's selection of another Contractor to assist the Town in any way in completing the Services. Contractor further agrees to cooperate and provide any information requested by Town in connection with the completion of the Services.

c. Contractor shall be compensated for Services performed and expenses incurred for satisfactory work up to the termination date in that Contractor shall receive a portion of fees and expenses permitted under this Contract in direct proportion to percentage of work completed up to the termination date. This provision shall not deprive the Town of any remedies against Contractor that may be available under applicable law.

16. CONTRACTOR'S REPRESENTATIONS. Contractor hereby represents to Town that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel, and working capital to complete the Services required.

17. TOWN APPROVAL FOR ADDITIONAL WORK. No payment, of any nature whatsoever, will be made to Contractor for additional work without the Town's written approval before such work begins.

a. PERFORMANCE BY CONTRACTOR. All Services provided by the Contractor hereunder shall be performed in accordance with the highest professional standards and in accordance with the Contract Documents, and Contractor shall be responsible for all Services provided hereunder whether such services are provided directly by contractor or by any contractors hired by Contractor. The Contractor shall perform all duties and Services and make all decisions called for hereunder promptly and without unreasonable delay. Contractor shall not utilize subcontractors to perform Services without the Town's prior written consent.

18. DAMAGE. In all instances where Town property and/or equipment is damaged by the Contractor's employees, a full report of the facts, extent of the damage and estimated impact on the Contractor's schedule shall be submitted to the Town's Public Works Division by 8 a.m. of the following Town business day after the incident. If damage may result in further damages to the Town or loss of Town property, the Contractor must notify Police Dispatch immediately. The Contractor shall be fully liable for all damage to Town property or equipment caused by the Contractor's officers, employees, or agents.

19. TOWN OBJECTION TO PERSONNEL. If at any time after entering this Contract, Town has any reasonable objection to any of Contractor's personnel, or any personnel retained by Contractor, then Contractor shall promptly propose substitutes to whom the Town has no reasonable objection, and the Contractor's compensation shall be equitably adjusted to reflect any difference in the Contractor's costs occasioned by such substitution.

20. COMPLIANCE WITH LAWS. The Contractor warrants and covenants to the Town that all Services will be performed in compliance with all applicable federal, state, county and Town laws, rules, and regulations including, but not limited to, the Texas Industrial Safety and Health Act and the Workers Right-to-Know Law. All necessary precautions shall be taken to assure that safety regulations prescribed by OSHA and the Town's Representative are followed.

21. ENTIRE CONTRACT. This instrument together with the Contract Documents of which this Contract is a part contains the entire Contract between the Town and Contractor concerning the Services. There will be no understandings or contracts other than those incorporated herein. The Contract may not be modified except by an instrument in writing signed by the parties hereto. In the event of a conflict between an attachment to this Contract and this Contract, this Contract shall control.

22. **ADVERTISING:** Contractor shall not advertise or publish, without Town's prior consent, the fact that Town has entered this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.

23. COOPERATIVE GOVERNMENTAL PURCHASING NOTICE (INTERLOCAL)

Other governmental entities maintaining interlocal agreements or may enter into an interlocal agreement with the Town, may desire, but not obligated, to purchase goods and services defined in this RFB from the successful Bidder. All purchases by governmental entities, other than the Town, will be billed directly to and paid by that governmental entity. The Town will not be responsible for another governmental entity's debts. Each governmental entity will place their own orders with the successful Bidder and be responsible for ensuring full compliance with the RFB specifications. Prior to other governmental entities placing order, the Town will notify the successful Bidder of their intent.

Please indicate below if you will permit other governmental entities to purchase from your agreement with the Town.

_____ **Yes, Others can purchase**

_____ **No, only the Town can purchase**

24. **IMMIGRATION REFORM AND CONTROL ACT (8 U.S.C 1324a):** The Town supports the Immigration Reform and Control Act (IRCA), which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Seller and its subcontractors shall always during the term of the contract with the Town comply with the requirement of IRCA and shall notify the Town within fifteen (15) working days of receiving notice of a violation of IRCA. The Seller also warrants that it has not had an IRCA violation within the last five (5) years. The Town may terminate a contract with the Seller if the Town determines that (a) the Seller or its subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years or (b) the Seller or its subcontractors fail to timely notify the Town of an IRCA violation.

25. **NO BOYCOTT OF ISRAEL:** Pursuant to Texas Government Code Chapter 2270, the Seller agrees that acceptance of these Terms & Conditions serves as written verification that

- 1) Seller does not boycott Israel, as defined by Texas Government Code Section 808.001 and
- 2) Seller will not boycott Israel during the term of the contract.

26. COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION: Pursuant to Texas Government Code Chapter 2252, Subchapter F. Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

27. MAILING ADDRESSES. All notices and communications concerning this Contract to be mailed or delivered to the Town shall be sent to the address of the Town as follow, unless and until the Contractor is otherwise notified:

Sabrina Zadow Purchasing Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

All notices and communications under this Contract to be mailed or delivered to the Contractor shall be sent to the address listed below until the Town is otherwise notified:

Name: Bill Rathburn
Title: President
Company: The Christmas Light Company
Address: 8019 Military Parkway
City, State, Zip: Dallas, TX 75227

ADDITIONAL VERIFICATIONS

To the extent required by Texas law, Seller verifies that: (1) It does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the Agreement discriminate against a firearm entity or firearm trade association; and (2) It does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2274.001, and it will not boycott energy companies during the term of the Agreement.

Any notices and communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date in the notice or communication is placed in the United States Mail or hand delivered.

28. LEGAL CONSTRUCTION. If any one or more of the provisions contained in the Contract for any reason is held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been included.

29. **GOVERNING LAW.** The validity of this Contract and of any of its terms or provisions as well as the rights and duties hereunder, shall be governed by and construed in accordance with Texas law. Venue for this Contract shall be in Denton County, Texas.

30. **COUNTERPARTS.** The Contract may be signed in counterparts, each of which shall be deemed to be an original.

31. **EFFECTIVE DATE.** This contract shall be effective once it is signed by the Town and Contractor.

AGREED TO BY: APEX CONCRETE CONSTRUCTION, INC

Signature _____
Name – Title

Date: _____

AGREED TO BY: TOWN OF FLOWER MOUND, TEXAS

Signature _____
Honorable Mayor Derek France

Date: _____



Phone: (214) 515-XMAS (9627)
Fax: (214) 275-4213

8019 Military Parkway
Dallas, Texas 75227

2023 Holiday Lighting

For

The Town of Flower Mound

Bid Includes: Installation, Service, Removal and Equipment Rental
(9/20/23)

Section C – Proposed Holiday Lighting Display Package

OUTDOOR CHRISTMAS TREE AT CAC

I. (1) 50 Foot “Rocky Mountain Pine” Christmas Tree \$49,000 (50 FOOT BRANCH TREE plus 5 FOOT STAR)

*** Securely Installed, Serviced & Removed**

TREE:

- a. (1) 50 Foot Commercial “Rocky Mountain Pine” Branch Tree
 - 1. **(101,000) LED Mini Lights**

TREE TOPPER:

- b. (1) 5 Foot LED “3-D STARBURST” Tree Topper
 - 1. **(185) LED C7 Bulbs**

ORNAMENTS:

- c. (600) 6 INCH Acrylic Ball Ornaments (standard colors available, TBD)
- d. (600) 8 INCH Acrylic Ball Ornaments (standard colors available, TBD)
 - 1. **“Platinum Acrylic Ornament Package”**



Phone: (214) 515-XMAS (9627)
Fax: (214) 275-4213

8019 Military Parkway
Dallas, Texas 75227

CAC BUILDING DECORATIONS

II. (1) 8 FOOT "Platinum Fir" Commercial Wreath \$1000

WREATH:

- a. (1) 8 Foot Commercial "STEEL-FRAMED" Wreath
 - 1. 3500 LED Mini Lights

BOW:

- a. (1) 3 Foot RED "Commercial" RED Bow w/ Gold Trim

III. BUILDING ROOFLINES \$5100

- a. All C9 Bulbs, C9 Line, Clips, Etc.
(Light (2) Levels along the Front & Peaks & Side Where Tree is Located)
 - 1. C9 LED Lights, Bulbs, Clips, Etc.



Phone: (214) 515-XMAS (9627)
Fax: (214) 275-4213

8019 Military Parkway
Dallas, Texas 75227

TOWN HALL BUILDING DECORATIONS

IV. (1) 20 Foot "Majestic" Christmas Tree \$10,300 (20 FOOT BRANCH TREE plus 3 FOOT STAR)

*** Securely Installed, Serviced & Removed**

TREE:

- a. (1) 20 Foot Commercial "Rocky Mountain Pine" Branch Tree
 1. **(9000) LED Mini Lights**
 2. LED Colors Available: Blue, White, Green, Red (or combination)

TREE TOPPER:

- b. (1) 3 Foot LED "3-D STARBURST" Tree Topper
 1. **(105) LED C7 Bulbs**

Note: Alternative Tree Topper Choices Available – (i.e. "same star as last year")

ORNAMENTS:

- a. (100) 4 INCH Acrylic Ball Ornaments (standard colors available; TBD)
- b. (100) 6 INCH Acrylic Ball Ornaments (standard colors available; TBD)
- c. (100) 8 INCH Acrylic Ball Ornaments (standard colors available; TBD)
 1. "Platinum Acrylic Ornament Package"
 2. Matte & Glitter Finish
 3. Ornaments Colors Include: Gold, Silver, Olive Green, Champagne, antique Gold, Celadon(Lime Green) & Black
- d. (Misc.) Floral Sprays

V. Outline Town Hall Rooflines

4500

- a. All C9 Bulbs, C9 Line, Clips, Etc.
(Light along Entire Roofline Perimeter)
 1. C9 LED Lights, Bulbs, Clips, Etc.



Phone: (214) 515-XMAS (9627)
Fax: (214) 275-4213

8019 Military Parkway
Dallas, Texas 75227

GRAND TOTAL (YEAR ONE):	\$69,900.00
GRAND TOTAL (Subsequent Years):	\$69,900.00

TOTAL COST BY LOCATION

CAC:

CAC TREE:

- VI.** (1) 50 Foot "Rocky Mountain Pine" Christmas Tree \$49,000
(50 FOOT BRANCH TREE plus 5 FOOT STAR)

CAC BUILDING DECORATIONS

- VII.** (1) 8 FOOT "Platinum Fir" Commercial Wreath \$1000
VIII. BUILDING ROOFLINES \$5100
CAC "Yearly" TOTAL COST: \$55,100.00

TOWN HALL:

TOWN HALL BUILDING DECORATIONS

- IX.** (1) 20 Foot "Majestic" Christmas Tree \$10,300
(20 FOOT BRANCH TREE plus 3 FOOT STAR)
X. Outline Town Hall Rooflines \$4500
TOWN HALL "Yearly" TOTAL COST: \$14,800.00



TOWN COUNCIL AGENDA J.9. CONSENT ITEM(S)

DATE: October 16, 2023
FROM: Ray Watson, Director of Economic Development
ITEM: **Consider approval of a Professional Services Agreement with TIP Strategies, Inc. for an Economic Development Strategic Plan in Flower Mound, in an amount not to exceed \$160,000; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: This item is to approve a professional service agreement with TIP Strategies, Inc. for the creation of a economic development strategic plan in Flower Mound. This agreement will give the town a strategic plan that will examine the policies, relationships, and organizational priorities that will influence the planning process and prepare a targeted assessment of factors that define the area's overall competitiveness. The overall plan will be tailored to meet project objectives, including tax base enhancement, compatible development opportunities, and quality of place preservation. This study will serve to identify both strengths and weaknesses that affect the Town's ability to attract the type of projects necessary for a successful future.

This strategic plan will be utilized to not only determine where we are, but also to look at potential new opportunities and what we are best suited for. Although this project will concentrate mostly on commercial development, it will take into consideration housing and quality of life issues that make Flower Mound a place for development. The plan will look at the entire community and both existing and new opportunities will be reviewed.

TIP Strategies, Inc will conduct their work with input from both the Town council/staff and stakeholders within the community. They will be compensated through the Economic Development funds at a fee of \$150,000 with an additional not to exceed \$10,000 in pre-approved expenses. Expenses for the strategic plan were approved in this current budget. This professional service agreement is a one-time expense. Approving this item appropriates funds from the current FY.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$160,000.00

Proposed Expenditure/(Revenue)
\$160000

Account Number(s):
100-600-57000-5110

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

ATTACHMENTS:

1. 2023-10-10 TIP_Flower Mound Contract DRAFT FINAL RW

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

CONSULTING AGREEMENT

This Consulting Agreement (the "Agreement") is entered into as of the last date shown below by and between TIP Strategies, Inc. ("Consultant"), and the Town of Flower Mound ("Client").

WHEREAS, the Client desires to retain Consultant to produce an economic development strategic plan.

WHEREAS, the Consultant agrees to provide certain consulting services to the Client to assist with such endeavors.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which are hereby acknowledged, the parties agree to the following:

Consultant agrees to provide the services set forth in the Scope of Work attached hereto as Exhibit A. The estimated time frame for completion of the work as outlined in Exhibit A is six (6) months from the signature date of this agreement. The contract shall remain effective for a period which may reasonably be required for the completion of the project, acceptance by an authorized representative of the Client, exhaustion of authorized funds, or termination as provided in this Agreement, whichever occurs first.

1. Client agrees to pay the sum of \$150,000.00 for the services as outlined in Exhibit A. The sum of \$30,000.00 (20% of project cost) shall be due upon execution of this Agreement. Thereafter, the balance of the fee shall be payable in six [6] monthly installments of \$20,000.00 each. The final installment shall not be due until Consultant has delivered the final report. Client also agrees to reimburse Consultant for approved travel and out-of-pocket expenses, billed at cost, not to exceed \$10,000.00. Consultant will submit invoices for all fees and expenses at the end of the month incurred. All travel and out-of-pocket expenses will not exceed the actual costs of \$10,000.00 incurred during this assignment. Per FAR 31.205-46, Consultant shall be authorized to bill travel expenses consistent with the substantive provisions of the Federal Travel Regulations (FTR). It will be billed at actual costs to the Client throughout the engagement. All additional expenses will not exceed \$10,000 during this assignment and must be preapproved by Client.
2. Either party may terminate this Agreement if:
 - a. the non-terminating party shall be in default under any term, provision or condition of this Agreement and fails to cure such default within ten (10) days of receipt of written notice sufficiently describing the default; or
 - b. either party shall file or have filed against it any proceeding under any bankruptcy, insolvency or other law affecting the enforceability of creditors' rights.
3. Client acknowledges that Consultant participates in, advises, and/or manages entities which may compete and conflict with the Client's economic development interests. Notwithstanding such competing interests and potential conflicts, the Client acknowledges and agrees that such competition and conflicts are inherent and unavoidable, that the benefits which the Client receives by obtaining the services from Consultant outweigh the potential for such conflicts and that Consultant may continue to participate, advise, and/or manage such competing interests.
4. This Agreement shall be governed by Texas law. This Agreement is negotiated, executed and performed in Denton County, Texas. Should any lawsuit be commenced which is related to this Agreement, it is agreed that such suit will be commenced in Denton County, TX.
5. Consultant is an independent contractor and will be solely responsible for any claims of its employees or subcontractors for their actions. In the event litigation becomes necessary with respect to a breach or alleged breach of any of the agreements contained herein, the party in whose favor final judgment shall be entered shall be entitled to recover from the other party all costs and expenses of suit, including reasonable attorneys' fees.
6. Any material, report or product, whether in electronic or paper form, that results from the execution of this Agreement shall be the sole property of the Client. No deliverables or other information (including information given by Client to Consultant to assist Consultant's

performance under this contract) developed by, given to, prepared by or assembled by Consultant under this contract shall be disclosed or made available to any third party individual or organization by Consultant without the express prior written approval of the Client. Client acknowledges that the Consultant subscribes to third-party data sources that may restrict full use and conveyance. In some cases, separate subscriptions may be required. Client acknowledges that hosting and storage of electronic deliverables are provided for three years after completion date of this contract and can be terminated by Consultant thereafter.

7. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall remain valid and enforceable to the fullest extent permitted by law.
8. All notices required by this Agreement must be in writing and sent by electronic mail, fax, hand delivery, overnight mail service or certified mail, return receipt requested, to the addresses set forth below or such other address as either party may designate in writing as the address for such notices. Payments may be sent by bank transfer/ACH or regular US mail.
9. Each party represents to the other party that it has (a) fully read and understood the terms of this Agreement, (b) had the opportunity to seek the assistance of its own legal advisor regarding this Agreement and its terms, (c) full legal authority to enter into this Agreement and has taken all necessary legal steps to obtain such authority, (d) equally participated in the negotiation and drafting of this Agreement, and (e) not relied upon any statement, representation or warranty not contained in this Agreement and/or the exhibits attached hereto.
10. This Agreement, including the attached exhibits listed herein, constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be modified, amended or rescinded except by a written agreement signed by both parties. No oral agreements, representations or warranties have been made and/or relied upon.
11. Consultant Not Agent. Except as authorized under this Agreement, Consultant shall have no authority, express or implied, to act on behalf of Client in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, under this Agreement, to bind Client to any obligation whatsoever.
12. Indemnification. Consultant shall indemnify, defend, and hold Client, its officers, officials, employees, agents, and volunteers and each of them harmless from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's services or operations, or any subcontractor's services or operations, to be performed under this Agreement, to the fullest extent permitted by law, with the exception of the sole active negligence or willful misconduct of the Client.
13. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause or circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, pandemic, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.
14. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes any oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.
15. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.
16. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from the Client through the authorized representative of the Client.
17. This Agreement may be executed in multiple counterparts.

“CONSULTANT”: TIP STRATEGIES, INC.

By: _____

Name: _____

Title: _____

Dated: _____

Address for notice and payment:

13492 N HIGHWAY 183

Suite 120-254

Austin, TX 78750

“CLIENT”: TOWN OF FLOWER MOUND

By: _____

Name: _____

Title: _____

Dated: _____

Address for notice:

2121 Cross Timbers Rd

Flower Mound, TX 75028

EXHIBIT A – SCOPE OF WORK

1. DISCOVERY

We begin by reviewing available materials, visiting with knowledgeable sources, and conducting a targeted analysis of relevant trends to create a common foundation for the planning process.

1.1 PROJECT LAUNCH. At the outset of the engagement, we focus on establishing effective communication, articulating clear expectations, and agreeing upon the cadence of meetings.

- ▶ **Kickoff meeting.** The kickoff meeting provides the opportunity to discuss objectives, define success factors, identify stakeholders and partners, formalize the outreach strategy, and review the team's expectations for the engagement.
- ▶ **Team meetings.** TIP will collaborate and coordinate with appropriate staff and leadership throughout the engagement.
- ▶ **Steering committee.** If an oversight group is not already in place, we can assist with forming a steering committee that is representative of current economic development efforts in the town. Members are responsible for attending meetings (usually monthly), providing input, and reviewing deliverables.
- ▶ **Coordination.** As needed, TIP will coordinate throughout the planning process with other consultants to ensure alignment between any concurrent planning and research processes.

1.2 PLANNING CONTEXT. The team will examine the policies, relationships, and organizational priorities that will influence the planning process. Our work on this task will be expanded in subsequent phases and help shape our recommendations.

- ▶ **Policies.** Reviewing background documents allows us to build on existing knowledge and to better understand current initiatives and programs that may be relevant to this work.
- ▶ **Relationships.** A scan of the partner network will help define existing relationships within the Flower Mound market and identify potential partnerships.
- ▶ **Priorities.** Discussions with the appropriate staff will ensure our team has a full picture of the Town's economic development initiatives and core functions.

1.3 ECONOMIC CONTEXT. Our analysts will prepare a targeted assessment of factors that define the area's overall competitiveness and are of greatest concern to economic decision makers. Our analysis will be tailored to meet project objectives, including tax base enhancement, compatible development opportunities, and quality of place preservation. This task will take advantage of available data resources to consider Flower Mound's current economic position within the DFW MSA and identify broader economic trends that may impact the town's future economic position. Findings will be provided in an interactive format.

1.4 STAKEHOLDER ENGAGEMENT. We design a custom input process that engages the appropriate groups for a successful planning effort. Our goal is to design a strategy that provides meaningful information to the planning process, raises awareness of economic issues, and builds support for the outcome. To encourage robust participation, we anticipate a combination of in-person and virtual engagements.

- ▶ **Roundtables and interviews.** Roundtables are designed to encourage productive discussions around a targeted set of topics. They are typically conducted with employers, elected officials, human resources specialists, real estate professionals, chambers of commerce, and other experts to gather information about trends, barriers, opportunities, and assets that will help shape our recommendations. Where appropriate, these sessions will be supplemented by one-on-one interviews to solicit feedback on issues that may not surface in a collective setting. In particular, we will meet virtually with each Council member to ensure the collection of input that is vital to the success of the planning process.

- **Interactive tools.** To expand participation and ensure diverse perspectives are considered, we can facilitate the use of social media, online surveys, and other interactive tools. These tools help engage stakeholders, gather anecdotal information about assets and challenges, and increase buy-in among the broader community.

TIP's role in stakeholder input sessions would be to prepare the materials and facilitate the discussion. Logistics for the meetings, including arranging the location(s), advertising the sessions, and the provision of any translation services, would be the responsibility of the client.

TARGETED ENGAGEMENT					
A successful planning effort should engage a broad constituency, provide meaningful information to the planning process, raise awareness of economic issues, and build support for the outcome.	OBJECTIVES	Raise awareness of the project, generate "buzz"	Identify strengths, weaknesses, opportunities, and threats (SWOT)	Refine issues, explore opportunities, increase stakeholder buy-in	Dedicate resources, engage other leaders
	TOOLS	Social media, press releases, networking	Resident & business surveys, "town hall" style meetings	Roundtable discussions, personal interviews	Steering committee, task forces, MOUs

1.5 COMPETITIVE POSITION. Findings from the Discovery phase will be used to summarize Flower Mound's competitive position. In addition to considering strengths, weaknesses, opportunities, and threats that emerge from this work, our analysis will highlight factors that differentiate the area from the competition and situate the town in the MSA. The results will suggest potential opportunities and strategic growth areas that will drive our work in subsequent phases.

1.6 DISCOVERY WORKSHOP. Our team will synthesize and present Discovery phase findings to project leadership. Using these findings as a jumping off point, TIP will lead a discussion of potential goals for inclusion in the strategic plan. We view this step as a consensus-building exercise informed by data, local priorities, and our firm's economic development expertise. The outcome will be draft strategic plan goals, which will inform Task 2.1.

2. OPPORTUNITY

Building on our Discovery phase findings and a review of best practices, we identify which opportunities are likely to have the greatest potential for success.

2.1 STRATEGIC DIRECTION. Working closely with the client, we will ensure the Town's vision and mission statements align with the strategic direction for Flower Mound that emerges from the Discovery phase. In addition, we will help craft a set of guiding principles that will embody the goals and objectives of the planning process. This step will provide a framework that both points to recommended actions and establishes priorities among available alternatives.

2.2 TALENT PIPELINE ANALYSIS. TIP's workforce analysts will examine the extent to which the regional talent pipeline aligns with the needs of current and potential employers. This task will use a variety of public and proprietary data to profile relevant characteristics of the regional workforce and would include the following:

- **Talent migration.** We will prepare a talent flow visualization tool based on the US Census Bureau's Job to Job Flows (J2J) dataset to provide a full picture of work relocations into and out of the metropolitan area by education attainment.

- ▶ **Commuting patterns.** To understand Flower Mound's labor shed, we will illustrate regional commuting patterns through an analysis of LEHD Origin-Destination Employment Statistics (LODES) data. TIP uses data visualizations to show geographic differences in place of employment and place of residence.
- ▶ **Occupational structure & skills.** We will use employment data by occupation to analyze the regional workforce, review growth trends, and identify regional strengths. A review of current job postings in the region will be used to identify the positions existing employers are currently trying to fill and to capture data on the skills and certifications they are seeking.
- ▶ **Industry alignment.** Occupational strengths identified by this work will be explored in terms of their alignment with the needs of top employing industries (e.g., professional and management services, sales and administrative support, services, transportation and production, construction/installation). To avoid duplication of efforts, TIP will reference Tripp Umbach's study for health science/medical to understand the alignment of occupational strengths with health science/medical opportunities. .
- ▶ **Pipeline alignment.** To document existing postsecondary offerings in the region (e.g., Midwestern State University (Distance Learning Support Center); Dallas Baptist University; Southern Methodist University, Texas Christian University; Texas Woman's University; University of Dallas; University of North Texas; University of Texas at Arlington and Dallas; Brookhaven, North Central Texas, and North Lake Colleges) and illustrate the potential supply of graduates, we will compile published data from the National Center for Education Statistics' Integrated Postsecondary Education Data System (IPEDS) on the number of awards conferred for credit in relevant fields of study.

2.3 BUILT ENVIRONMENT ANALYSIS. TIP will prepare a townwide analysis of real estate fundamentals for major commercial or "investible" property types, including office and retail. These tasks will rely on a combination of public and proprietary data.

- ▶ **Commercial property trends.** The analysis will cover supply and demand trends to identify market opportunities for Flower Mound's real estate product. We will review key real estate market indicators, including rents, vacancies, and construction deliveries, as well as the underlying drivers of demand in the key property types. Our analysts will examine the extent to which available sites and redevelopment opportunities align with targeted sectors and workforce capacity (as identified in Task 2.2). Emphasis will be placed on prioritized sites and locations, including Flower Mound's TIRZ, business districts (e.g., Lakeside Business and Denton Creek Districts), FM 2499 and FM 3040 corridors, the FM 407 intersection, Lakeside DFW, Parker Square, and the Riverwalk at Central Park.
- ▶ **Perception study.** To understand how Flower Mound is viewed as a place to develop property, and to further refine our understanding of potential opportunities, our consultants will interview approximately four to six key local influencers. This task will involve engagement with developers, brokers, site selectors, and other key players in the industry to ascertain their perception of the town generally, as well as relative to other locations in the DFW area. Discussions with influencers in the regional site selection process will shed light on how Flower Mound is viewed as a development opportunity within the DFW area and identify any potential barriers.
- ▶ **Future patterns of growth.** Building on this analysis of Flower Mound's existing real property, we will identify opportunities for expanding the Town's tax base. Among other things, we will consider business and resident needs as well as emerging demographic and business trends that may impact recommendations.

2.4 CASE STUDIES. Drawing on our team's extensive network, we will research national best practices that may be a fit for Flower Mound based on our work on prior tasks. For each best practice identified, we will provide a brief profile outlining the approach along with any available information on how the program or initiative was implemented. The results of this task will help shape our recommendations and will be integrated into the final deliverable where appropriate.

2.5 OPPORTUNITY WORKSHOP. The culmination of this phase is a facilitated discussion of potential strategies and opportunities for consideration in the Implementation phase. The purpose of the workshop will be to build consensus on economic development priorities for the Town. The outcome of this task will be a set of prioritized strategies and focus areas, along with a collaborative framework for aligning available resources to accomplish them.

3. IMPLEMENTATION

We provide a transparent, actionable plan for achieving the identified goals and objectives.

3.1 STRATEGIC PLAN. Using findings from prior phases, coupled with the experience of the consulting team, TIP will prepare a strategic plan that cultivates a dynamic economic environment while preserving Flower Mound's quality of place advantages. In addition to outlining specific goals and strategies, the plan will highlight findings from our quantitative analyses and stakeholder input. Together with the implementation matrix (see Task 3.2), the resulting document will provide specific recommendations and tools needed to implement a long-term economic strategy. We anticipate the plan would address a number of topics, including:

- ▶ Positioning Flower Mound with key sectors.
- ▶ Articulating the town's value proposition relative to other locations in the region and the state.
- ▶ Leveraging Flower Mound's proximity to Dallas-Fort Worth and the DFW airport.
- ▶ Aligning the talent pipeline with the needs of current and future employers.
- ▶ Growing and diversifying the local tax base.
- ▶ Prioritizing commercial development opportunities, particularly in business districts and along key corridors.
- ▶ Balancing high quality development with the preservation of Flower Mound's unique country atmosphere.
- ▶ Evaluating potential public-private partnerships.
- ▶ Suggesting organizational frameworks for accomplishing the identified objectives.

3.2 IMPLEMENTATION MATRIX. TIP will prepare a matrix that accomplishes the following.

- ▶ Identifies responsible parties and potential partnership opportunities.
- ▶ Establishes timelines and sets priorities.
- ▶ Includes budget estimates (where applicable) and identifies potential funding sources.
- ▶ Defines meaningful and realistic performance metrics.

3.3 FINAL DELIVERABLES. TIP will synthesize and incorporate feedback, ensuring the strategy and implementation matrix are ready for Council approval. All deliverables will be in electronic format. Final deliverables are professionally proofread and prepared in a graphically pleasing and user-friendly manner.

3.4 FINAL PRESENTATION AND WORKSHOP. Once the strategy is finalized, we will present the recommendations to the leadership. To build momentum for implementation, we will also facilitate an Implementation workshop focused on near-term tasks in conjunction with the final presentation. This step capitalizes on the energy that is present at the rollout and helps to jump start the process.

Project meetings and stakeholder events will be a combination of virtual and in-person meetings, with agreement by the Client. All deliverables will be in electronic format. If printed copies of deliverables are requested, TIP can provide these at cost. Deliverables will be in TIP branding (colors/fonts) unless otherwise determined at the outset of the engagement. Re-branding requests made after project kickoff may result in an additional charge.



TOWN COUNCIL AGENDA K.1. REGULAR ITEM(S)

DATE: October 16, 2023
FROM: Claire Barnes, Planner
ITEM: **Consider a Site Plan (SP23-0004 – Dragon Kim’s Tae Kwon Do) to develop a health or athletic club, with a request for a waiver to Architectural Standards in the Town’s Urban Design Plan for roof pitch. The property is generally located east of Jernigan Road and north of Justin Road along Bryce Lane. (PZ recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.)**

BACKGROUND:

- Lot Size – 1.136 acres
- Zoning – Retail District-2
- Building size – 6,332 sf health or athletic club (Tae Kwon Do Studio)
- SMARTGrowth – Passed
- Traffic Analysis – Passed, new TA not required
- Waiver – ‘Architectural Waiver’ for roof pitch to allow southern roof façade to have a slope of 4/12 (required pitch is 6/12-9/12)
- Incentives – None requested
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

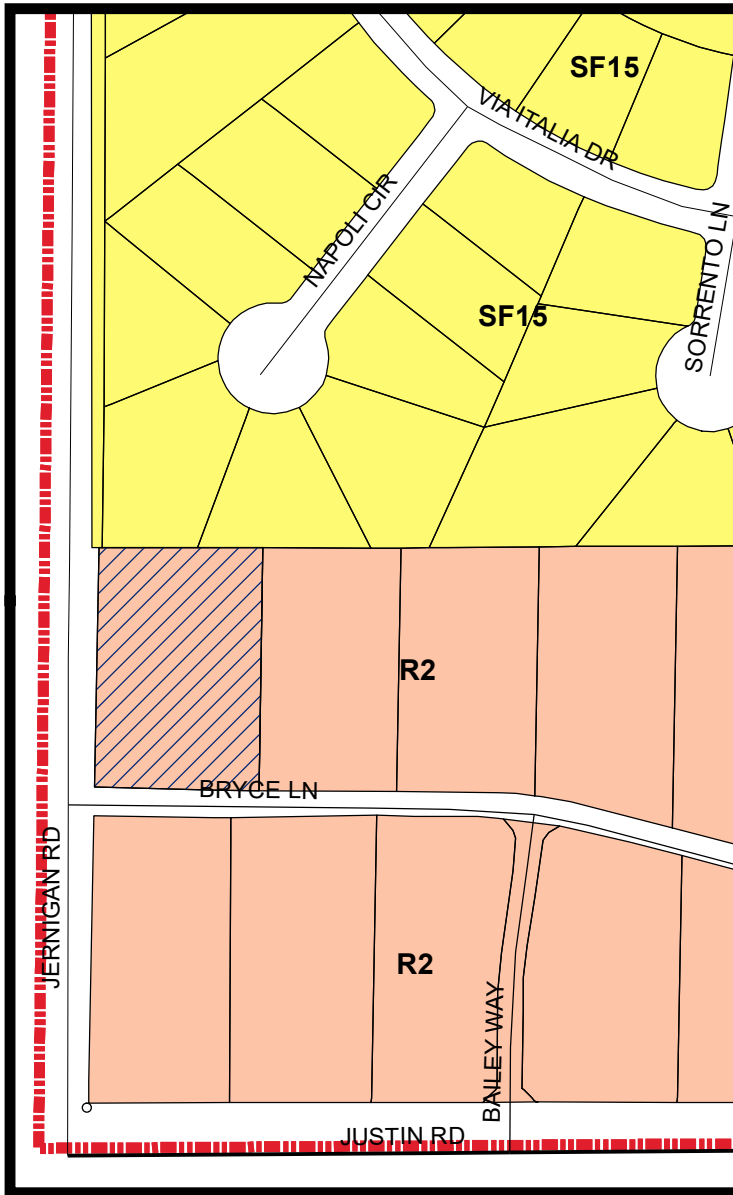
ATTACHMENTS:

1. Map - Zoning & Aerial

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

Vicinity Map

Reference Project: SP23-0004



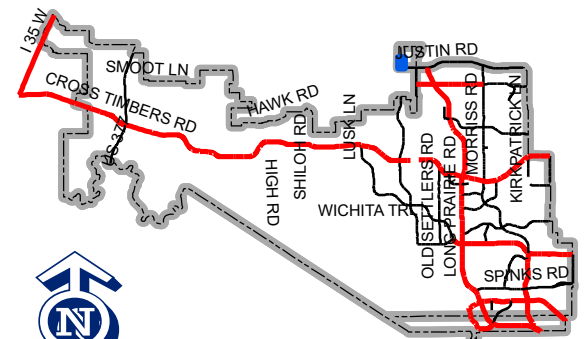
LEGEND

Retail 2 Single Family 15

— Subject Property

Visit www.fmdevmap.com to learn more about this project.

Visit <https://www.flower-mound.com/notifyme> to sign up for text message and/or email alerts for future projects.



Map Location



TOWN COUNCIL AGENDA K.2. REGULAR ITEM(S)

DATE: October 16, 2023
FROM: Poornima Kashyap, Planning Manager
ITEM: **Public Hearing to consider an ordinance for rezoning (ZPD23-0005– Embree 2499) to amend Planned Development District No. 186 (PD-186) with Retail-2 District (R-2) and Office District (O) uses to modify phasing and maintenance requirements and to request certain modifications and exceptions to the Code of Ordinances. The property is generally located south of Sagebrush Drive and west of Long Prairie Road. (PZ recommended denial by a vote of 5 to 1 at its October 9, 2023, meeting.)**

BACKGROUND:

- Size – 6.805 acres
- Zoning – Planned Development District-186 (PD-186) with Retail-2 District (R-2) and Office District (O) uses.
- PD Amendment:
 - Delay the installation of six-foot masonry wall, landscape trees, and shrubs located within the compatibility buffer; trail along the western property line; and fire lanes around Buildings 4 and 5 until such time each lot develops.
 - Exception to allow the height of the exposed face of retention pond retaining wall to be a maximum of five feet six inches (5'6")
- SMARTGrowth – Passed, previously completed
- Traffic Analysis – Passed, previously completed
- Incentives – None requested
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK:

The Planning & Zoning Commission recommended denial by a vote of 5 to 1 at its October 9, 2023, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

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

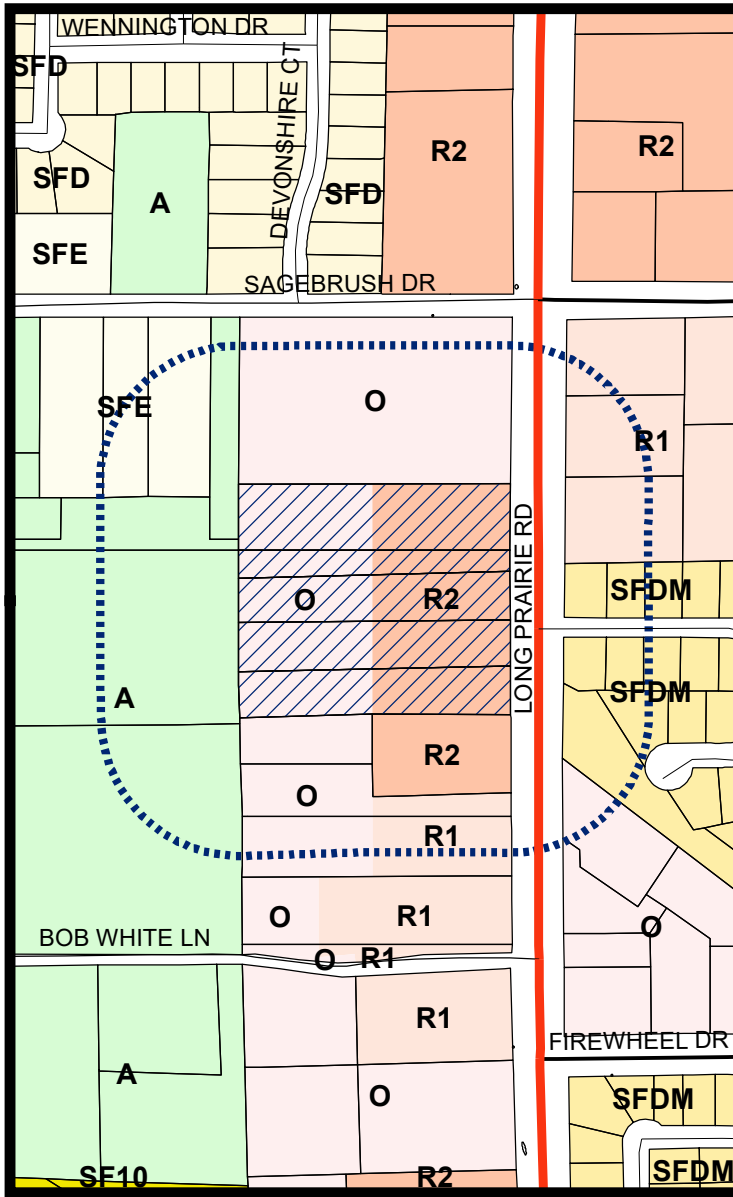
ATTACHMENTS:

1. Map - Zoning and Aerial
2. DRAFT Ordinance
3. Exhibit A

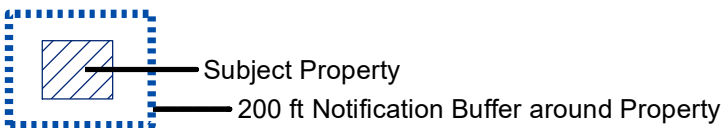
DRAFT MOTION: Move to approve as presented in the agenda caption.

Vicinity Map

Reference Project: ZPD23-0005

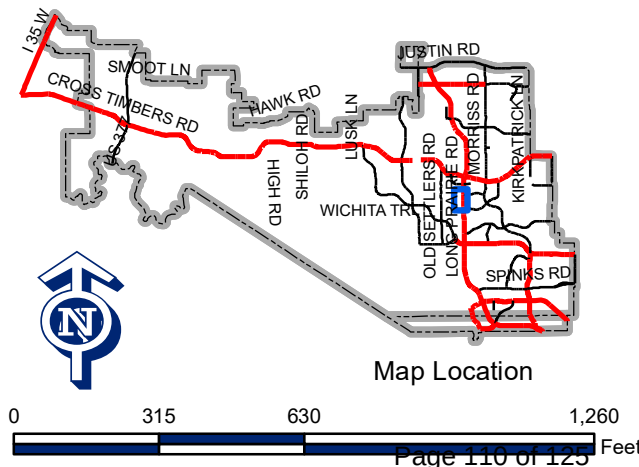


LEGEND



Visit www.fmdevmap.com to learn more about this project.

Visit <https://www.flower-mound.com/notifyme> to sign up for text message and/or email alerts for future projects.



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

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 33-22 AS AMENDED BY ORDINANCE NO. 10-23, WHICH ESTABLISHED AND LATER AMENDED PLANNED DEVELOPMENT DISTRICT NO. 186 (PD-186) ON CERTAIN PROPERTY CONSISTING OF APPROXIMATELY 6.81 ACRES OF LAND SITUATED IN THE J. WIZWELL SURVEY, ABSTRACT NO. 1346, BY MODIFYING DEVELOPMENT STANDARDS RELATED TO PHASING & MAINTENANCE, AS WELL AS TO AN EXCEPTION TO THE RETENTION POND DESIGN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town (the “Town Council”) heretofore adopted the Land Development Regulations of the Town, as amended, which ordinance regulates and restricts the location and use of buildings, structures, and land for trade, industry, residence, and other purposes, and provides for the establishment of zoning districts of such number, shape, and area as may be best suited to carry out these regulations; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of certain property consisting of approximately 6.81 acres of land situated in the J. Wizwell Survey, Abstract No. 1346, Denton County, Texas, have filed an application to amend Ordinance No. 33-22, as amended by Ordinance No. 10-23, for Planned Development District-186 (PD-186), seeking to amend development standards to modify regulations for phasing & maintenance and to request an exception to retention pond design; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on October 9, 2023, and the Town Council of the Town held a public hearing on October 16, 2023, with respect to the proposed planned development amendment as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication, and procedural requirements for the approval of a rezoning on the property; and,

WHEREAS, the Town Council finds that amendment of Ordinance No. 33-22, as amended by Ordinance No. 10-23, for Planned Development District-186 (PD-186) as outlined herein is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public;

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

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area to establish a Planned Development District as shown below:

Approximately 6.81 acres of land situated in the J. Wizwell Survey, Abstract No. 1346, Denton County, Texas, as described more fully on the attached Exhibit "A."

- A. Subparagraph E, "PHASING & MAINTENANCE," of Section IV, "Development Regulations – (R-2 Retail District-2 & O Office District)," of Exhibit "B," "Development Standards," for Planned Development District No. 186 (PD-186), as amended, is hereby amended to read as follows:

E. PHASING & MAINTENANCE. The development of the site will proceed as indicated below.

1. The first phase ("Phase 1") of Planned Development shall include the following:
 - a. Infrastructure improvements necessary to develop Lot 1, Lot 2, and Lot 3;
 - b. Landscaped areas along Long Prairie Road (FM 2499);
 - c. A six-foot (6') masonry wall along the northern property line;
 - d. Perimeter sidewalks along Long Prairie Road (FM 2499);
 - e. Wet and dry retention/detention ponds;
 - f. Fire lanes, median cuts, right turn lane from Long Prairie Road (FM 2499), and curb cuts to the support the development of Building 1, Building 2, and Building 3;
 - g. A 31-foot (31') Mutual Access Easement (Spine Road) running north/south the full length of the property connecting into the existing adjacent stub outs.
 - h. Lot 4 and Lot 5 shall be cleared and grubbed to remove all non-protected trees, vines, shrubs, saplings, and undergrowth. Existing protected trees shall be limbed up to allow for ongoing maintenance of the lots.
2. A certificate of occupancy shall not be issued to the first building until Phase 1, as described above, is completed.

3. The following items located on Lot 4 and Lot 5 shall be constructed for each lot as each lot develops:
 - a. Landscaped areas shall be completed along the western property line within the compatibility buffer;
 - b. An eight -foot (8') Texas Yellow Star Trail within compatibility buffer;
 - c. A six-foot (6') masonry wall along the western property line; and
 - d. Fire lanes, curb cuts, and other associated infrastructure required to support the building(s) being developed.
 4. A certificate of occupancy shall not be issued to the individual buildings of Lot 4 and Lot 5 until the improvements mentioned above in Paragraph 3 are complete.
 5. In the interim, Lot 4 and Lot 5 shall be maintained to keep weeds, turf grass, brush, or any objectionable or unsightly matter under 12 inches at all times.
 6. At the time of plat recordation, a Property Owners Association (POA) shall be established to maintain landscaping and compatibility buffers, masonry wall, sidewalks, retention ponds, and Town trail.
 7. Retention Ponds:
 - a. The pond will maintain the normal pool elevation level specified on the civil plans.
 - b. The pond will be kept clear of all noxious plant material including cottonwood trees, willow trees, and cattails specifically.
 - c. To achieve the above specification, the POA may need to secure a pond maintenance company for weekly or monthly treatment of the noxious plant material. *Water depths less than six feet (6') may require additional treatment.
 - d. Aeration will be provided to the pond and be in good repair and operational year-round.
 - e. Permanent vegetation shall be established and maintained along the exposed banks to prevent erosion issues.
- B. Subparagraph F, "EXCEPTIONS," of Section IV, "Development Regulations – (R-2 Retail District-2 & O Office District)," of Exhibit "B," "Development Standards," for Planned Development District No. 186 (PD-186), as amended, is hereby amended to read as follows:
- F. EXCEPTIONS. The following exceptions and waivers shall apply to this Planned Development.

1. Driveway Spacing Exception: An exception to the access management policy and criteria regarding driveway spacing contained in the Town's Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances to allow the proposed driveway to be located approximately 300.9 feet from an existing driveway to the north and approximately 280.8 feet from an existing driveway to the south. The second exception will no longer be necessary once the property to the immediate south develops, and the Angel Vet driveway is removed.
2. Retention Pond:
 - a. An exception to Section V.C.ii (a) of the Town's Engineering Design Criteria to allow for retaining walls greater than three-foot exposed face. The retaining wall shall not exceed 5 feet 6 inches (5' 6") and shall be constructed with materials that complement the development.
3. Detention Pond:
 - a. An exception to Section IV.C.5. of the Town's Engineering Design Criteria to allow a dry detention pond to be located south of Building 3.
4. Waivers to Urban Design Plan
 - a. Building 1 – Whataburger
 1. A waiver to the pitch roof requirement for buildings less than 15,000 square feet.
 2. Whataburger Orange is permitted on the building only as shown on the concept elevations.
 3. Grey may be used as a secondary color not to exceed 40 percent (40%) on each façade.
 - b. Building 2 – Slim Chickens
 1. A partial waiver to the pitch roof requirement for buildings less than 15,000 square feet. Roof pitch having a slope between 6/12-9/12 shall be provided on the tower elements on the north and south facades as shown on the concept elevations. The outdoor patio on the east elevation shall also have a pitch roof having a slope between 6/12-9/12.
 2. Grey may be used as a secondary color not to exceed 20 percent (20%) on each façade.
 - c. Building 3 – Dutch Bros
 1. A partial waiver to the pitch roof requirement for buildings less than 15,000 square feet. Roof pitch having a slope between 6/12-9/12 shall be provided on the tower elements on the north and south facades as shown on the concept elevations.
 2. Dutch Bros Blue (DB-Blue) banding is permitted on the building only as shown on the concept elevations.

SECTION 2

The use of the property described above shall be subject to all restrictions, terms, and conditions contained herein, as well as the applicable regulations contained in Ordinance No. 33-22, as amended by Ordinance No. 10-23, for Planned Development District No. 186 (PD-186), the Land Development Regulations, and all other applicable and pertinent ordinances of the Town.

SECTION 3

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

SECTION 4

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council 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, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

All rights and remedies of the Town are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7

The Town Secretary of the Town is hereby directed to publish the caption in the official newspaper of the Town as required by Section 3.07 of the Charter of the Town.

SECTION 8

This Ordinance shall take effect and be in full force from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 16TH DAY OF OCTOBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

File: W:\Projects\2020\10385\Site Production\Drawings and L&L\Exhibits\Exhibits\2020\10385\ZONING EXHIBIT
Plotted: 5/18/2022 11:52 AM by Aaron Miller, Scaled: 2/16/2022 11:52 AM by Aaron Miller

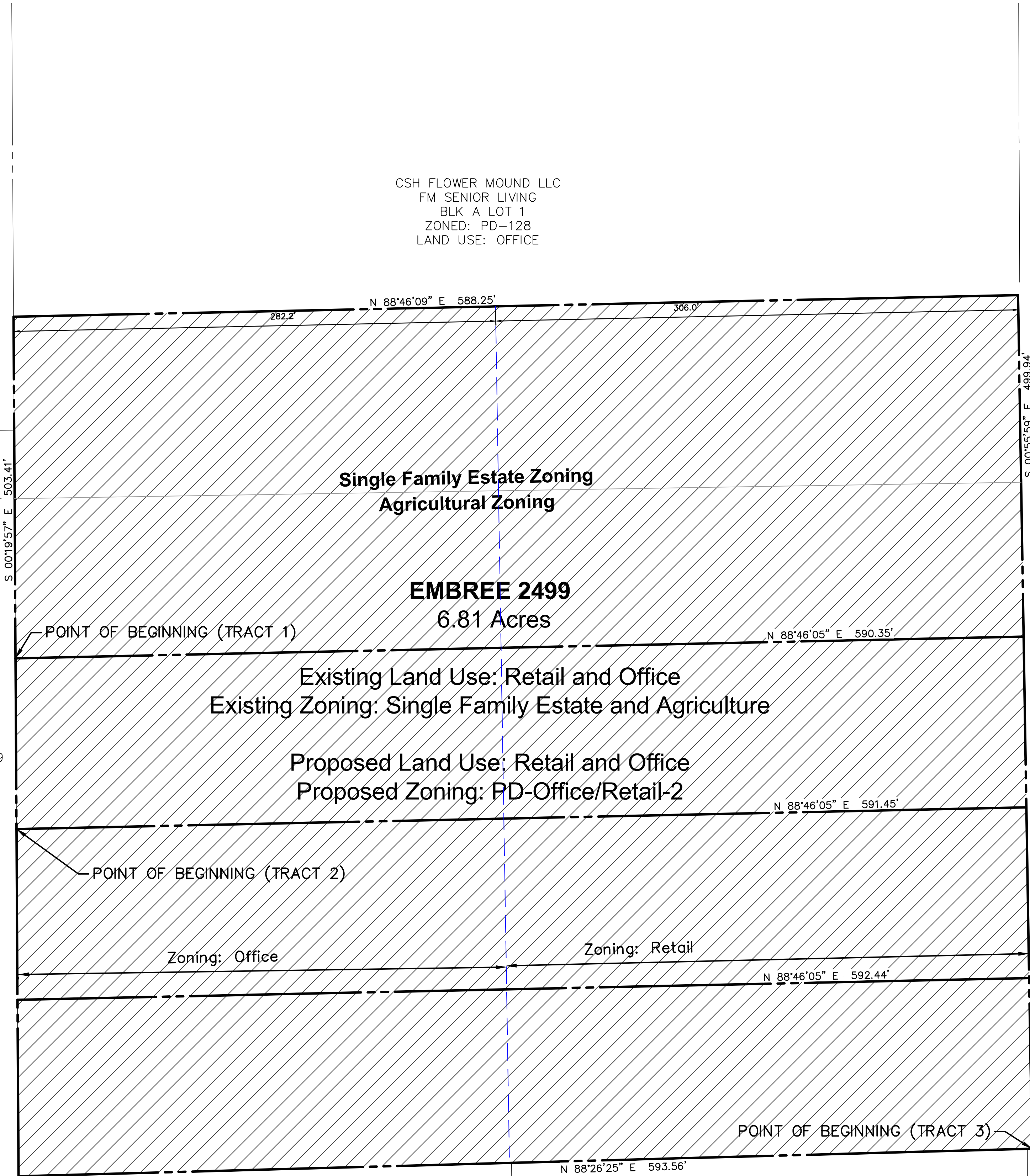
ANS, NICK
WART, TR 59, 1.03
DCAD TR# 24
E FAMILY ESTATE
LAND USE: ESTATE

KO, TAD A
WART, TR 60, 1.0615
DCAD TR# 20
AGRICULTURAL
LAND USE: ESTATE

LINVILLE, STEPHEN L
A1346A J. WIZWELL, TR 38, 4.9
ACRES, OLD DCAD TR #4,5
ZONED: AGRICULTURAL
LAND USE: ESTATE

WEDGE, WILLIAM PATRICK
A1346A J. WIZWELL, TR 37, 7.06
ACRES, OLD DCAD TR# 3
ZONED: AGRICULTURAL
LAND USE: ESTATE

MARKO, TAD A
A1161A J. STEWART, TR 60C, .8867 ACRES ZONED: AGRICULTURAL
LAND USE: ESTATE



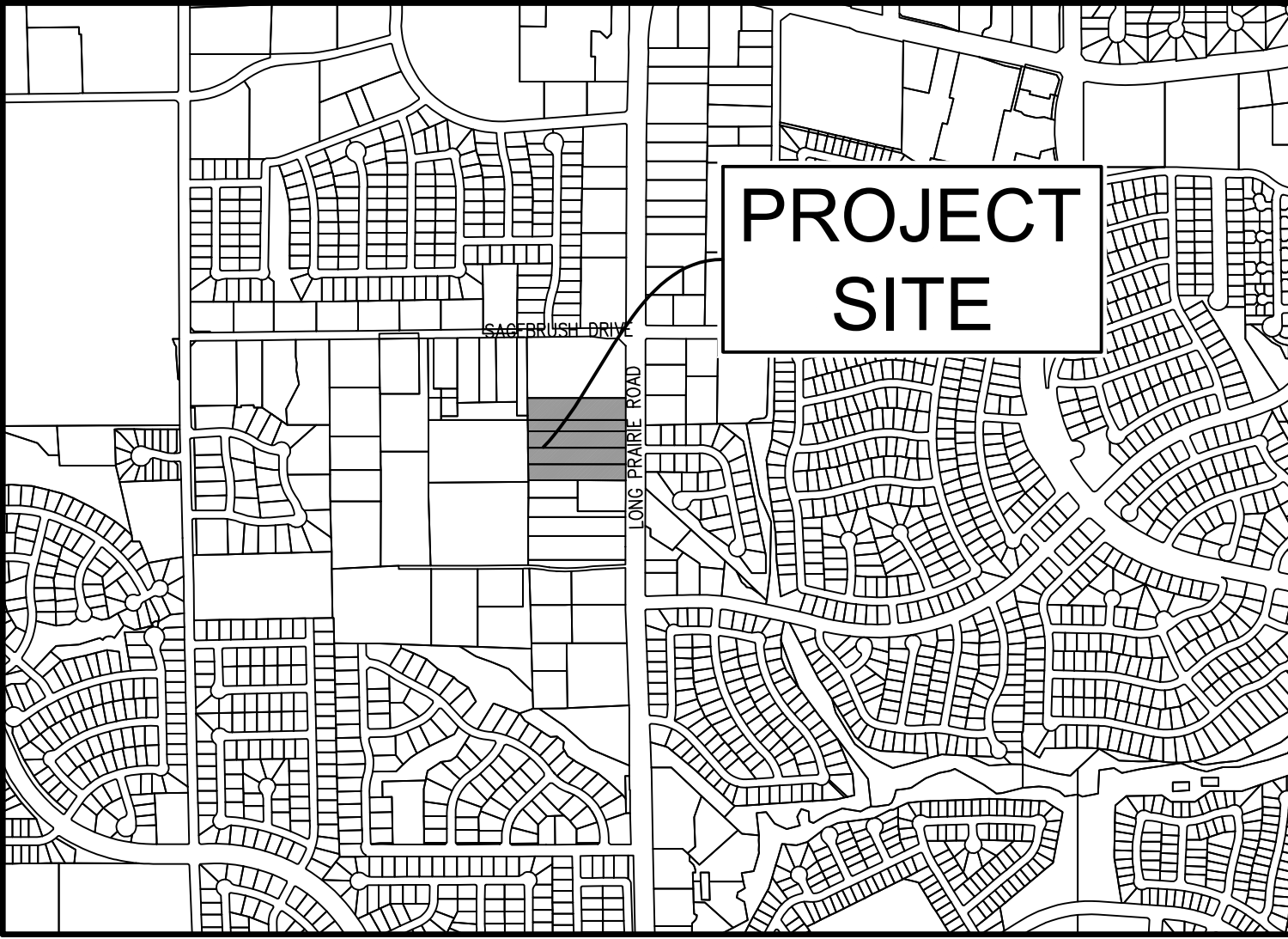
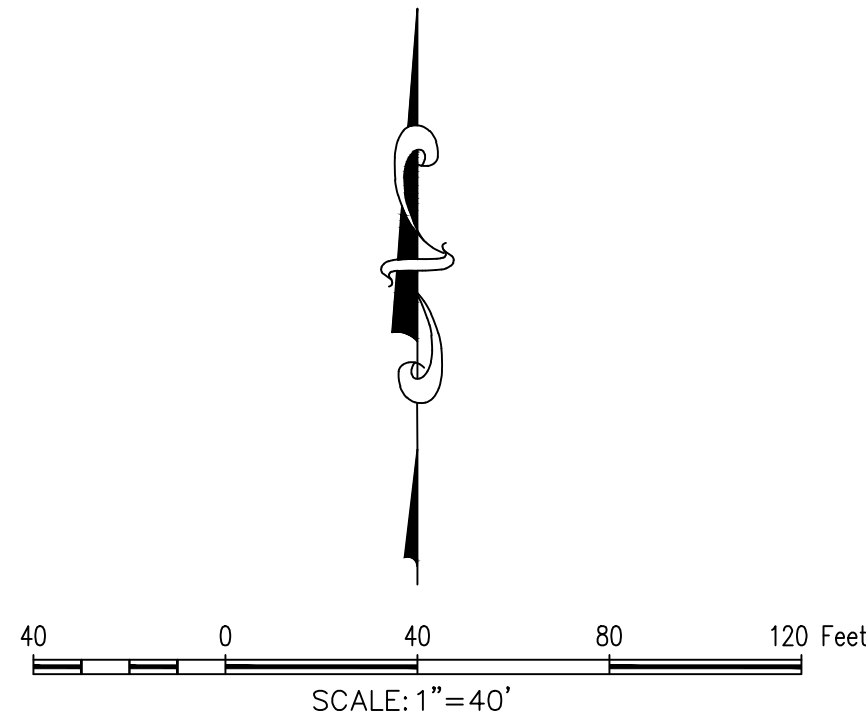
EARLES, HARVEY L
A1346A J. WIZWELL, TR 43, .627
ACRES, OLD DCAD TR# 23
ZONED: PD-64
LAND USE: OFFICE

VCA REAL PROPERTY ACQUISITION CORP
ANGEL VET CENTER BLK A LOT 1
ZONED: PD-64
LAND USE: RETAIL

Master Plan Features	
Land Use Plan	Retail/Office
Urban Design Plan	Long Prairie District
Parks and Trails	8' Trail along Western Property Line
Open Space Plan	N/A
Thoroughfare Plan	Long Prairie Road - Major Arterial
Water Plan	Existing 12" line along FM 2499.
Wastewater Plan	Existing 10" line at Subbasin 9"
Economic Impact	Increased sales tax revenue from the sales of the restaurant uses.

Development Standard	Required		Provided	
	Office	Retail-2	Office	Retail-2
Min. Lot Size	N/A	N/A	N/A	N/A
Min. Lot Width	N/A	N/A	N/A	N/A
Min. Area/Unit	N/A	N/A	N/A	N/A
Min. Front Yard	N/A	N/A	60'	60'
Min. Side Yard	N/A	N/A	N/A	N/A
Min Rear Yard	15'	15'	15'	15'
Max. Lot Coverage	50%	50%	50%	50%
Max. Height (Stories/Ft)	3 stories or 35'	2 stories or 35'	1 story or 35'	3 stories or 35'

OWNER/DEVELOPER
Jerry Frazier
Embree Development Group,
Ph. 512.819.4746
Contact: Jerry Frazier



TRACT 1
LEGAL DESCRIPTION
4.062 ACRES

BEING all that certain lot, tract, or parcel of land, situated in the J. Wizwell Survey, Abstract Number 1346, Town of Flower Mound, Denton County, Texas, and being all that certain tract of land, described by deed to Imer & Sebian Bardhi, recorded in Document Number 2006-58316, Deed Records, Denton County, Texas, and being more particularly described as follows:
COMMENCING at a 1/2" capped rebar found at the southeast corner of a certain tract of land, described by deed to Rodgers Living Trust & Nishendu Vasavada & Bela Vasavada, recorded in Document Number 2014-116754, Deed Records, Denton County, Texas, and being in the west right-of-way line of FM 2499 (Long Prairie Road, called 120' right-of-way);
THENCE S 88°26'25" W, with the south line of said Rodgers Living Trust tract, passing the northeast corner of Lot 1, Block A, Angel Vet Center, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2007-46905, Plat Records, Denton County, Texas, at a distance of 2.56 feet, continuing a distance of 304.87 feet to a 1/2" capped rebar found, at the northwest corner thereof, same being the most northerly northeast corner of a certain tract of land described by deed to Harvey L. Earles, recorded in Document Number 2003-16340, Deed Records, Denton County, Texas, continuing a total distance of 593.56 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the northwest corner thereof, same being the southwest corner of said Rodgers Living Trust tract, same being the northeast corner of a certain tract of land, described by deed to William Patrick Wedge, recorded in Document Number 2016-36297, Deed Records, Denton County, Texas, and being the southeast corner of a certain tract of land, described by deed to Stephen Linville, recorded in Volume 2694, Page 701, Deed Records, Denton County, Texas;
THENCE N 00°19'57" W, with the east line of said Linville tract, and the west line of said Rodgers Living Trust tract, passing at a distance of 103.36 feet, the northwest corner thereof, same being the southwest corner of a certain tract of land, described by deed to Nishendu M. Vasavada & Ramesh P. Vasani tract, recorded in Volume 1930, Page 250, Deed Records, Denton County, Texas, continuing a total distance of 203.37 feet to the POINT OF BEGINNING, at a 1/2" capped rebar set, stamped "MCADAMS", being the northwest corner of said Vasani tract, same being the southwest corner of said Bardhi tract, and being in the east line of said Linville tract;
THENCE N 00°19'57" W, with the east line of said Linville tract, and the west line of said Bardhi tract, a distance of 300.04 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the northwest corner thereof, same being the northeast corner of said Linville tract, same being the southwest corner of Lot 1, Block A, FM Senior Living, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2014-202, Plat Records, Denton County, Texas, and being the southeast corner of a certain tract of land, described by deed to Tad A. Marko, recorded in Document Number 1993-65535, Deed Records, Denton County, Texas;

TRACT 2
LEGAL DESCRIPTION
1.359 ACRES

BEING all that certain lot, tract, or parcel of land, situated in the J. Wizwell Survey, Abstract Number 1346, Town of Flower Mound, Denton County, Texas, and being all that certain tract of land, described by deed to Nishendu M. Vasavada & Ramesh P. Vasani tract, recorded in Volume 1930, Page 250, Deed Records, Denton County, Texas, and being more particularly described as follows:
COMMENCING at a 1/2" capped rebar found at the southeast corner of a certain tract of land, described by deed to Rodgers Living Trust & Nishendu Vasavada & Bela Vasavada, recorded in Document Number 2014-116754, Deed Records, Denton County, Texas, and being in the west right-of-way line of FM 2499 (Long Prairie Road, called 120' right-of-way);
THENCE S 88°26'25" W, with the south line of said Rodgers Living Trust tract, passing the northeast corner of Lot 1, Block A, Angel Vet Center, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2007-46905, Plat Records, Denton County, Texas, at a distance of 2.56 feet, continuing a distance of 304.87 feet to a 1/2" capped rebar found, at the northwest corner thereof, same being the most northerly northeast corner of a certain tract of land described by deed to Harvey L. Earles, recorded in Document Number 2003-16340, Deed Records, Denton County, Texas, continuing a total distance of 593.56 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the northwest corner thereof, same being the southwest corner of said Rodgers Living Trust tract, same being the northeast corner of a certain tract of land, described by deed to William Patrick Wedge, recorded in Document Number 2016-36297, Deed Records, Denton County, Texas, and being the southeast corner of a certain tract of land, described by deed to Stephen Linville, recorded in Volume 2694, Page 701, Deed Records, Denton County, Texas;
THENCE N 00°19'57" W, with the east line of said Linville tract, and the west line of said Rodgers Living Trust tract, a distance of 103.36 feet to the POINT OF BEGINNING, being a 1/2" capped rebar set, stamped "MCADAMS" at the northwest corner thereof, same being the southwest corner of said Vasani tract, and being in the east line of said Linville tract;
THENCE N 00°19'57" W, with the east line of said Linville tract, and the west line of said Vasani tract, a distance of 100.01 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the northwest corner thereof, same being the southeast corner of a certain tract of land, described by deed to Imer & Sebian Bardhi, recorded in Document Number 2006-58316, Deed Records, Denton County, Texas, and being in the east line of said Linville tract;
THENCE N 88°46'05" E, with the north line of said Vasani tract, and the south line of said Bardhi tract, a distance of 591.40 feet, to a 1/2" capped rebar set, stamped "MCADAMS" at the southeast corner thereof, same being the northeast corner of said Vasani tract, and being in the west line of FM 2499, from which a 1/2" capped rebar found, stamped "SJ&F", bears N 00°55'59" W, 100.00 feet;
THENCE S 00°55'59" E, with the east line of said Vasani tract, and the west line of FM 2499, a distance of 100.00 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the southeast corner of said Vasani tract, same being the northeast corner of said Rodgers Living Trust tract, and being in the west line of said FM 2499;
THENCE S 88°46'05" W, with the south line of said Vasani tract, and the north line of said Rodgers Living Trust tract, a distance of 592.45 feet to the POINT OF BEGINNING and containing approximately 1.359 acres of land.

TRACT 3
LEGAL DESCRIPTION
1.384 ACRES

BEING all that certain lot, tract, or parcel of land, situated in the J. Wizwell Survey, Abstract Number 1346, Town of Flower Mound, Denton County, Texas, and being all that certain tract of land, described by deed to Rodgers Living Trust & Nishendu Vasavada & Bela Vasavada, recorded in Document Number 2014-116754, Deed Records, Denton County, Texas, and being more particularly described as follows:
BEGINNING at a 1/2" capped rebar found at the southeast corner of said Rodgers Living Trust tract, and being in the west right-of-way line of FM 2499 (Long Prairie Road, called 120' right-of-way);
THENCE S 88°26'25" W, with the south line of said Rodgers Living Trust tract, passing the northeast corner of Lot 1, Block A, Angel Vet Center, an addition to the Town of Flower Mound, according to the plat thereof, recorded in Document Number 2007-46905, Plat Records, Denton County, Texas, at a distance of 2.56 feet, continuing a distance of 304.87 feet to a 1/2" capped rebar found, at the northwest corner thereof, same being the most northerly northeast corner of a certain tract of land described by deed to Harvey L. Earles, recorded in Document Number 2003-16340, Deed Records, Denton County, Texas, continuing a total distance of 593.56 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the northwest corner thereof, same being the southwest corner of said Rodgers Living Trust tract, same being the northeast corner of a certain tract of land, described by deed to William Patrick Wedge, recorded in Document Number 2016-36297, Deed Records, Denton County, Texas, and being the southeast corner of a certain tract of land, described by deed to Stephen Linville, recorded in Volume 2694, Page 701, Deed Records, Denton County, Texas;
THENCE N 00°19'57" W, with the east line of said Linville tract, and the west line of said Rodgers Living Trust tract, a distance of 103.36 feet to a 1/2" capped rebar set, stamped "MCADAMS" at the northwest corner thereof, same being the southwest corner of a certain tract of land, described by deed to Nishendu M. Vasavada & Ramesh P. Vasani tract, recorded in Volume 1930, Page 250, Deed Records, Denton County, Texas, and being in the east line of said Linville tract;
THENCE N 88°46'05" E, with the north line of said Rodgers Living Trust tract, and the south line of said Vasani tract, a distance of 592.45 feet to a 1/2" capped rebar set, stamped "MCADAMS", at the southeast corner thereof, same being the northeast corner of said Rodgers Living Trust tract, and being in the west line of FM 2499, from which a 1/2" capped rebar found, stamped "SJ&F", bears N 00°55'59" W, 200.00 feet;
THENCE S 00°55'59" E, with the east line of said Rodgers Living Trust tract, and the west line of FM 2499, a distance of 99.95 feet to the POINT OF BEGINNING and containing approximately 1.284 acres of land.

The John R. McAdams Company, Inc.
111 Hillside Drive
Lewisville, Texas 75057
972.436.9712
201 County View Drive
Rockwall, Texas 75087
940.240.1012
TBPE: 19762 TBPLS: 1018440
www.mcadamsco.com

MCADAMS

EMBREE 2499
TRACTS 18, 19, 21, 24
6.81 Acres
in the
J. STEWART & J. WIZWELL SURVEY, ABSTRACT NO.
A1161A
A1346A
DENTON COUNTY, TEXAS

Zoning Exhibit

PRELIMINARY PLANS
THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.
THE JOHN R. MCADAMS COMPANY, INC.
TBPE: 19762
JOSHUA M. BARTON,
P.E. #129227
DATE 5/18/2022

Drawn By: PF
Date: 6/15/2021
Scale: 1"=40'
Revisions:
September 17, 2021
March 11, 2022
Revisions: 5/18/2022

2020310385

ZE



TOWN COUNCIL AGENDA K.3. REGULAR ITEM(S)

DATE: October 16, 2023
FROM: Chuck Russell, Principal Planner
ITEM: **Public Hearing to consider a request for rezoning (ZPD23-0009 – Townlake Phase Four (PD-166) Text Amendment) to amend Planned Development District No. 166 (PD-166) for a cluster development by adding a Public Park or Playground as a permitted use. The property is generally located south of Cross Timbers Road and east of Flower Mound Road. (PZ recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.)**

BACKGROUND:

- Size - 13.11 acres of parkland located within Townlake Phase 4
- Zoning - Planned Development District-166 (PD-166) for a cluster development
- PD Text Amendment to add Public Park or Playground as permitted use
- SMARTGrowth - Passed, previously completed
- Traffic Analysis - Passed, previously completed
- Incentives - N/A
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its October 9, 2023, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

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

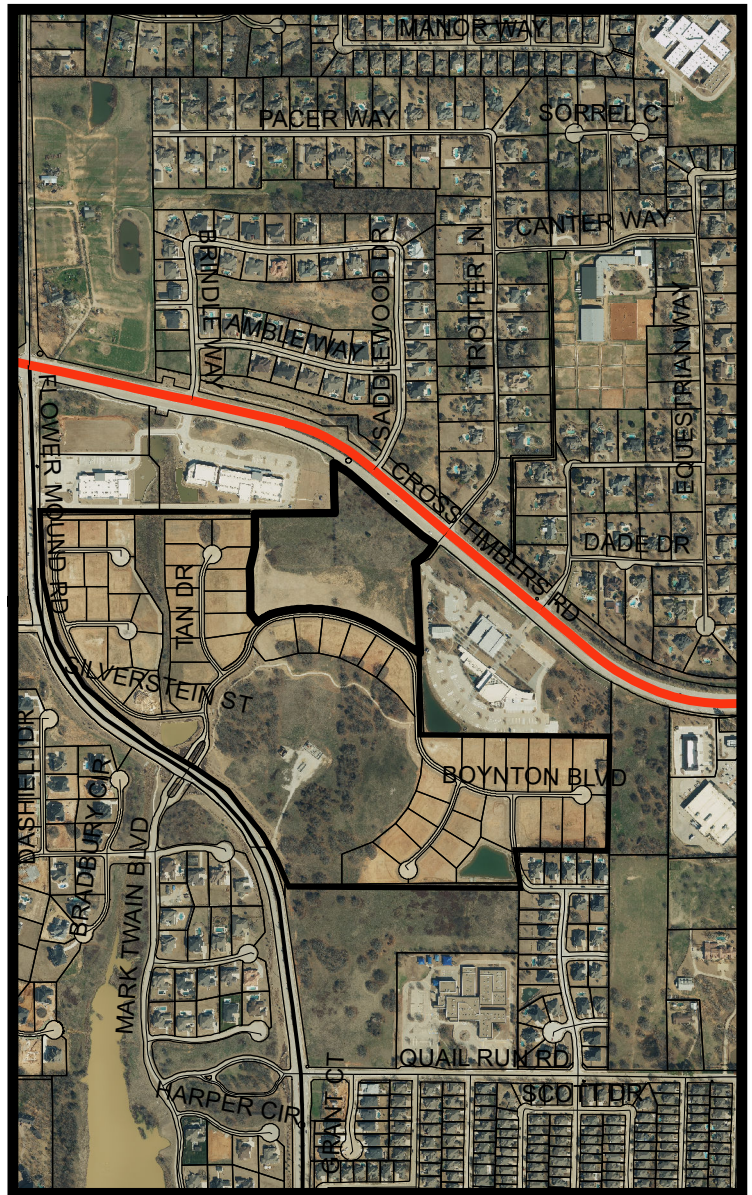
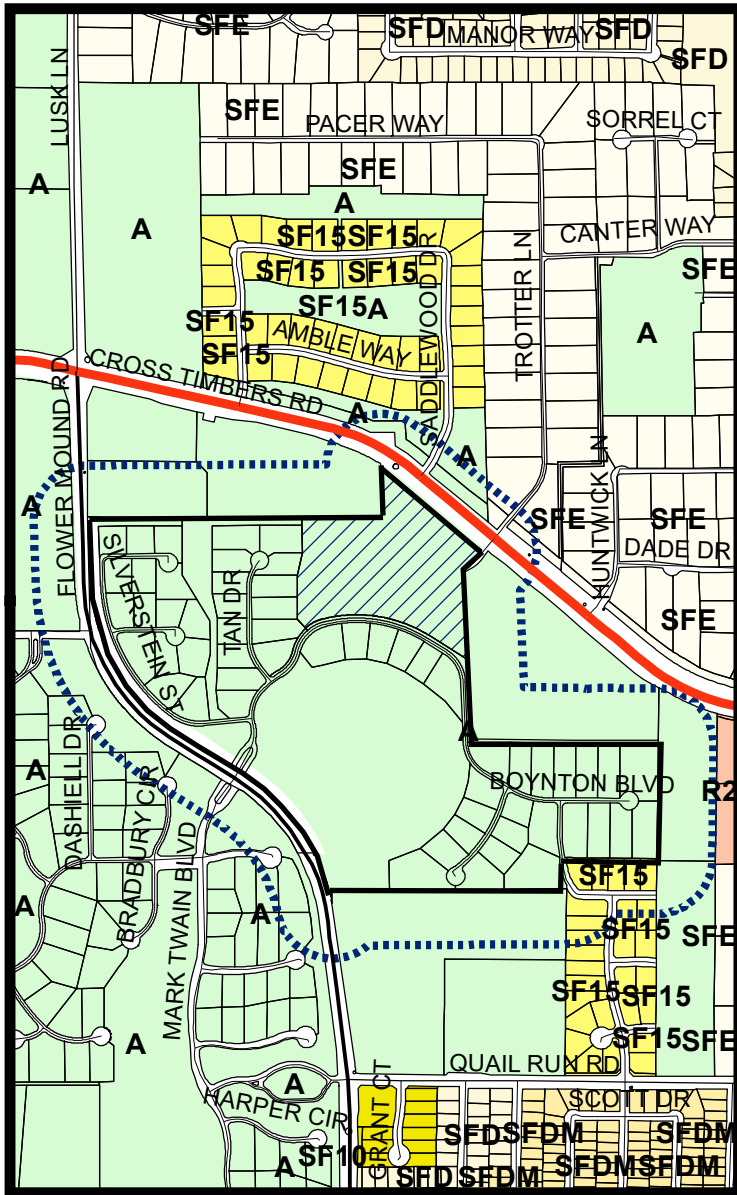
ATTACHMENTS:

1. Map - Zoning & Aerial
2. DRAFT Ordinance
3. EXHIBIT A

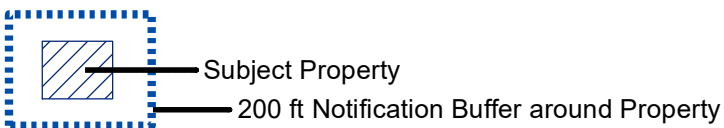
DRAFT MOTION: Move to approve as presented in the agenda caption.

Vicinity Map

Reference Project: ZPD23-0009

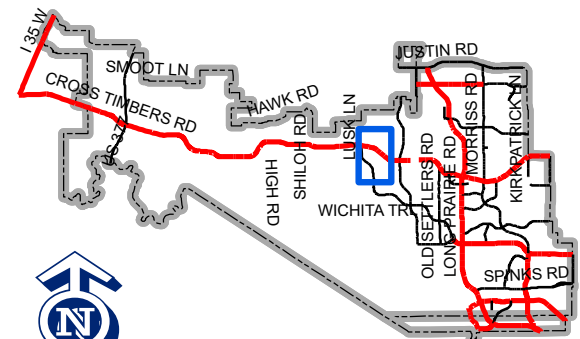


LEGEND



Visit www.fmdevmap.com to learn more about this project.

Visit <https://www.flower-mound.com/notifyme> to sign up for text message and/or email alerts for future projects.



0 750 1,500 3,000 Feet

Map Location

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 32-18, WHICH ESTABLISHED PLANNED DEVELOPMENT DISTRICT NO. 166 (PD-166) ON CERTAIN PROPERTY CONSISTING OF APPROXIMATELY 89.925 ACRES OF LAND SITUATED IN THE J. MALONE SURVEY, ABSTRACT NUMBER 857, AND THE M.E.P. AND P.R.R. SURVEY, ABSTRACT NUMBER 935, BY AMENDING PARAGRAPH A, "PERMITTED USES," OF EXHIBIT "B," "DEVELOPMENT STANDARDS," BY ADDING "PARK OR PLAYGROUND, PUBLIC" AS A PERMITTED USE; 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 IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town (the "Town Council") heretofore adopted the Land Development Regulations of the Town, 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 Town Council has initiated consideration of a Zoning Planned Development amendment to amend Ordinance No. 32-18 for Planned Development District No. 166 (PD-166), consisting of approximately 89.925 acres of land situated in the J. Malone Survey, Abstract Number 857, and the M.E.P. and P.R.R. Survey, Abstract Number 935, as described more fully on the attached Exhibit "A," seeking to add "Park or Playground, Public" as a permitted use; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on October 9, 2023, and the Town Council held a public hearing on October 16, 2023, with respect to the proposed Zoning Planned Development amendment as described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication and procedural requirements for the approval of a Zoning Planned Development amendment on the property; and,

WHEREAS, the Town Council finds that amendment of Ordinance No. 32-18 for Planned Development District No. 166 (PD-166) as outlined herein is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town and the general public;

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

SECTION 1

The Land Development Regulations of the Town of Flower Mound, Texas, as amended, are hereby amended on the hereinafter described property and area as shown below:

Approximately 89.925 acres of land situated in the J. Malone Survey, Abstract Number 857, and the M.E.P. and P.R.R. Survey, Abstract Number 935, as described more fully on the attached Exhibit "A."

Subparagraph A.1., "Permitted Uses," of Paragraph A, "Permitted Uses," of "Exhibit "B," "Development Standards," for Planned Development No. 166 (PD-166, is hereby amended by adding "Park or Playground, Public" as a permitted use.

SECTION 2

The use of the property described above shall be subject to all restrictions, terms, and conditions contained herein, as well as the applicable regulations contained in Ordinance No. 32-18 for Planned Development District No. 166 (PD-166), the Land Development Regulations, and all other applicable and pertinent ordinances of the Town.

SECTION 3

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

SECTION 4

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council 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, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

All rights and remedies of the Town are expressly saved as to any and all violations of the provisions of the Land Development Regulations or any ordinances governing zoning that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7

The Town Secretary of the Town is hereby directed to publish the caption in the official newspaper of the Town as required by Section 3.07 of the Charter of the Town.

SECTION 8

This Ordinance shall take effect and be in full force from and after the date of its passage and publication as required by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 16TH DAY OF OCTOBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

LEGAL DESCRIPTION
89.925 ACRES

BEING a tract of land situated in the J. MALONE SURVEY, ABSTRACT NO. 857 and the M.E.P. & P.R.R. SURVEY, ABSTRACT NO. 935, Town of Flower Mound, Denton County, Texas and being part of that tract of land described in Deed to Janet F. Bunn, according to the document filed of record in Volume 4945, Page 1458, Deed Records, Denton County, Texas and being all of that tract of land described as Part 2 in Deed to Janet F. Acker, according to the document filed of record under Document No. 2010-23898, Deed Records, Denton County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found in the west line of that tract of land described in Deed to Rand Byron Richard and Rebecca Lu Anne Richard, according to the document filed of record in Volume 1616, Page 523, Deed Records, Denton County, Texas for the northeast corner of that tract of land described in Deed to Lewisville Independent School District, according to the document filed of record in Volume 5167, Page 418, Deed Records, Denton County, Texas;

THENCE South 89 degrees 36 minutes 31 seconds West, with the north lien of said Lewisville Independent School District tract, a distance of 1,273.70 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the northwest corner of said Lewisville Independent School District tract;

THENCE South 00 degrees 13 minutes 58 seconds East, with the west line of said Lewisville Independent School District tract, a distance of 69.17 feet to a point for the intersection of said west line with the east line of Flower Mound Road, a 90 foot right-of-way, as described in Deed to the Town of Flower Mound, according to the document filed of record under Document No. 2010-23899, Deed Records, Denton County, Texas, said point being at the beginning of a non-tangent curve to the left having a central angle of 46 degrees 13 minutes 12 seconds, a radius of 1,095.00 feet and a chord bearing and distance of North 34 degrees 41 minutes 41 seconds West, 859.57 feet;

THENCE Northerly, with said east line, the following four (4) courses and distances:

Northwesterly, with said curve to the left, an arc distance of 883.33 feet to a point for corner;

North 57 degrees 48 minutes 18 seconds West, a distance of 414.21 feet to a point for corner at the beginning of a curve to the right having a central angle of 56 degrees 00 minutes 19 seconds, a radius of 1,005.00 feet and a chord bearing and distance of North 29 degrees 48 minutes 08 seconds West, 943.72 feet;

Northwesterly, with said curve to the right, an arc distance of 982.36 feet to a point for corner;

North 01 degrees 47 minutes 58 seconds West, a distance of 328.31 feet to a point for the intersection of said east line with the south line of that tract of land described in Deed to Metro Investments, according to the document filed of record in Volume 656, Page 303, Deed Records, Denton County, Texas;

THENCE North 89 degrees 41 minutes 00 seconds East, leaving said east line and with said south line, a distance of 1,590.76 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for the southeast corner of said Metro Investments tract;

THENCE North 02 degrees 17 minutes 37 seconds West, with the east line of said Metro Investments tract, a distance of 274.67 feet to a 3.5 inch Texas Department of Transportation aluminum disk stamped "5093" found for the intersection of said east line with the southwesterly line of Farm to Market Road No. 1171, a variable width right-of-way, said point being at the beginning of a non-tangent curve to the right having a central angle of 04 degrees 29 minutes 39 seconds, a radius of 1,373.57 feet and a chord bearing and distance of South 57 degrees 03 minutes 16 seconds East, 107.71 feet;

THENCE Southeasterly, with said southwesterly line, the following five (5) courses and distances:

Southeasterly, with said curve to the right, an arc distance of 107.74 feet to a point for corner;

South 49 degrees 55 minutes 50 seconds East, a distance of 125.35 feet to a 3.5 inch Texas Department of Transportation aluminum disk found for corner;

South 47 degrees 54 minutes 44 seconds East, a distance of 131.33 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 50 degrees 05 minutes 36 seconds East, a distance of 262.46 feet to a 3.5 inch Texas Department of Transportation aluminum disk found for corner;

South 54 degrees 27 minutes 04 seconds East, a distance of 79.76 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 39 degrees 49 minutes 01 seconds West, leaving said southwesterly line, a distance of 73.64 feet to a 1/2 inch iron rod with a yellow plastic cap stamped “DAA” set for corner at the beginning of a curve to the right having a central angle of 23 degrees 05 minutes 22 seconds, a radius of 188.00 feet and a chord bearing and distance of South 51 degrees 19 minutes 21 seconds West, 75.25 feet;

THENCE Southwesterly, with said curve to the right, an arc distance of 75.76 feet to an “X” found in concrete for corner;

THENCE South 26 degrees 46 minutes 09 seconds East, a distance of 23.80 feet to an “X” found in concrete for corner;

THENCE South 02 degrees 21 minutes 29 seconds East, a distance of 917.40 feet to a 1/2 inch iron rod with an orange plastic cap stamped “G&A” found for the southwest corner of that tract of land described in Deed to Rockpointe Church of Denton County, according to the document filed of record under Document No. 2005-36064, Deed Records, Denton County, Texas;

THENCE South 89 degrees 28 minutes 17 seconds East, with the south line of said Rockpointe Church of Denton County tract, a distance of 1,015.30 feet to a 1/2 inch iron rod with a orange plastic cap stamped “G&A” found in the west line of that tract of land described in Deed to Mohammed H. Mehrkhast and Fathieh Mehrkhast, Trustees, according to the document filed of record under Document No. 97-0014716, Deed Records, Denton County, Texas for the southeast corner of that tract of land described in Deed to Rockpointe Church of Denton County, according to the document filed of record under Document No. 2005-36063, Deed Records, Denton County, Texas;

THENCE South 00 degrees 33 minutes 25 seconds West, leaving said south line and with said west line, a distance of 623.21 feet to a 3/4 inch iron rod found for the northeast corner of the above mentioned Rand Byron Richard and Rebecca Lu Anne Richard tract;

THENCE North 89 degrees 23 minutes 21 seconds West, leaving said west line and with the north line of said Rand Byron Richard and Rebecca Lu Anne Richard tract, a distance of 486.94 feet to a 1/2 inch iron rod with a yellow plastic cap stamped “DAA” set for the northwest corner of said Rand Byron Richard and Rebecca Lu Anne Richard tract;

THENCE South 00 degrees 42 minutes 52 seconds West, with the west line of said Rand Byron Richard and Rebecca Lu Anne Richard tract, a distance of 169.01 feet to the **POINT OF BEGINNING** and containing 89.925 acres of land, more or less.